



D. STAFFORD
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Madison Area Technical College

Day 2: Training Session

2025

Presented by:

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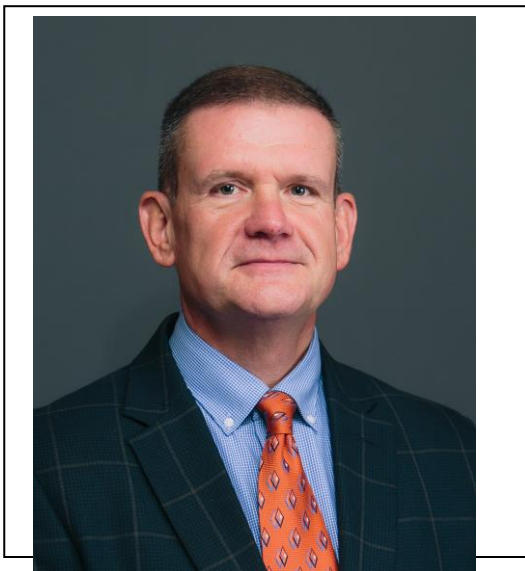
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William (Bill) Lafferty **Director, Regulatory Compliance and Public Safety Services**



Bill Lafferty retired from active service in Law Enforcement and Public Safety after 35 years of experience and with over 25 years of experience within Higher Education. He began his career with the U.S. Air Force as a Security Police Specialist. During his military service, he worked his way up through the ranks and performed a variety of specialized duties within the law enforcement and security field. These duties included patrol officer duties, patrol supervision, crime prevention programming coordinator, asset and resource protection specialist, and a quality assurance reviewer. Bill was also instrumental in implementing an Air Force Anti-Terrorism response plan and protocol during his tenure.

After the Air Force, Bill joined the public safety team at Villanova University where he performed duties as a Patrol Sergeant, Shift Lieutenant, Assistant Director of Housing Security, and Associate Director of patrol and investigatory operations. After nearly seven years at Villanova, Bill left to become the Director of Public Safety at Gettysburg College. Bill served 20 years at Gettysburg College, completing his career there as the Assistant Vice President of College Life. Bill's responsibilities included: direct strategic management oversight of all public safety operations; sexual and relationship violence response and investigation policy and protocol development; emergency operations management; life and fire safety; behavioral threat assessment; the oversight of institutional Clery Act and Title IX compliance requirements for the college; and during his tenure with Gettysburg, he managed student life development areas including: Greek Life, Student Activities, Experiential Education, and Student Conduct.

Bill went full-time with the National Association of Clery Compliance Officers and Professionals (NACCOP) and D. Stafford & Associates (DSA) in October of 2021, continuing his service as the Director of Federal Relations for NACCOP and serving as the Director, Regulatory Compliance and Public Safety Services for DSA. In his role with DSA, Bill will continue his work as an instructor of the Clery Compliance classes, including the Clery Academy and the Advanced Clery Academy, and teaching for the DSA Procedural Justice Training Institute. Bill will also serve as a team member in conducting Clery Act Audits and Assessments, Procedural Justice Assessments, and Organizational Assessments of campus police and public safety agencies.

Bill has served as the Director of Federal Relations with NACCOP since May of 2016. In this role, Bill is responsible for monitoring key public policy issues facing institutions of higher education, with a particular focus on those that impact the Clery Act. Bill is NACCOP's representative to federal agencies, Congress and



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other associations regarding NACCOP's views and legislative priorities within the higher education community, public safety, and beyond. Bill has also served as an Associate of D. Stafford & Associates since 2016 as well, teaching classes and participating in Clery Act Audits and Assessments.

Bill is a graduate of Eastern University, where he earned a Bachelor's Degree in Organizational Development, and Villanova University, where he earned a Master's Degree in Criminal Justice Administration. Bill was certified as a NACCOP Clery Compliance Officer (CCO) as part of the program's first cohort in July of 2017. Bill previously served a two-year term as President for the Northeast Colleges and Universities Security Association (NECUSA).



CLERY ACT

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Top Issues Campus Administrators Need to be Aware of Regarding their Compliance with the Clery Act

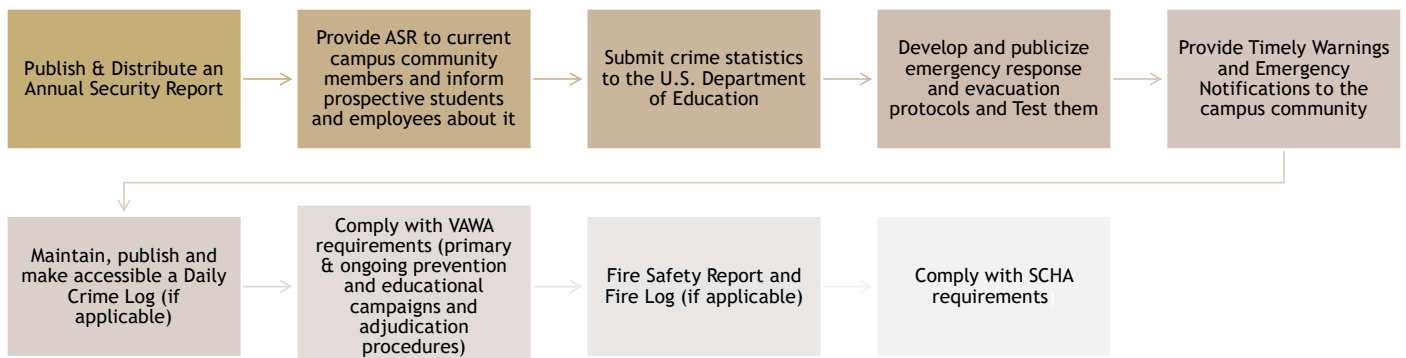
Bill Lafferty, CCCO

*Director, Regulatory Compliance & Public Safety Services,
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Director of Federal Relations, NACCOP



Overarching Requirements of Clery Compliance



§ 668.14 Program participation agreement

- (a)(1) An institution may participate in any Title IV, HEA program, other than the LEAP and NEISP programs, only if the institution enters into a written program participation agreement with the Secretary, on a form approved by the Secretary. A program participation agreement conditions the initial and continued participation of an eligible institution in any Title IV, HEA program upon compliance with the provisions of this part, the individual program regulations, and any additional conditions specified in the program participation agreement that the Secretary requires the institution to meet.

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§ 668.14 Program participation agreement

- (b) By entering into a program participation agreement, an institution agrees that—
 - (1) It will comply with all statutory provisions of, or applicable to, Title IV of the HEA, all applicable regulatory provisions prescribed under that statutory authority...
 - (6) It will comply with the provisions of §668.16 relating to standards of administrative capability;

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Relevant Statutes/ Regulations

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Clery Act

- 20 U.S.C. §1092(f) - Disclosure of campus security policy and campus crime statistics
 - 34 C.F.R. § 668.41(e) - Annual security report and annual fire safety report.
 - 34 C.F.R. § 668.46 - Institutional security policies and crime statistics.
 - 34 C.F.R. § 668.49 - Institutional fire safety policies and fire statistics.

Drug-Free Schools and Communities Act

- 20 U.S.C. §1011i -Drug and alcohol abuse prevention
 - 34 C.F.R. § 86 - Drug and alcohol abuse prevention.

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PPA Excerpt: DFSCA & Clery Certification



2.
 - a. The Institution certifies that on the date it signs this Agreement, it has a drug abuse prevention program in operation that it has determined is accessible to any officer, employee, or student at the Institution.
 - b. The Institution certifies that on the date it signs this Agreement, it is in compliance with the disclosure requirements of Section 485(f) of the HEA (Campus Security Policy and Campus Crime Statistics).

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Standards of Administrative Capability



Administrative Capability



§ 668.16. Standards of Administrative Capability

- To begin and to continue to participate in any Title IV, HEA program, an institution shall demonstrate to the Secretary that the institution is capable of adequately administering ...the standards established in this section.

The Secretary considers an institution to have that administrative capability if the institution—

- “Administers the Title IV, HEA programs in accordance with all statutory provisions of or applicable to Title IV of the HEA, all applicable regulatory provisions prescribed under that statutory authority....” -- 34 C.F.R. § 668.16(a)



Establish and maintain required records;



Develop written procedures that codify processes that need to be followed and identify those responsible for implementing and following such processes;



Develop adequate management oversight and checks and balances in its system of internal controls;



Support and provide sufficient funding; employ an “adequate number of qualified persons”;



Show no evidence of significant non-compliance problems; and



Do not otherwise appear to lack the ability or competence to efficiently administer Title IV, Higher Education Act (HEA) programs

Administrative Capability

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Lack of Administrative Capability



“Impaired administrative capability...may result in an institution’s systemic failure to provide students and employees with important campus crime information and services that are essential to their safety and security...

