



Association of
Title IX Administrators

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Paul Mitchell Training Clery Act Compliance

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HISTORY OF CLERY

- **The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act** or **Clery Act** is a federal statute codified at [20 U.S.C. § 1092\(f\)](#), with implementing regulations in the [U.S. Code of Federal Regulations](#) at 34 CFR 668.46
- The Act requires post-secondary institutions who receive federal aid, to report campus crime information to all students and employees, and submit crime statistics to the Dept of Ed. by October 1 of each year
- Knowledge of crimes must be reported by Campus Security Authorities (CSA)

CONTEXT: THE CLERY ACT

- The goal of the federal Clery Act is to ensure students, prospective students, families, and employees have access to accurate information about crimes committed on at your school and all school security procedures.
- Many crimes are not reported to police.
- Compliance is tied to federal financial aid programs.
- Schools may be audited and sometimes receive fines from the U.S. Department of Education.
- Clery requires that post-secondary colleges and schools gather and publish crime statistics from multiple sources (including “Campus Security Authorities”).

Campus Security Authorities

WHO ARE CAMPUS SECURITY AUTHORITIES?

Campus security authorities are:

- Members of a law enforcement department
- An individual who has responsibility for campus security but is not a part of the law enforcement department
- Any individual specified to receive reports about criminal offenses
- An official of the school who has significant responsibility for student and campus activities (such as campus conduct, involved with student activities, faculty advisor to a student group)

NOT CAMPUS SECURITY AUTHORITIES

- A single teaching faculty member (other than an advisor to a student group);
- A counselor in a counseling center whose only responsibility is to provide care to students

However, by policy, the institution could identify these positions as Security Authorities for anonymous reporting

5 MAJOR REQUIREMENTS THAT AFFECT PAUL MITCHELL SCHOOLS

The Requirement of the law is to disclose, collect and classify certain crime statistics by providing the following:

- **Publication of an Annual Security Report** containing safety and security disclosures on web site and to Dept. of Ed.
- Maintenance of and public access to **Campus Crime Logs**
- **Issuance of Timely Warnings and Emergency Notification:**
Issue Campus Alerts for crimes that represent an ongoing threat to the safety of students or employees.
- **Maintain information related to the rights of Sexual Assault Victims**
- **Sex offender information** dissemination of regional sex offenders (should be available on state site for your area)

CLERY ACT CRIME CATEGORIES

- Criminal Homicide.
- Robbery.
- Aggravated Assault.
- Burglary.
- Motor Vehicle Theft.
- Arson.
- Arrests & Referrals.
 - Liquor Law Violations.
 - Drug Law Violations.
 - Illegal Weapons Possession.
- VAWA Crimes
 - Domestic Violence
 - Dating Violence
 - Stalking
 - Sexual Assault
- Hate Crimes.
 - Any of the previously listed crimes plus:
 - Larceny-theft.
 - Simple Assault.
 - Intimidation.
 - Destruction/Damage/Vandalism of Property.
 - Motivated by bias based upon race, gender, gender identity, religion, sexual orientation, ethnicity, national origin or disability.

Reporting Hate Crimes

HATE CRIMES

- A hate crime is a crime that demonstrates evidence that the perpetrator intentionally selected the victim because of the victim's actual or perceived race, gender, religion, sexual orientation, ethnicity or disability.
- Crimes of this type must be identified by category of prejudice within the geographic reporting areas as well as by the specified crime reporting categories for the type of crime involved
- The list of hate crimes that must be reported includes: larceny-theft, simple assault, intimidation, and property destruction, damage or vandalism

Understanding Clery Geography for Reporting

CRIME STATISTICS: WHAT TO COUNT?

- A crime is officially reported when it is filed with local police, campus law enforcement or a “campus security authority”
- It must fall in one of the crimes **listed** in the Clery Act
- It must occur within the geographic framework set forth by the Act, which includes: On campus, on-campus residential, “noncampus” or “public” property

DEFINITION OF “ON CAMPUS”

- Any building or property owned or controlled by an institution of higher education within the same reasonably contiguous geographic area of the institution and used by the institution in direct support of, or in a manner related to, the institution’s educational purposes;
- Incidents that occur in on-campus residential facilities must be entered twice on the report, in both the “on campus” and the “residential facilities” categories (Not relevant for Paul Mitchell Schools)

CAMPUS BUILDINGS OR PROPERTIES

- Any building or property (other than a branch campus) owned or controlled by an institution of higher education that is within the same reasonably contiguous geographic area of the institution that is owned by the institution but:
 - is controlled by another person
 - is frequently used by students
 - is used in direct support of, or in relation to, the institution's education purposes (such as food or other retail vendor)

NONCAMPUS BUILDING OR PROPERTY

- A building or property owned or controlled by the school and **used in direct support of the school’s educational purposes** that is **outside your reasonably contiguous geographic area**

Ask: Is it owned or controlled by the institution?

