

LEGAL UPDATES

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Department of Education Rescinds and Replaces the 2016 Clery Handbook

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) requires institutional reporting and other warnings and notifications to provide information about campus safety. In achieving compliance with Clery Act regulations, institutions have often relied on guidance from a 2016 Handbook for Campus Safety and Security Reporting, a 265-page document commonly referred to as the Clery Handbook.

On October 9, 2020, however, the Department of Education announced that it rescinded the Clery Handbook and replaced it with new Clery guidance in the form of a 13-page Appendix to the Federal Student Aid Handbook.

Although the announcement states that the contents of the new Appendix do not have the force and effect of law, the document is intended to provide clarity regarding the existing requirements under the Clery Act’s statutory and regulatory provisions.

A summary of the major changes from the 2016 Clery Handbook, are as follows:

Clery Geography: The Department has shifted to a revised approach to defining Clery geography—affecting which crimes institutions must report—indicating that the Clery Handbook may have expanded the definition of covered geography beyond the regulatory requirements. To this end, the Department no longer applies any specific measurable distance to “reasonably contiguous” geographic areas and emphasizes the regulatory definitions of “public property” and “non-campus building or property.”

Clery Crimes: The Department deleted all definitions for Clery crimes from the 2016 Clery Handbook and replaced them with references to regulatory sources.

Campus Security Authorities: The Department stated that the 2016 Clery Handbook, through guidance about the phrase “significant responsibility for student and campus activities,” took an expansive view of identifying campus security authorities (CSA)—which, according to the Department, resulted in individuals being identified as CSAs who should not be designated as such under a strict regulatory interpretation. The Appendix refers to the regulatory definition, and the Department indicated it will defer to institutions’ reasonable determinations of who constitutes a CSA.

The Clery Act and its implementing regulations have not changed, but this new guidance will be effective for the 2021 reporting year. Although the Clery Handbook has been rescinded, the Department noted in their announcement that “many Clery practitioners have become accustomed to the 2016 edition, and may continue to rely on it for direction.” The extended deadline for submission of institutions’ Annual Security Report remains December 31, 2020.

Upcoming webinar

Join us for a timely webinar on November 9, 2020 as we discuss the new Clery-related Appendix in detail and provide recommendations for continued Clery Act compliance.

Contact us

If you have questions about this update and how it may affect you and your institution, please contact Ellen Armentrout, Hayley Hanson, Elizabeth Samples or your Husch Blackwell attorney.