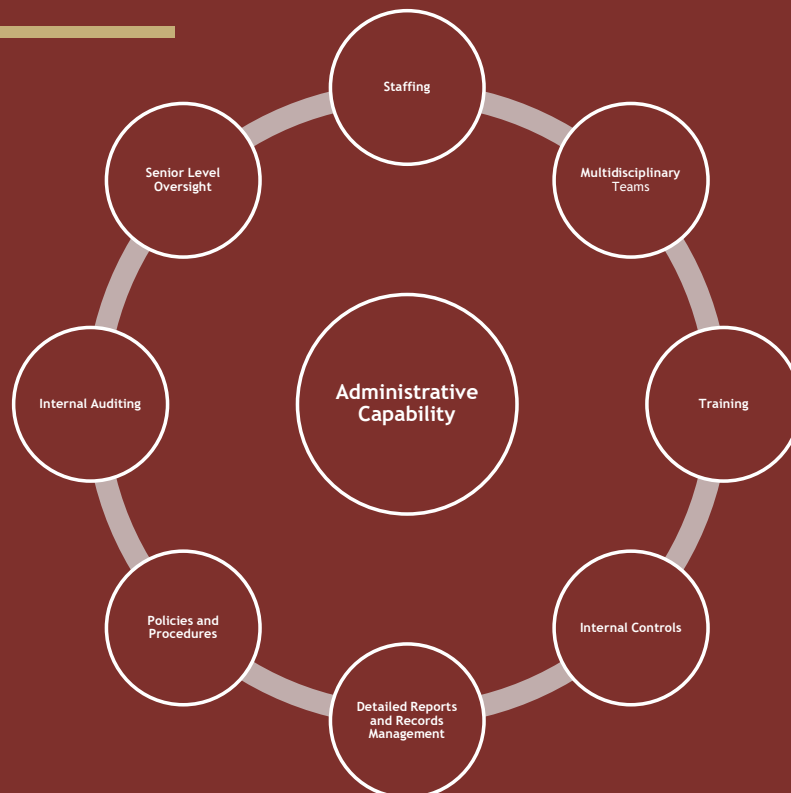
Impaired administrative capability and weak internal controls are an indication that an institution lacks the ability or willingness to comply with Federal regulations.” (PSU FPRD, 2016, p. 39-40)

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FPRD Year	Institution
2024	Liberty University
2020	Baylor University
2020	Auburn University
2019	University of California, Berkeley
2019	University of North Carolina Chapel Hill
2019	University of East-West Medicine
2019	Delta State University
2018	Michigan State University
2018	Green River College
2017	Coffeyville Community College
2017	University of Montana
2017	Occidental College
2017	South Carolina State University
2017	Hair California Beauty Academy
2016	University of Jamestown
2016	Penn State University
2016	Centenary College

ADMINISTRATIVE CAPABILITY FINDINGS SINCE 2016



2020 RECISSION OF THE 2016 HANDBOOK

The Department recognizes that many Clery practitioners have become accustomed to the 2016 edition, as well as previous editions, and may continue to rely on it for direction. Instead of rescinding all Clery-related guidance, the Department has determined that the better path forward is to provide direction in the Federal Student Aid (FSA) Handbook. The language in the Appendix will replace the limited Clery language already present in the current FSA Handbook. In addition, moving forward, while the Department will not advise institutions to rely upon it, the 2016 edition will be archived on the Department's website, but, where appropriately applied to prior calendar years, will continue to be referenced in program review reports, final program review determinations, and final audit determinations.

Importance of a Multidisciplinary Team or Clery Compliance Committee

- Public Safety/Police Department
- Clery Compliance Officer
- Compliance and Internal Audit
- Student Conduct
- VP of Student Affairs/Dean of Students
- Student Activities/Student Engagement
- Fraternity & Sorority Life
- Residence Life and Housing
- Environmental Health and Safety
- Real Estate Office
- Director of Counseling Center
- Risk Management (Fire Safety Engineer/Fire Marshall)
- Human Resources
- Admissions
- Athletics
- Study Abroad Office
- Title IX Coordinator/Sexual Assault Response Team Leader
- Directors of Student Health
- Provost/Academic Affairs Office/Registrar
- Victim Advocate
- General Counsel's Office
- Faculty Senate Rep.



Clery Act Crimes – Report Writers & Intake Offices

Primary Crimes

- Murder/Non-negligent Manslaughter
- Manslaughter by Negligence
- Sexual Assault (Rape, Fondling, Incest & Statutory Rape)
- Robbery
- Aggravated Assault
- Burglary
- Motor Vehicle Theft
- Arson

VAWA Offenses

- Dating Violence
- Domestic Violence
- Stalking

Arrests and Referrals for Disciplinary Action

- Liquor Law Violations
- Drug Law Violations
- Weapon Law Violations

Hate Crimes

- All primary crimes (except Manslaughter by Negligence)
- Larceny-Theft
- Simple Assault
- Intimidation
- Destruction/Vandalism/Damage of Property

Hazing

+ Unfounded Crimes

Clery Geography and Timely Warnings/Emergency Notifications

CLERY GEOGRAPHY

- The Clery Act requires institutions to disclose statistics for select crimes that occur:
 - **On Campus**,
 - on **Public Property** within or immediately adjacent to and accessible from the campus, and
 - in or on **Noncampus Buildings or Property** that the institution (or an officially recognized student organization) owns or controls
 - Student off campus trips
 - **On-Campus Student Housing Facilities** are a subset of the On Campus category
 - Institutions may have **Separate Campus** locations as well



Identify the Campus Border (Core Campus)

1. What is the campus border?
2. Develop a “Clery Map” to identify your campus border.
3. Develop a Clery Geography Property List.
4. Clery Geography and Expanded Patrol Jurisdiction.

PURPOSE OF A CLERY MAP & GEOGRAPHY LIST

- Provides an accurate picture of the institution's Clery Geography.
- Creates consistency when categorizing crime reports for Geography.
- Creates documentation in the event of an ED program review to demonstrate that the institution's Clery Geography has been assessed.
- The map and list will also prove to be a beneficial accompaniment to crime statistics request letters sent to State and local law enforcement agencies.
- Update annually.
- Separate map/list for each separate campus
- The Clery Map should also reflect the campus police/public safety department's official patrol jurisdiction
 - Crime Log geography.



Off Campus Trips with Students



- Repeated use of a location or Short-stay away locations
- How are off campus trips with students managed?
 - Is there an established tracking system?
 - Are offices coordinating trips registering and tracking trips?
 - Student affairs
 - Greek Life
 - Athletics
 - Academic affairs, etc.
 - Are trip leaders identified and trained as CSAs?
 - Is there proactive outreach to collect crime reports from trip leaders and LLEAs with jurisdiction?
 - Are there accountability measures in place?

Timely Warnings - What Are The Requirements?

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-
- Assess the:
 - ✓ Clery crimes
 - ✓ that are reported to a Campus Security Authority or Local Law Enforcement Agency
 - ✓ that occurred on or within the institution's Clery Geography.
 - Put out a timely warning if a reported crime is considered by the institution to represent a serious or continuing threat to students and employees.

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When is an Emergency Notification Required?

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-
- Under the *Clery Act*, every institution is required to immediately notify the campus community upon confirmation of a significant emergency or dangerous situation occurring on the campus that involves an immediate threat to the health or safety of students or employees.
 - An “**immediate**” threat as used here includes an imminent or impending threat, such as an approaching forest fire, or a fire currently raging in one of your buildings.

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INTERNAL CONTROLS REGARDING TW/EN

- Policies and procedures or internal written agreements.
- Training of those involved in assessing and distributing.
- Use assessment rubrics and decision matrices.
- Development of templates.
- Use of appropriate distribution methods.
- Training for all CSAs and LLE on need to immediately report crimes.
- Records retention of TW and EN messages.



CSA Management

Manage

Strategically manage your CSA processes throughout the year

Establish

Establish a Clery committee to assist with CSA compliance efforts

- Utilize subgroups

Maintain

Create and maintain records that support compliance efforts - create updated CSA lists, training documents, and CSA report tracking

Develop

Develop substantive processes for identifying and notifying the institution's Campus Security Authorities

Developing a System for Managing CSA Compliance

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Group 1: Campus Police/Security Department Personnel

Group 2: Individuals with security-related responsibilities

Group 3: Individuals or organizations to which students/employees should report crimes

Group 4: Institutional officials with significant responsibility for student and campus activities

CSA Functions

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Strategically Managing CSA Processes – Institutional Policy



Identify those responsible for identifying CSAs



Describe how CSAs are notified of their obligations -



Identify the functions and positions that make up the CSA list



Identify the CSAs role and responsibilities



Strategically Managing CSA Processes – Institutional Policy



- Identify the method for CSAs to report crimes to the reporting structure of the institution
- Identify the time-frame for which crimes should be reported
- Identify when and how the reporting structure of the institution will communicate with CSAs
- Describe the availability of CSA training and when training must be completed

Clery Committee Subgroups

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- CSA Identification, Notification, and Training
 - PD/PS
 - CCO
 - Dean of Students/Student Affairs
 - Human Resources
 - Study Abroad
 - Student Activities
 - Athletics
 - Residence Life

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Internal Controls for Managing CSAs



CSA Identification and Role Clarity

- Notify in writing CSA duties and responsibilities
- Maintain a regularly updated CSA master list
- Use centralized process to identify and track CSAs (functional responsibilities)
- Clearly define CSA responsibilities in job descriptions and policies

CSA Training and Certification

- Provide mandatory training - online, in-person, virtually
- Require training completion and track attendance
- Train upon designation and annually thereafter
- Assess understanding with sign-offs or brief quizzes to confirm

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Internal Controls for Managing CSAs



Reporting Mechanisms & Documentation

- Phone-call, in-person, centralized reporting portal
- Standardized use of CSA report forms
- Establish documentation protocols for follow-up and retention of records
- Require review of all submitted CSA reports and integrate spot check audits of all reports

Cross-Department Coordination

- Assign CSA coordinator or CCO to oversee program
- Integrate CSA data with key offices
- Hold regular meetings with high-volume CSA units/departments - athletics, housing, student life, campus police/public safety



Internal Controls for Managing CSAs



Accountability and Institutional Oversight

- Senior leadership buy-in and support - Deans, Department Heads and VPs
 - Work with senior leaders to hold their personnel accountable
- Establish Clery liaison program
- Ensure a centralized process to collect, classify and include CSA reports in DCL, assess for TW/EN distribution, and include in ASR statistics



Special CSA Considerations



- Contract Security/Law Enforcement
- Contract VSA Services
- Third-Party Investigators - for example, Title IX
- Other Contracted Services?