- Ask: Is it used in direct support of or in relation to the institution’s educational purposes?
- Ask: Is it frequently used by students? AND
- Ask: Is it outside of your “reasonably contiguous geographic area?”
- Examples: institution-owned off-campus apartments, ancillary research or athletic facilities, institution-owned event facilities located off-campus that are used for campus activities (likely not relevant to Paul Mitchell schools)

PUBLIC PROPERTY

“Public property”, is that which includes thoroughfares, streets, sidewalks and parking facilities, and is within the campus or immediately adjacent to and accessible from the campus.

- If there is a barrier between the campus and the public property, such as a highway or a fence the public property will not be included
- “These regulations do not require crime statistics from public property surrounding non-campus buildings or property.”

PUBLIC PROPERTY

So . . . Where does one draw the line?

A sidewalk or a public parking lot across the street from campus property would be included in this reporting area, while a limited-access interstate highway which directly borders the campus but is separated by a right-of-way fence would not be.

Use of a map to define the area is optional, but recommended to clarify the zone for reporting crimes.



Let's Take a Detailed Look at the Five Major Elements

Annual Security Report

ELEMENTS OF ANNUAL REPORT

The following items must be included in the annual report:

- Crime statistics
- Campus policies regarding:
 - Procedures to report criminal actions or other emergencies
 - Policies for making timely warning reports to the community
 - List of titles of each person to whom criminal offenses should be reported
 - Whether the institution has a policy or procedure that allow disclosure by victims or witnesses of crimes to report on a voluntary, confidential basis

MORE ELEMENTS OF THE ANNUAL REPORT – POLICIES & PROCEDURES

- A statement of current policies concerning security of access to campus facilities; and security considerations used in maintaining campus facilities
- Statement of policies concerning campus law enforcement that includes:
 - Enforcement authority of security personnel and their relationship with state and local police agencies
 - Whether campus law enforcement has arrest authority
 - Encourages prompt reporting of all crimes
 - Procedures for confidential sources to encourage victims to provide voluntary disclosures

AND MORE ELEMENTS.....

- A description of the type & frequency of programs to inform students & employees about campus security procedures and prevention of crimes
- A statement regarding monitoring student criminal activity at off-campus locations of officially recognized student organizations (likely would not affect Paul Mitchell schools)
- A statement regarding the possession, use and sale of alcohol and enforcement of underage drinking laws
- A statement regarding possession, use and sale of illegal drugs & enforcement of federal and state drug laws.

AND FINALLY....

- A description of any drug or alcohol education programs
- A statement where information about registered sex offenders may be obtained
- A statement of policy regarding the institution's sexual assault programs designed to prevent sex offenses, and the procedures to follow when a sex offense occurs

DETAILS FOR ANNUAL REPORT

- Must be provided to all enrolled students & current employees by October 1 of each year
 - May be mailed, or put on web site, if notice of where to find it is provided to all students and employees. The notice must give the web address and state that a paper copy is available on request
- Crimes must be included in the annual report for the calendar year in which the crime was reported to the campus security authority (which may not match the date of occurrence of the crime itself)

Drugs, Alcohol, Weapons

ALCOHOL, DRUG AND WEAPONS OFFENSES

- Include 3 years' stats for arrests **and** persons not arrested, but referred for campus disciplinary action for:
 - liquor law violations
 - drug law violations
 - illegal weapons possession
- NOTE: This is a body count!
 - The statistic to be published is the number of persons who were arrested -- NOT the number of incidents, or the number of charges placed.

Campus Crime Log

CAMPUS CRIME LOG REQUIREMENT

- Law enforcement or an official acting on behalf of law enforcement must keep a daily log that records crimes by their category, date, time, general location and disposition of the complaint
- The log must be made available to the public within two business days of a request unless disclosure of the information would:
 - Be prohibited by law
 - Jeopardize the confidentiality of the victim
 - Jeopardize an ongoing criminal investigation
 - Jeopardize the safety of an individual
 - Cause a suspect to flee or evade detection
 - Result in the destruction of evidence

ACCESS TO THE DAILY LOG

- The institution must make the crime log for the ***most recent 60-day period*** open to public inspection ***during normal business hours*** . . .
- Any portion of the log older than 60 days must be available within 2 business days of a request for public inspection.

BUSINESS DAY

Monday through Friday
Unless Closed

Timely Warnings and Emergency Notification

TIMELY WARNING NOTICE REQUIREMENT

- The school must post a timely warning any time one of the specified crimes occur which represents a current or ongoing threat to the students or employees
- The warning must be issued in a manner that will aid in the prevention of similar crimes
- The institution should develop an internal policy addressing questions such as when to issue warnings, for what types of crimes, and who has the responsibility for issuing such warnings

TIMELY WARNINGS

Timely warnings:

- Must be **timely**.
- Report to the community to help prevent similar crimes.
- Maintain confidentiality of a victim of sexual assault, dating violence, domestic violence, and stalking.
- Not required if crime report is made to a professional counselor.
- Considered by the institution to represent a threat to students and employees.