NOTE: Include CSA obligations into contracts, MOUs or other agreements

Annual Security Report

ASR Policy Statement Categories

Crime statistics	Reporting crimes and other emergencies (including Timely Warnings)	Security of and access to campus facilities	Campus law enforcement policies	Security awareness programs
Crime prevention programs	Monitoring criminal activity by students at Noncampus locations	Alcohol policies	Drug policies	Drug and Alcohol Abuse Prevention Program (DAAPP)
Programs to prevent dating violence, domestic violence, sexual assault and stalking	Registered sex offenders	Emergency response and evacuation (including Emergency Notifications)	Missing student notification procedures (for campuses with residential facilities)	Institutional Hazing Policy and Prevention Programming



General Guidelines for Addressing Policies



Required components. Pay close attention to the requirements of each policy statement.

In general, the law does not prescribe policies and procedures for schools to follow; however, both the law and the regulations set minimum requirements for specific information that must be addressed in your institution's annual security report.



Missing policies. Failure to have a required policy or to disclose all of the required policy statements means that your school is not in compliance with the law.



Distribution of Reports



- By October 1st- distribute Annual Security Report (ASR)
- Develop effective distribution methods for current and prospective student and employee populations.
- Maintain appropriate documentation to demonstrate compliance.
- There are no grace periods or extensions to the October 1 deadline



ASR Publication/Distribution Action Steps



- Develop and implement policies and procedures that will govern the preparation, publication, and distribution of its ASR.
- Ensure procedures describe how records supporting distribution will be maintained.
- Review disclosures in ASR to ensure that all policy statement requirements have been fully addressed in the ASR.
 - Ensure statements of policy align with institutional policies, procedures and practices

VAWA Requirements and the Notice of Rights and Responsibilities



VAWA Programs and Procedures



- **The disclosures required by 34 CFR §668.46(b)(11) must include:**
 - A description of the institution's educational programs and campaigns;
 - The procedures victims should follow if a VAWA offense occurs;
 - Information regarding how the institution will protect the confidentiality of victims and others;
 - A statement that the institution will provide students and employees written information regarding campus and community victim services;
 - An explanation of the procedures for institutional disciplinary action in cases involving VAWA offenses; and
 - A statement that the institution will provide victims with a written notice of rights and options



Written Notice of Rights and Options



A statement that, when a student or employee reports to the institution that the student or employee has been a victim of dating violence, domestic violence, sexual assault, or stalking, whether the offense occurred on or off campus, the institution will provide the student or employee a written explanation of the student's or employee's rights and options, as described in paragraphs (b)(11)(ii) through (vi) of this section.

- Procedures victims should follow
- Information regarding confidentiality of victims & others
- Campus and community victim services
- Information regarding accommodations & protective measures
- Procedures for institutional disciplinary action



Last revised: February 2025

Notice of Rights and Options

University of California, Berkeley

For survivors of sexual assault, dating or domestic violence, stalking, sexual exploitation, sexual harassment, and invasions of sexual privacy (SVSH)

https://ucpd.berkeley.edu/sites/default/files/notice_of_rights_and_options_for_survivors_of_svsh.pdf

VAWA Disclosure Requirements

- VAWA requires institutions to disclose statements of policy in the ASR regarding:
 - *educational programs* the institution provides to students and employees to prevent VAWA offenses;
 - *procedures victims should follow* if a VAWA offense has occurred;
 - the *procedures the institution will follow* when a VAWA offense has been reported; and
 - *disciplinary procedures* that will be followed when a student or employee is accused of a VAWA offense.

DFSCA Compliance

DFSCA Requirements

Adopt and implement a materially-complete Drug and Alcohol Abuse Prevention Program (“DAAPP”)

Annually distribute the DAAPP, in writing, to *all* students and employees

Every other year, conduct a “biennial review” of the DAAPP’s effectiveness and produce a Biennial Review Report

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Requirements are Cumulative



Adopt &
Publish
DAAPP

Annual
DAAPP
Distribution

Biennial
Review of
DAAPP

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Required DAAPP Components



- **Standards of conduct** clearly prohibiting the unlawful possession, use, or distribution of illicit drugs and alcohol on IHE property or as part of any of its activities.
- A description of the **applicable legal sanctions** under local, state, or federal law for the unlawful possession or distribution of illicit drugs and alcohol. (**DSA Note: read the “or” like an “and”**)
- A description of the **health risks** associated with the use of illicit drugs and the abuse of alcohol.
- A description of any **drug or alcohol counseling, treatment or rehabilitation or re-entry programs** that are available to employees and students.
- A clear statement that the IHE **will impose disciplinary sanctions** on students and employees and a **description** of those sanctions.



The Clery Implications of Campus Emergencies, Incidents and Events

THEMES IMPACTING HIGHER ED AND CAMPUS SAFETY LEGISLATION

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- Mental Health Concerns
- Increase in Hazing & Harassment
- Increase in Bias and Hate on Campus
- Campus Threats
 - Sexual Assault & Intimate Partner Violence
 - Shootings
 - Bomb Threats
 - Swatting
 - Civil Disorder
 - Other Acts of Violence

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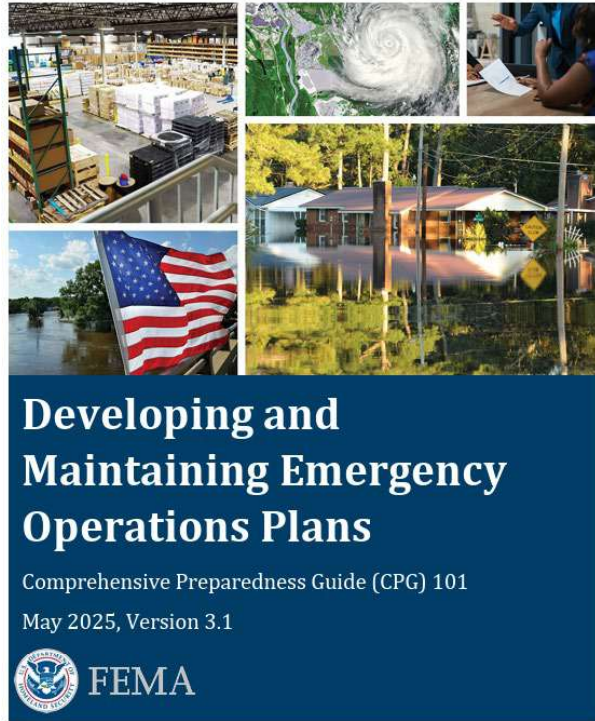
ED ACTION GUIDE

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- Action Guide for Emergency Management at Institutions of Higher Education
- <https://files.eric.ed.gov/fulltext/ED515949.pdf>

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FEMA COMPREHENSIVE PREPAREDNESS GUIDE (2025)

www.fema.gov/sites/default/files/documents/fema_npd_developing-and-maintaining-emergency_052125.pdf

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Emergency Response and Evacuation Procedures

The emergency response and evacuation requirements are intended to ensure that your institution

- has sufficiently prepared for an emergency situation on campus,
- that you are testing these procedures to identify and improve any weaknesses and
- that you have considered how you will inform the campus community and other individuals, such as parents and guardians, in the event of an emergency.

In other words, the institution must have an emergency plan, test it, evaluate it and publicize it.

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What is a Test?

- A “Test” is defined as *regularly scheduled drills, exercises, and appropriate follow-through activities, designed for assessment and evaluation of emergency plans and capabilities.*
- You must conduct at least one test a year.
- To comply with the Clery requirement the test must meet all of the criteria in the definition:
 - Drills
 - Exercises
 - Follow-through activities
 - Campus-wide notification of Test

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Who Should Be Involved in the Exercise?

- Institutional Senior Leaders
 - President and President’s Cabinet
- Directors and others from key institutional departments
 - Those likely to respond to and/or manage a campus emergency
- Key external emergency responders/partners

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Crisis Communications

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- Develop canned messaging
- Determine how this communication will occur
- Limit the number of spokespersons
- Involve public relations or communications & marketing teams
- Continue to provide public follow-ups as new information is developed
- Confer and work with local, State, and Federal law enforcement agencies
- Ensure clarity around type of messages and legal standard for distribution
- Once protocols are in place, Test them!

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Are You Including Criminal Incidents within the Context of an Emergency in your Daily Crime Log?

- All crimes - broader description
- Clearly Geography and Expanded Patrol Jurisdiction
- Disposition of incidents
- Two Business Days - entry and updates

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POLICE CRIME LOG		Disposition
		Under Investigation
		Arrest
		Report Taken
		Arrest
	Break-In	Under Investigation
		Report Taken
		Under Investigation
		Under Investigation
		Report Taken

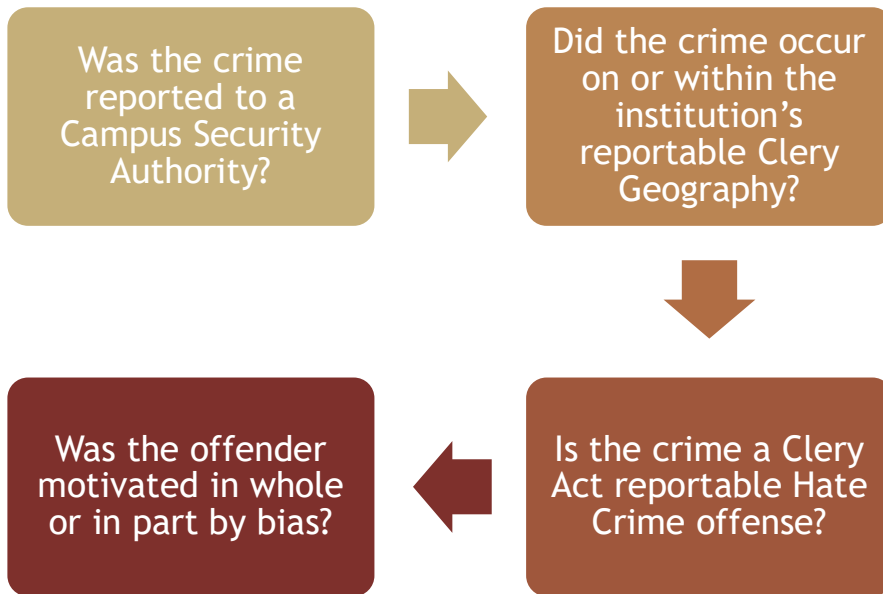
Camus Protests/Demonstrations & Other Large-Scale Events

- **Understand the Potential Clery Implications**

- Assess incidents occurring within the context of a protest/emergency - determine Clery reportability
- Ensure ongoing disclosure assessment - TW, EN, DCL
- Security awareness education, hate crime reporting, & emergency response and evacuation
- If a protest/demonstration deteriorates into harassment, violence, or hate crimes
 - The institution must be able to recognize it and know how to respond.

A Word About Bias Incidents and Hate Crimes

Determining Whether a Crime is a Hate Crime



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Hate Crimes

- A **hate crime** is “a criminal offense that manifests evidence that the victim was intentionally selected because of the perpetrator's bias against the victim” (2016 Handbook, 3-25).
- **Bias** is “a preformed negative opinion or attitude toward a group of persons based on their race, religion, disability, sexual orientation, ethnicity, [national origin], gender, or gender identity” (FBI, 2015, p. 31).

Source for this section: FBI Hate Crime Data Collection Guidelines and Training Manual (2015)

HATE CRIME OFFENSES CATEGORIES



Group A

- Murder and Non-negligent Manslaughter
- Sexual Assault
 - Rape,
 - Fondling,
 - Incest, and
 - Statutory Rape
- Robbery
- Aggravated Assault
- Burglary
- Motor Vehicle Theft
- Arson

Group B

- Larceny-Theft
- Simple Assault
- Intimidation
- Destruction/damage/vandalism of property

NOT REPORTED AS HATE CRIMES

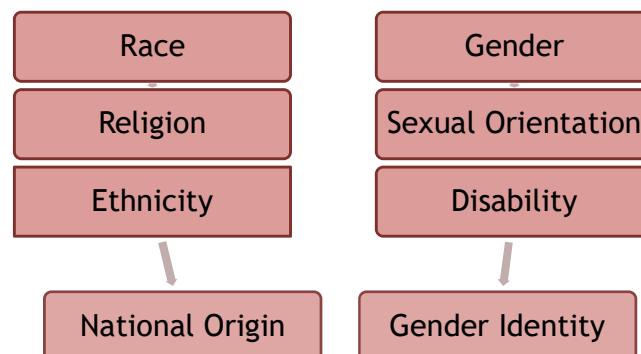
- Liquor, Drug, or Weapons Law Violations
- Dating Violence, Domestic Violence, or Stalking
- Manslaughter by Negligence
- Hazing

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Categories of Bias

- Include any of the aforementioned crimes that manifest evidence that the victim was intentionally selected because of the perpetrator's bias.



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Operationalizing the Crime Collection and Reporting Process



Key Compliance Considerations



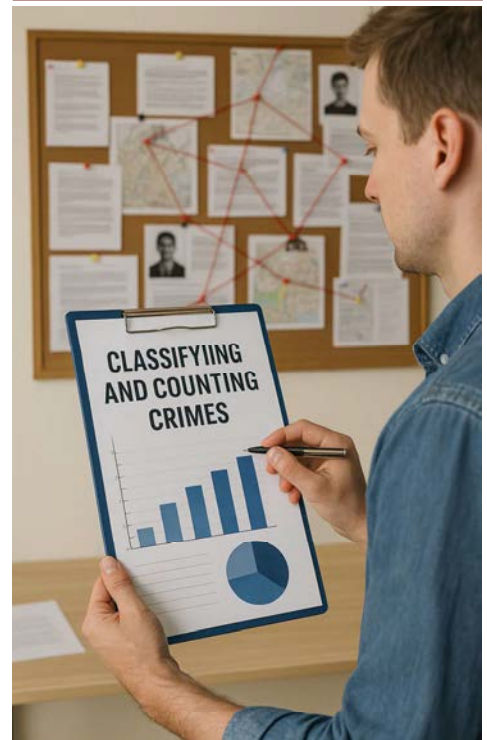
- Be careful not to over-rely on the institution's electronic records management system(s) to generate Clery statistics
 - Not all systems have the correct crime category options (state crime codes)
 - Not all systems are flexible enough to classify and count offenses properly (e.g., crimes in more than one general category, multiple crimes occurring over multiple incident dates but presented in one report, etc.)
 - Not all systems allow for linking incident locations with Clery Geography
 - User error (e.g., selecting incorrect incident location)

Operationalizing Classifying & Counting Crimes

- How and when will reports from external sources be added to reports/RMS?
- What process do you use to assess, evaluate and document the reported crimes identified for inclusion in the annual crime statistics?
 - Importance of an audit trail and established reconciliation processes
- Converting offenses from state and local codes (and campus conduct policies) to Clery classifications
- Jurisdictional Law Assessment for LLV, DLV, and WLV
- Jurisdictional law assessment for Hazing
- Assess family violence laws of the jurisdiction for Domestic Violence purposes
- Documentation & reconciliation of reports from CSAs and local law enforcement agencies
 - Remember to request crime reports from CSAs and crime statistics from State and local law enforcement agencies with jurisdiction

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Policy and Procedure Content



Written policies and procedures for an effective Clery Act crime reporting process would typically:

cover all significant aspects of the school's Clery Act crime reporting processes and activities, including activities for

- identifying information sources for the Clery Act crime statistics;
- collecting, recording, and tracking the information;
- analyzing the information and reporting crime statistics; and
- providing for management oversight and quality assurance related to the crime statistics;

U.S. Department of Education, OIG, University of North Georgia, September 11, 2020

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Policy and Procedure Content



Identify	personnel responsible for each activity;
Include	procedures for how to perform required tasks; • Including the process for Unfounding crimes
Develop	templates for any forms that are used during the process; and
Require	the school's policies and procedures be evaluated periodically and updated to reflect changes to the process

Key Institutional Policies of Focus

TW/EN

VAWA

Emergency Response/ Evacuation

ASR Development/ Distribution

Crime Stats Collection/ Disclosure

CSA Management

Clery Geography Management

DCL Management

AntiHazing Conduct Processes



Lessons Learned from Recent U.S. Department of Education Program Reviews

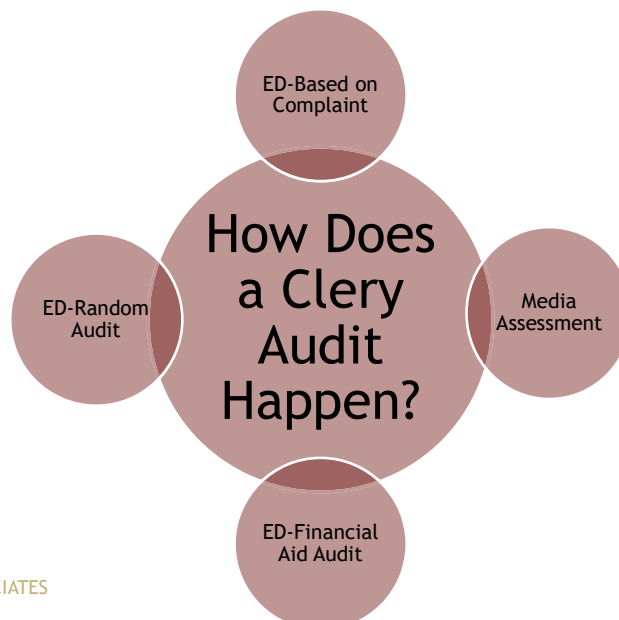
Bill Lafferty, CCCO

*Director, Regulatory Compliance & Public Safety Services,
D. Stafford & Associates*

Director of Federal Relations, NACCOP



Will You Be Audited?