MAKING THE DECISION TO ISSUE A TIMELY WARNING

- Standard: **Considered by the institution to represent a threat to students and employees.**
- Not limited just to violent crimes or crimes against persons.
- May issue Timely Warnings for non-Clery crimes.
- Factors:
 - Nature of the crime
 - Is there a continuing danger to the campus community?
 - Does it appear to be a one-time occurrence, or is a pattern emerging?
 - How can you issue the warning without compromising law enforcement, if applicable?
- The Clery Act does not require a protocol for decision-making, but a simple protocol is advisable.

TIMELY WARNINGS v. EMERGENCY NOTIFICATIONS

Timely Warnings

- Clery crimes that are **reported** to a CSA
- Crimes that occurred and represent an ongoing threat
- Anywhere in your Clery geography
- As soon as information is available

Examples:

- A shooting that occurred in a park adjacent to your school.
- A series of robberies that target a particular racial group.
- A mugging when the assailant was not yet apprehended.

Emergency Notifications

- Significant emergency or dangerous situation
- Event that is currently occurring or an imminent threat to the school
- Event occurs only within the school
- Issued immediately upon confirmation of the situation

Examples:

- Severe weather event
- Active shooter or bomb threat on campus
- Rioting
- Serious Illness Outbreak
- Gas Leak

EMERGENCY RESPONSE AND EVACUATION PROTOCOL

A description of the process the school will use to:

- Confirm that there is a significant emergency or dangerous situation
- Determine the appropriate segment or segments of the school community to receive a notification;
- Determine the content of the notification; and
- Initiate the notification system.

EMERGENCY RESPONSE AND EVACUATION PROTOCOL

A statement that the institution will, without delay, determine the content of the notification and initiate the notification system, unless issuing a notification will, in the professional judgment of responsible authorities, compromise efforts to assist a victim or to contain, respond to, or otherwise mitigate the emergency;

EMERGENCY RESPONSE AND EVACUATION PROTOCOL

The institution's procedures to test the emergency response and evacuation procedures on at least an annual basis, including:

- Tests that may be announced or unannounced;
- Publicizing emergency response and evacuation procedures in conjunction with at least one test per calendar year; and
- Documenting, for each test, a description of the exercise, the date, time, and whether it was announced or unannounced.

Statement of the Rights of Victims

VICTIM RIGHTS, OPTIONS AND RESOURCES

Victims of Sexual Assault, Domestic Violence, Dating Violence and Stalking have specific rights, options and resources guaranteed by the Clery Act, including:

- Prevention Education: A description of educational programs to promote the awareness of sexual assault, dating and domestic violence and stalking
- Procedures students should follow if a sex offense occurs, including procedures about who should be contacted, the importance of preserving evidence for the proof of a criminal offense and to whom the offense should be reported.

VICTIM RIGHTS, OPTIONS AND RESOURCES (CON'T)

- Information about a student's option to notify appropriate law enforcement authorities and that school personnel will assist in notifying the authorities
- Notification of on and off-campus counseling or other services for victims of sex offenses
- Notification that the school will provide supportive measures after report of a sex offense

VICTIM RIGHTS, OPTIONS AND RESOURCES (CON'T)

- Procedures for school disciplinary action in cases of an alleged sex offense
- Sanctions the school may impose following a final determination of a disciplinary proceeding for a sex offense
- Statement that the accuser and accused are entitled to the same opportunities to have others present during a disciplinary proceeding
- A statement that both the accuser and the accused must be informed of the outcome of any disciplinary proceedings involving a sex offense

Recordkeeping

RECORD-KEEPING REQUIREMENTS & PENALTY FOR NON-COMPLIANCE

- Schools must retain the records on their crime statistics for three years following the last year the information was included in the annual report
- This results in a Clery Act records retention period of nearly **7 years** after the date of an incident.
- If the school is found to have substantially misrepresented the number, nature or location of crimes, the Department of Education may impose a fine of \$62,689 per violation

Case Study

CASE STUDIES

- One evening, a student reports to the Director that she was mugged in the school parking lot. The mugger was able to get her purse, which contained her cell phone. She was fairly shaken up. While she was getting to a phone to call the police, the mugger drove out of the parking lot, and got into a bad accident in a nearby intersection. In the course of the police response to the accident, the Director shared information about the mugging and the police arrested the mugger. Your school issues him a Criminal Trespass and she plans to press charges. **Is a Timely Warning necessary?**

RESOURCES

- FBI Uniform Crime Reporting:
<http://www.fbi.gov/ucr/ucr.htm>
- Security on Campus:
<http://campussafety.org>
- Department of Education:
<http://www.ed.gov/offices/OPE/PPI/security.html>
- TNG
www.TNGconsulting.com



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Questions?

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