Consequences of Noncompliance

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- A suspension or limiting of the institution's Title IV funding
- The institution's name will be provided to Congress by the Secretary of ED
- ED can issue civil fines for each violation
- Final Review Determination Reports are public records (<https://studentaid.gov/data-center/school/clery-act-reports>)
- The institution will receive negative media attention - negative brand reputation

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CIVIL MONETARY PENALTIES (FINES)



Effective Date	Fine Amount
October 17, 1986	\$25,000
November 18, 2002	\$27,500
October 2, 2012	\$35,000
August 1, 2016	\$53,907
April 20, 2017	\$54,789
January 15, 2018	\$55,907
February 1, 2019	\$57,317
January 15, 2020	\$58,328
February 3, 2021	\$59,017
April 20, 2022	\$62,689
January 30, 2023	\$67,544
January 25, 2024	\$69,733
January 21, 2025	\$71,545



FEDERAL REGISTER
The Daily Journal of the United States Government



© Rule

Adjustment of Civil Monetary Penalties for Inflation

A Rule by the Education Department on 01/21/2025

Purpose of Program Review

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“A Clery Act and DFSCA program review is intended to determine whether the institution has experienced process, policy, and/or procedure failures, and therefore focuses on institutional processes, policies, and procedures” (Baylor University Final Program Review Determination, 2020, p. 8).

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Program Review Process

- Program review announcement
- Entrance conference
 - On-Site program review
 - Off-Site program review
- Exit conference/status conference
- Program review report
- Institutional response
- Final program review determination (FPRD)

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Items That May be Requested by ED



Annual Security Report (ASR) & Related Documentation

- Copies of all Annual Security Reports (ASRs) for the review period (typically three years)
- Documentation of ASR distribution (e.g., emails, screen captures, web links, mailing procedures)
- Supporting policy statements included in the ASR (e.g., DAAPP, sexual misconduct procedures, emergency response protocols)

Campus Geography

- Maps of all Clery-reportable geography:
 - On-campus property
 - On-campus residential facilities
 - Non-campus property
 - Including property owned or controlled by recognized student organizations
 - Public property immediately adjacent to campus



Items That May be Requested by ED



- Leases or agreements for non-campus properties used for educational purposes

Crime Statistics & Incident Reports

- Clery crime logs, case reports, and arrest records for the review period
- Daily crime logs maintained by campus police or security
- Internal spreadsheets or databases used to compile Clery statistics (Audit Trail)
- Supporting documents used to determine classification and location of reported incidents

Timely Warnings & Emergency Notifications

- Copies of all timely warnings and emergency notifications issued during the review period
- Documentation of decision-making protocols for issuing warnings



Items That May be Requested by ED



- Evidence of the notification system (e.g., screenshots of alerts, texts, emails, siren testing records)
- Policies and procedures for emergency response and evacuation

Policies on Sexual Assault, Dating Violence, Domestic Violence, and Stalking

- Institutional policies and procedures for:
 - Reporting and responding to sexual offenses
 - Disciplinary procedures and investigation protocols
 - Prevention and awareness programming (including annual training)
- Copies of written notice of rights and options provided to survivors
- Records of training for investigators, adjudicators, and responsible employees



Items That May be Requested by ED



Campus Security Authority (CSA) Identification and Training

- Lists of designated CSAs
- Documentation of CSA training programs
- Records showing CSA crime reports submitted to Clery compliance personnel

Training and Prevention Programming

- Agendas, materials, and attendance records for Clery-related training sessions
- Records of primary prevention and awareness campaigns
- Evidence that programs were ongoing and compliant with VAWA amendments



Program Review Notification Requirements



- Notify all personnel with responsibilities related to:
 - Campus policing and security
 - Judicial affairs
 - Student affairs
 - Fraternity and sorority relations
 - Residence life
 - Athletics
 - Victim advocacy
 - Counseling
 - Any other office with significant Clery Act responsibilities



Expectations for Site Visit



- Ensure relevant personnel or designees are available during the Department of Education's site visit
- Officials must provide:
 - Accurate
 - Complete
 - Timely responses...to all requests made by the review team

Institutions (so far...)

- Liberty University (2024)
- Pennsylvania State University (2016)
- Michigan State University (2018)
- University of California, Berkeley (2019)
- University of North Carolina at Chapel Hill (2019)



Common PRM Elements



- Corrective Action Plan (CAP) Oversight
 - Ongoing review of plan's implementation
 - Required submission of evidence of compliance (e.g., updated policies, training logs, etc.)
 - Periodic status reports documenting progress
- ASR and Crime Statistics Validation
- CSA Compliance
- Timely Warning and Emergency Notification Systems
- Policy Alignment and Accessibility



Common PRM Elements



- Training and Awareness Initiatives
- Recordkeeping, Audit Trails and Records retention Protocols
- Follow-up Correspondence
- Ongoing contact with ED Clery Group
- Potential follow-up site visits or interviews
- Final closure on granted up ED confirmation of sustained compliance

Media/Complaint Audit: Sample Info Request

- Incident & Supplemental Reports/Detailed Follow-Up Info and Timeline of Event
- Copy of ASR
- Proof of ASR's distribution
- Copy of TWN/IN policy/procedure
- Copy of TWN/IN issued (or the rationale for not issuing one, if one was not issued)
- Copy of Crime Log
- Clery Map & Patrol Map
- Two most recent Biennial Review Reports



Liberty University Findings



- Finding #1: Lack of Administrative Capability
- Finding #2: Inaccurate and Incomplete Informational Disclosures
- Finding #3: Failure to Comply with VAWA Requirements
- Finding #4: Failure to Identify and Notify CSAs and to Establish an Adequate System for Collecting Crime Statistics from all Required Sources
- Finding #5: Failure to Properly Classify and Disclose Crime Statistics
- Finding #6: Failure to Issue Emergency Notifications in Accordance with Federal Regulations
- Finding #7: Failure to Issue Timely Warnings in Accordance with Federal Regulations
- Finding #8: Failure to Maintain an Accurate and Complete Daily Crime Log
- Finding #9: Failure to Define Clery Geography in Accordance with Federal Regulations
- Finding #10: Failure to Comply with Title IV Record Retention Requirements
- Finding #11: Failure to Publish and Distribute Annual Security Report in Accordance with Federal Regulations
- ~~Finding #12: Failure to Protect Whistleblower from Retaliation~~

(FPRD, 2024, p.2)

Baylor University (2020)

Lack of Administrative Capability

Statistical Discrepancies

Timely Warnings

Identification and Notification of CSAs*

Daily Crime Log

Auburn University (2020)

Finding #1: Lack of Administrative Capability

- Failure to adequately coordinate with its contracted LE servicer
- Failure to issue Timely Warnings
- Failure to maintain an accurate and complete daily crime log
- Failure to compile and disclose accurate, complete and fully reconciled crime statistics in its ASRs and data submissions to ED
- Failure to produce and distribute accurate and complete ASRs

University of California, Berkeley (2019)

- ED review initiated based on assessment of a complaint filed by several students
- Concerns raised regarding IHEs sexual assault prevention and response provisions
- Complaints alleged Title IX and Student Conduct failed to properly investigate and adjudicate claims
- Records examination for CYs 2009-2012
 - Review period expanded to the end of CY 2016



UNIVERSITY OF CALIFORNIA, BERKELEY (2019)

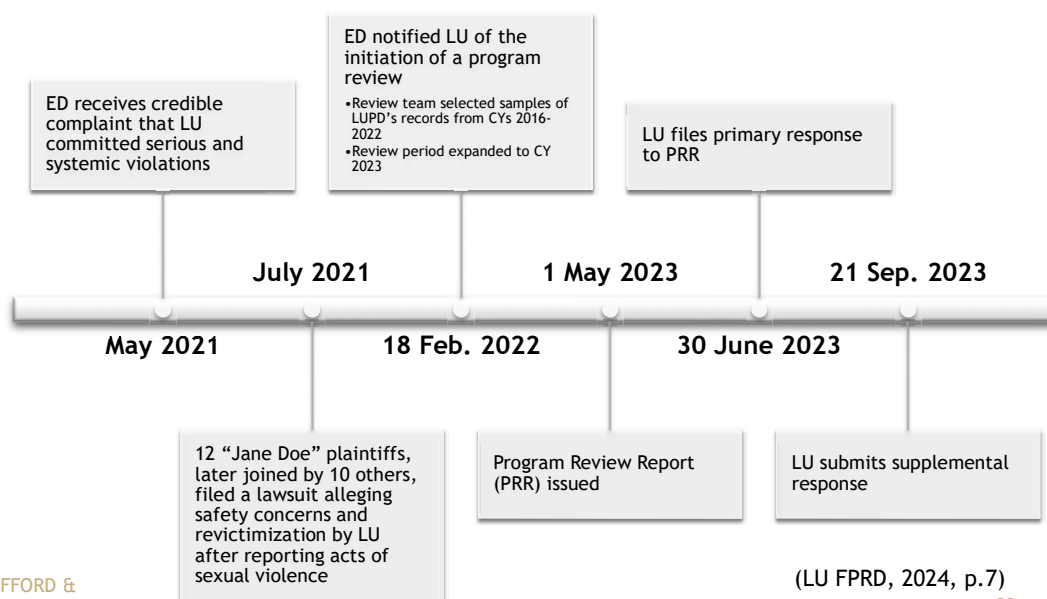
- Review included an examination of records from 2009-2012:
 - Berkeley's ASRs and AFSRs
 - Police incident reports
 - Arrest records
 - Student conduct violations
 - Title IX case records
 - Policies and Procedures related to the Clery Act
 - Daily Crime Log
 - DFSCA compliance

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Background and Scope of Review





Finding #1: Lack of Administrative Capability



“The record shows that the University failed to exercise sufficient oversight, governance, and coordination over essential activities and workstreams and the actions of officials and departments that were responsible for safety-related functions across the enterprise. The result of these breakdowns was a general failure to properly advise crime victims of their rights and options, to help crime victims access accommodations, protective measures, and support services and to otherwise keep students, employees, other stakeholders, and the larger campus community fully informed of matters that affected their safety and security.” (FPRD, 2024, p.10).

“...the Clery Compliance Officer was not given the requisite access or authority to perform these functions. Specifically, the review team was advised on multiple occasions during the review period, the Clery Compliance Officer raised concerns about specific and ongoing violations of the Clery Act, including, but not limited to, the general failure to issue Timely Warnings and to identify and notify CSAs. During this time, the Clery Compliance Officer also regularly presented recommendations for enhancements of policies, procedures, programs, and systems, most of which were rejected or ignored by senior management.” (LU FPRD, 2024, pp.10-11).



Finding #1: Lack of Administrative Capability



“The Department has determined that victims of sexual crime that occur on the University’s Clery Geography are often fearful of reporting their incidents. For instance, the Department has found that numerous victims of sexual assault have been reluctant to speak up about their assaults because of fear of reprisal. In fact, over the course of this review period, several sexual assault victims were punished for violating the student code of conduct known as “The Liberty Way,” while their assailants were left unpunished.”

(LU FPRD, 2024, p.12).



Finding #2: Inaccurate and Incomplete Informational Disclosures



This condition was most relevant in the following areas:

1. Failure to publish accurate and complete statements of policy, procedure, and programming intended to prevent acts of sexual violence
2. Failure to publish accurate statements of policy and procedures regarding Emergency Notifications
3. Failure to publish accurate statements of policy and procedures regarding the issuance of Timely Warnings



Finding #3: Failure to Comply with the VAWA Requirements



- Failed to produce accurate and complete written resources and options of a student or employee
- Failed to notify victims in writing that the institution is required to assist with notifying LE
- Failed to provide written notice about available options for accommodation
- Failed to produce written notification regarding the availability of support services
- Failed to provide annual training to officials investigating and adjudicating case of sexual violence

The “Liberty Way”

“The consequences of the University’s failures to develop and implement an adequate sexual violence prevention and response program had devastating impacts for victims. Under the Clery Act and Title IX, the process of addressing sexual violence starts with a report by a victim or witness. As noted throughout this report, Liberty lacked the internal controls necessary to manage an effective, accessible reporting process, free of recrimination, and revictimization.” (FPRD, 2024, p.26).

LUPD Incident

“...a victim reported that she was raped. The victim stated that in furtherance of the attack, the perpetrator slapped her, pulled her hair, and threatened her by reminding her that he carried a knife. The perpetrator also engaged in coercive, intimidating, and manipulative behaviors. Despite these reported facts, the investigator unfounded this case based on a claim that the “victim indicates that she consented to the sexual act.” In point of fact, the victim’s own statement merely indicated that she “gave in” in an attempt to get away from the perpetrator. To state the obvious, “consent” acquired by threat or force is no consent at all.” (FPRD, 2023, p.27).

University of California, Berkeley (2019)

- **Finding #3: Failure to Comply with the University's Sexual Violence Policies and Procedures (Part A)**
 - Institution failed to inform complainants of outcome of disciplinary proceeding involving an alleged sex offense
 - Both accused and accuser must be informed of any disciplinary proceeding in response to a report of an alleged sex offense
 - The outcome of a disciplinary proceeding means the final determination and any sanction(s) imposed
 - ED indicated this failure to inform a complainant of the outcome and sanctions deprives them of important safety information to sustain personal well-being

University of California, Berkeley (2019)

- **Finding #3: Failure to Comply with the University's Sexual Violence Policies and Procedures (Part B)**
 - Failed to include a clear statement of policy in ASR about process for informing a complainant about disciplinary outcome
 - Statement was ambiguous and indicated information would be disclosed at discretion of Dean of Students
 - ED indicated policy suggested no information would be provided if no sanction was administered
 - Required to review and update policies and procedures and ensure for simultaneous notification of the complainant and accused as to outcomes reached and sanction(s) imposed



Lessons Learned – VAWA



- Maintain and regularly update clear, accessible written materials outlining all rights and options for victims of sexual violence (Notice of Rights and Options)
- Ensure documents are provided consistently and proactively to students and employees following a report of sexual misconduct
- Include all required VAWA elements such as:
 - Confidentiality options
 - Reporting procedures (both institutional and law enforcement)
 - Disciplinary processes
 - Protective measures and accommodations, etc.
- Ensure ASR policy statements address ALL required VAWA disclosures and institutional procedures and processes align with those policies



Lessons Learned - VAWA



- Clearly describe **prevention and awareness programs**, including:
 - Primary prevention
 - Ongoing awareness and education
- Involve Title IX, student conduct, and counseling teams in policy reviews to ensure alignment and consistency
- Develop internal policies and protocols for responding to, investigating, and classifying crime reports in accordance with the Clery Act definitions and rules/standards for counting
 - Clear lesson about Unfounding Clery Act crimes



Finding #4: Failure to Identify, Notify and Engage CSAs



- Failed to identify and notify officials who are or were CSAs
- Failed to effectively collect statistics for incidents reported to CSAs
- Until 2017, Clery compliance relegated solely to the LUPD
 - LUPD received no training on the Clery Act nor were they trained or experienced in establishing a compliance program



Finding #4: Failure to Identify, Notify and Engage CSAs



- LUPD officials and the CCO unaware of requirement to include incidents reported by CSAs in ASR
- LUPD and CCO never had sufficient authority to require CSAs to attend training or provide crime reports
- Multiple employees who met criteria of a CSA were not informed of their CSA status
- Multiple CSAs did not know how to perform their duties



Finding #4: Failure to Identify, Notify and Engage CSAs



SELF-REPORTED CSA COUNTS PER UNIVERSITY DEPARTMENT AND YEAR

<i>Year</i>	<i>Athletic Department</i>	<i>Department Heads/VPs</i>	<i>Residence Life</i>	<i>Total</i>
2016	0	0	0	0
2017	165	0	296	461
2018	185	0	331	516
2019	203	0	332	535
2020	0	0	313	313
2021	0	0	336	336
2022	223	91	335	649

(FPRD, 2024, p.35)

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Baylor University (2020)



- “CSAs are to be identified, and then provided processes, policies and procedures that delineate their duties and responsibilities...”
- Even though the regulation does not specifically require training of an IHE’s CSAs, the institution must be able to provide proof of the processes that it uses to identify and provide instruction to its CSAs in order to ensure that they are able to perform their duties and carry out their responsibilities according to the institution’s own processes, policies, and procedures.”

(Baylor University Final Program Review Determination, 2020, p. 32)



Baylor University (2020)



- “According to the Clery Act, individuals reporting crimes or incidents to CSAs are not required to report anonymously but must be given the opportunity to report anonymously if they so desire. 34 CFR § 668.46(b)(2)(iii)...

(Baylor University Final Program Review Determination, 2020, p. 33)

(b) **Annual security report.** An institution must prepare an annual security report reflecting its current policies that contains, at a minimum, the following information:

- (iii) A list of the titles of each person or organization to whom students and employees should report the criminal offenses described in [paragraph \(c\)\(1\)](#) of this section for the purposes of making timely warning reports and the annual statistical disclosure; and
- (iv) Policies or procedures for victims or witnesses to report crimes on a voluntary, confidential basis for inclusion in the annual disclosure of crime statistics.

Baylor University (2020)

- “...it is incumbent upon CSAs to obtain as much information as possible when it is made available to them as that report could be [the institution’s] one and only opportunity to obtain all the information concerning a crime or incident if the complainant refuses to report it to [the campus police or security department].”

(Baylor University Final Program Review Determination, 2020, p. 33)



Finding #4: Failure to Identify, Notify and Engage CSAs



“While institutions are not required to provide CSA training, most institutions find that training is the best way to educate CSAs about their important role.

The best evidence of the weaknesses in the institution’s CSA identification, notification, and reporting processes is that, with the exception of the RAs, it did not generate any actual reports. These conditions necessarily had a significantly detrimental impact, although not an entirely quantifiable one, on the institution’s reporting processes and the resulting crime statistics. Given the paucity and unreliability of credible records, the full extent of this violation can never be entirely known or quantified.” (FPRD, 2024, p.35).



Lessons Learned – CSA Management & Oversight



- CSA Identification, and Oversight Responsibility
- Establish CSA reporting process
- Engage CSAs
- Maintain copies of CSA reports
 - Assess for TW or EN
 - Include all crimes on the Daily Crime Log
 - Include Clery reportable crimes in the ASR
- Establish institutional accountability measures

University of California, Berkeley (2019)

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- **Finding #4: Failure to Comply with Daily Crime Log Requirements**
 - Numerous log entries reviewed by ED did not include all the required fields
 - The crime log did not clarify whether recorded dates and times represented when incidents of crime were reported, or when they occurred
 - On occasion, crime logs omitted the geographic locations of incidents
 - Some logs used improper classifications to describe the general nature of incidents

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Crime Log Discrepancies – University of California, Berkeley

- UCPD IR #10-03002 -Suspicious Circumstances Monday, August 9, 2010 at 16:07 General Location: Fenwick Weavers Village; Disposition: Under Investigation.
 - In the description of UCPD's crime incident report, the alleged crime was described as "penetration with foreign object to heavily intoxicated person, sexual battery, " and the crime incident occurred on "July 31, 2010 at 0000." Therefore, "Suspicious Circumstance " is an incorrect classification for the nature of the crime. Furthermore, the crime log entry was missing the date and time at which the crime occurred

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Crime Log Discrepancies – University of California, Berkeley

- UCPD IR #11-00965 -Suspicious Circumstance Date Reported: Monday, March 8, 2011 at 22:49 General Location: Eucalyptus Grove Disposition: Under Investigation.
- According to the crime incident report, the alleged offense was described as "indecent exposure, willful harm to a child, sexual battery, annoying or molesting child " The sexual assault occurred on-campus on Tuesday, March 8, 2011, at 22:45. Therefore, "Suspicious Circumstance" is an incorrect classification for the nature of the crime, and the crime log entry was missing the date and time at which the crime occurred



Lessons Learned: Summary of Initiatives Implemented by UC, Berkeley Following ED Audit



- Creation of campus Clery Coordinator & Clery Liaison
- Constitution of a campus-wide Clery Compliance Committee
- Upgrade to UCPD's records management system
- Improved systems for TW's and EN's
- Strengthened policies and procedures to address sexual violence and sexual harassment on campus
- Streamlined campus safety policies and procedures
- Created more robust training opportunities related to SVSH, including:
 - Improved faculty, staff and student training
 - Enhanced available resources for University staff & survivors



Auburn University (2020)



Finding # 3: Failure to Properly Classify Reported Crimes and Disclose Crime Statistics

- Errors in identifying and classifying reported crimes'
- Identification and disclosure errors (under-reports)
- Improper use and/or application of the “unfounded” classification
- Persistent record keeping weaknesses
- Systemic Clery Act and UCR compliance failures - including documenting multiple and distinct Clery-reportable offenses in a single incident



Auburn University (2020)



Classification and Disclosure Errors:

- **Complaint #07001835 (2007)**- Auburn classified this incident as “Police Information.” The correct classification is Motor Vehicle Theft. The complainant reported the theft of a Tiger Transit Bus. He had left the vehicle, unattended, with the keys in the ignition and the doors unlocked as he went to use the restroom. When he returned, the vehicle was missing. The vehicle was then located, approximately 10 minutes later, at a different location. No one was authorized to take possession of the vehicle from the complainant.
- **Complaint #07008336 (2007)** - Auburn classified this incident as “Theft of Bicycle.” The correct classification is Burglary. The complainant reported that her bicycle had been stolen from her dorm room.
- **Complaint # 08002596 (2008)** - Auburn classified this incident as “Simple Assault.” The correct classification is Aggravated Assault. The victim was assaulted by a known male who punched and kicked him. Paramedics attending to his injuries advised law enforcement that the victim’s ribs had been broken. The victim was transported to the hospital.

Auburn University (2020)

Classification and Disclosure Errors:

- **Complaint #08015660 (2008)** - Auburn classified this incident as “Police Information.” The correct classification is Rape. The responding officers responded to the local hospital for the report of a rape and interviewed the victim who stated that she began consuming alcohol at or around 9:30pm; the time of the report was 4:30am. She did not remember giving consent to have intercourse with the male, who was known to her. Analysis of the relevant documents showed that the case was subsequently closed, but not unfounded. The incident report indicates that no supplementary report or addendum was generated.
- **Complaint #08017560 (2008)** - Auburn classified this 2008 incident as an “Aggravated Assault,” but reported no Aggravated Assaults to the CSSDACT for 2008. The correct classification is Forcible Sex Offense Fondling. The narrative describes the report of an assault during which one victim was struck in the face with a closed fist. This first victim reported that he had gotten into a fight with a male who had groped his girlfriend’s breast and buttocks. The girlfriend confirmed to law enforcement that she had been sexually assaulted. Even though the first victim was transported to the hospital, there is no information within the incident report to indicate that the assault was an aggravated one. What is clear is that the second victim reported a fondling.

Auburn University (2020)

Finding #5: Timely Warning Issuance and Policy Violations

- **Aggravated Assault (2007)**- An Asian male was attacked by four unknown white males on the Auburn campus. CAPD classified this incident as an “Aggravated Assault.” The victim asked his attackers why they were hitting him; one suspect reportedly responded, “Because you are Asian.”
- **Robbery (Handgun-2007)**- Three victims were robbed at gunpoint in the parking lot of a fraternity house. One suspect, who wore a mask, pointed the handgun at one of the victim’s head and demanded his wallet. The other suspect, also masked, robbed the other victims. Both suspects fled by vehicle. The victims reported the crime fifteen (15) minutes later to the CAPD.
- **Robbery (2011)** - While walking on campus, the victim was approached by two males, who pushed him to the ground, and demanded his wallet.
- **Rape (2014)** - The victim reported to the CAPD that she had been drugged and raped on July 19, 2014, at 4:00 p.m. Auburn did issue a warning; however, it did not do so until July 20, 2014, at 9:00 p.m.



Auburn University (2020)



Finding # 8: Statistical Discrepancies between the Annual Security Report and the Department's Online Campus Crime Statistics Database

The following table illustrates several inconsistencies between Auburn's 2013 ASR and the data reported to the CSSDACT for the same period:

Table 2

2013 ASR	CSSDACT
<i>2012 Forcible Sex Offenses On-Campus: 1</i>	<i>2012 Forcible Sex Offenses On-Campus: 9</i>
<i>2012 Aggravated Assaults On-Campus: 0</i>	<i>2012 Aggravated Assaults On-Campus: 7</i>
<i>2012 Burglaries On-Campus: 15</i>	<i>2012 Burglaries On-Campus: 36</i>
<i>2012 Motor Vehicle Theft: 2</i>	<i>2012 Motor Vehicle Theft: 5</i>
<i>2012 Burglaries Non-Campus: 2</i>	<i>2012 Burglaries Non-Campus: 7</i>

Lessons Learned: Summary of Initiatives Implemented by Auburn Following ED Audit

- Employs a competent Clery Compliance Officer
- Retained an external attorney/advisor with expertise in the field
- Entered into a new contract with LLE that provides better support for the institution's Clery compliance program
- Established satisfactory policies, procedures, practices and programs that meet minimum requirements



Finding #6: Failure to Issue ENs



- Knowingly and repeatedly failed to issue ENs to advise of emergencies or dangerous situations
- Violations persisted throughout review period
 - Former VP of HR intentionally suppressed ability of LUPD to issue such notices
- A March 30, 2016 EN was issued due to a credible on-campus bomb threat
 - Senior officials were concerned about the attention the notice generated and took steps to ensure ENs did not become a common occurrence
 - LUPD officer subjected to disciplinary action
 - University stopped issuing ENs in response to crime-related threats

(FPRD, 2024, p.51)



Finding #6: Failure to Issue ENs



- Did not adhere to ASR policy statements related to ENs
 - Policy states that, “Emergency Notifications will be promptly issued in the event of reported incident that constitutes an immediate threat to the health and safety of the University community.”
- Did not issue ENs even after officials were notified and the condition had been reasonably confirmed
- Did not issue ENs after individuals were credibly accused of repeated acts of sexual violence

(FPRD, 2024, p.51).



Finding #6: Failure to Issue ENs



Timeline of the Football Player's Criminal Conduct

- **Rape (2020):** In 2020, the football player was accused of raping a woman on Clery Geography, an incident that was not included in the University's 2020 crime statistics. The Department notes that this reported offense should have resulted in the issuance of a Timely Warning but did not.⁵⁸
- **Stalking (2021):** In early 2021, the football player started to engage in a pattern of stalking behaviors directed at Victim A, who was both a Liberty student and an employee. This behavior continued for several months.
- **No Contact Directive (2022):** OEC issued a No Contact Directive (NCD) on August 17, 2022, against the football player on Victim A's behalf. Following the NCD's issuance, the football player continued to stalk Victim A.
- **Arrested for Stalking (2022):** On September 11, 2022, the football player was arrested for stalking. The football player was permitted to continue playing and practicing with the football team.
- **Convicted for Stalking (2022):** On October 13, 2022, the football player was found guilty of stalking in Virginia court.⁵⁹ The football player was permitted to continue playing and practicing with the football team.

(FPRD, 2024, pp.52-53).



Finding #6: Failure to Issue ENs



Additional examples of Liberty's failure to issue Emergency Notifications are summarized below.

- **LUPD Incident #18-01439 (Assault)** – On July 10, 2018, at approximately 10:22 p.m., a 14-year-old girl reported that she was grabbed by a white male in a black hoodie. She told police that the attack occurred while she was walking on the lawn area behind the Vines Center, near the Falwell Library. The victim also reported that she screamed and then struggled with the assailant. She stated that during the struggle, she was able to strike the perpetrator in the groin at which time, he fled the scene. The perpetrator was never located.
- **LUPD Incident #19-01424 (Bomb Threat)** – On July 31, 2019, at approximately 5:03 p.m., the LUPD received a report that someone was allegedly attempting to blow up Thomas Road Baptist Church (TRBC). A suspect was eventually identified but could not be located. An Emergency Notification should have been issued based on information in the University's incident report which noted that the person(s) responsible had not been apprehended and their current location was unknown. In this context, it is notable that TRBC is co-located with Liberty Christian Academy (LCA), a K-12 school located on the University campus. The parents of the school-age children and employees of LCA were entitled to detailed and timely information about this threat.

(FPRD, 2024, p.53).



Finding #7: Failure to Issue TWs



- Failed to issue TWs in response to crimes that may have posed a significant or ongoing threat
- All LE and emergency operations was moved under the control of the EVP of HR
 - During this time, LUPD command staff and officers were directed not to issue TWs
- This edict applied to serious crimes against persons and property including rapes and other sex-based offenses, robberies, physical assaults, and MVTs.
- ED found only 2 TWs issued during review period
 - One was issued 24 days after the incident was reported



Finding #7: Failure to Issue TWs



Warnings not issued in a Timely Manner:

1. *LUPD Incidents #22-014156, #22-017730, #22-017918, #22-017983, #22-018202, #2223-000818, 23-001089, #23-001341, #23-001346 – From October 10, 2022, to January 26, 2023, nine incidences of on-campus motorized scooter thefts occurred, several of them occurring within a short expanse of time. Two thefts occurred on back- to-back days, two occurred within three days of each other, and three occurred within five days of each other.*
2. *LUPD Incident #21-008358 (Sexual Battery) – On November 19, 2021, at approximately 5:35 p.m., a woman reported that she was allegedly fondled, choked, and prevented from leaving a vehicle that was on-campus by a University professor.*

NOTE: Liberty issued a warning approximately three-weeks after the incident occurred. The professor was arrested, but bonded out shortly after the arrest and could have returned to the campus.



Lessons Learned – Emergency Notifications and Timely Warnings



Failure to Issue ENs/TWs Undermines Safety

- Institutions must **promptly issue ENs** when an immediate threat to health or safety is reported and confirmed.
- Failure to issue ENs and TWs—even when serious crimes are known—places the campus community at significant risk.
- Delays or non-issuance violate Clery requirements and institutional policy statements.

Policy Must Be Practiced, Not Just Published

- Written policies (e.g., in the ASR) must be followed in practice—stating that ENs will be issued is meaningless if suppressed in reality
- All actions must align with published Clery policies regarding ENs and TWs



Lessons Learned – Emergency Notifications and Timely Warnings



Leadership Interference Is a Major Risk

- Suppression by senior officials severely compromises safety and violates federal law
- Law enforcement and emergency management decisions must remain operationally independent from administrative or PR concerns

Retaliation and Censorship Create Chilling Effect

- Disciplining officers for attempting to issue ENs creates a culture of fear and non-compliance
- Institutional culture must support transparency and compliance—not discourage it for reputational reasons



Lessons Learned – Emergency Notifications and Timely Warnings



Systemic Failures Lead to Measurable Violations

- Only two TWs issued during the review period—one delayed by 24 days—demonstrates a systemic breakdown of required notification processes
- TWs must be issued promptly when a crime poses a serious or ongoing threat, including sexual violence, robbery, or assault

Clery Compliance Must Be Insulated from Politics

- Concerns about “attention” or “media fallout” must never override legal obligations to warn and protect the campus community
- Institutional response plans should include firewalls against administrative suppression of notifications





NACCOP CLERY COMPLIANCE OFFICER CERTIFICATION PROGRAM

About the Program

The Clery Compliance Officer (CCO) Certification Program will provide candidates with the opportunity to immerse themselves in a comprehensive professional development program that leads to a professional credential from the only association serving the needs of Clery compliance officers and professionals.

Individual Benefits

- Achieve a professional-level credential
- Develop expertise in Clery Act compliance
- Become a leader in the field
- Learn how to develop an effective system to keep the institution in compliance
- Interact and network with other CCO Certification Program Candidates
- Prepare for growth and future advancement
- Participate in a rigorous combination of educational initiatives designed to prepare you to effectively lead your institution's Clery Act compliance program

Institutional Benefits

- Ensure that your staff has mastered essential concepts to effectively lead the institution's Clery Act compliance program
- Make a strategic investment in the professional development of your staff
- Mitigate the risk of noncompliance and its consequences (i.e. fines, negative media publicity, etc.)
- Provide your staff with a network of other credentialed practitioners
- Enhance administrative capacity to manage Clery Act compliance, as expected by the Department of Education

CCO Certification Program Pricing

NACCOP Members

\$2,800

(\$275 annual recertification fee* after successful completion)

NACCOP Non-members

\$3,800

(\$375 annual recertification fee* after successful completion)

The Certification Fee can be paid in one, two or three installments (see NACCOP website for details).

*Candidates who successfully earn the NACCOP CCO Certification will be required to complete several online classes each year to maintain the certification.

Apply for the NACCOP CCO Certification Program and other training programs at
www.NACCOP.org





ENHANCE YOUR KNOWLEDGE. PROTECT YOUR CAMPUS.

D. Stafford & Associates Services

- Clery Act Services: Independent Reviews of Clery Compliance, ASR Reviews, Training at Individual Campuses, and Assistance with Department of Education Audits
- Drug-Free Schools and Communities Act (DFSCA) Services: Review of Drug and Alcohol Abuse Prevention Program (DAAPP), DAAPP Disclosure Process, and Biennial Review
- Campus Police/Public Safety/Security Management Studies and Organizational Assessments
- Arming Assessments
- Physical Security and Vulnerability/Threat Assessments
- Expert Witness and Litigation Consultation
- Accreditation Assessments and Planning
- Behavioral Intervention Team/Threat Assessment Team Procedure Assessments and Training
- Active Shooter Training for Armed and Unarmed Agencies
- Title IX Services: Sexual Misconduct Policy Review or Development, Training at Individual Campuses, and Assistance with Office for Civil Rights Investigations
- Independent Civil Rights (Title IX) Investigations of Alleged Sexual Misconduct/Harassment
- Executive Searches for Chiefs and Directors of Campus Police/Public Safety Agencies
- Searches for Clery Compliance Officer/Director and Title IX Coordinator positions
- Interim Chief/Director Placement
- Part-Time Clery Compliance Consultant Service (DSA can provide a team member to serve as the CCO for your Institution)
- Community Policing and Sexual Assault Program Assessment and Training
- Emergency Response Training & Exercises
- Procedural Justice Assessments (www.campusproceduraljustice.com)

D. Stafford & Associates National Training Classes

- D. Stafford & Associates (DSA) Clery Act Compliance Training Academy (5 days)
 - DSA Advanced Clery Act Compliance Training Academy: Practical Application
 - Title IX Coordinator Classes—Multiple Tiers
 - Title IX Investigator Classes—Multiple Tiers
 - Behavioral Intervention/Threat Assessment Team Training
 - Behavioral Intervention/Threat Assessment Chair Training
- 🍁 DSA offers several training classes and other consulting services for Canadian institutions of higher education. Visit the Canadian Services Tab of the DSA website for more information.

Visit www.dstaffordandassociates.com
For additional information about DSA Services and/or Classes



D. STAFFORD
& ASSOCIATES

DSA TRAINING CLASSES

TIER 1: CLERY ACT COMPLIANCE TRAINING ACADEMY

This 5 day training academy is designed to be a comprehensive and intensive training experience. The Academy addresses all statutory and regulatory requirements of the Clery Act (including relevant sub-regulatory guidance provided by the U.S. Department of Education). The training academy experience will benefit individuals who have not had previous Clery Act training, as we start with the basics and work into more advanced concepts. The academy will also benefit those who want to enhance their knowledge of the law. The academy includes a significant amount of training in classifying crimes according to Clery Act definitions and standards. The academy features interactive instruction; group exercises; and use of an electronic testing system to reinforce the concepts learned. Each attendee is provided with electronic access to numerous forms and documents that will assist each attendee in developing a system for compliance at their institution.

BEHAVIORAL INTERVENTION/THREAT ASSESSMENT CLASSES

DSA offers two Behavioral Intervention Team (BIT)/Threat Assessment Team (TAT) Classes: one for BIT/TAT team members, and one for the chairperson of these teams.

To learn more about any DSA class, visit www.dstaffordandassociates.com/training



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& ASSOCIATES

TIER 2: ADVANCED CLERY ACT COMPLIANCE TRAINING ACADEMY: PRACTICAL APPLICATION

This training program provides an opportunity for attendees to build upon the foundation provided in the DSA Clery Act Compliance Training Academy through a combination of instruction, discussion, and group-based learning activities that explore how to practically apply relevant laws and ED guidance to some of the most vexing issues facing practitioners. Our Clery Academy Graduates love this class.

This experience is designed to be interactive, with attendees participating in group analysis and exercises throughout the class. Participants will be able to assess their ability to competently apply the law to specific scenarios and problems while evaluating pertinent operating procedures and practices that relate to complying with the Clery Act.

The class size is limited to 35 attendees to allow for a significant amount of interactive discussion and group exercises. Attendees must have successfully completed the DSA Clery Act Compliance Training Academy to be eligible to attend.

TITLE IX COORDINATOR AND INVESTIGATOR CLASSES

DSA offers a Title IX Coordinator track and a Title IX Investigator track with several Tiers (classes) in each track. Attendees can enroll in any classes that will assist them in performing their Title IX-related duties.

The DSA Title IX team has trained over 10,000 Title IX Coordinators, Investigators, Hearing Officers, and Advisors across the country and is well-known for delving into the practical application of Title IX. The DSA team is comprised of seasoned practitioners, and all have served as Title IX Coordinators/Deputy Coordinators and Investigators for institutions of higher education. As changes to the required processes are made by the Office for Civil Rights, those changes are immediately incorporated into all relevant DSA classes.

NACCOP

CLERY COMPLIANCE OFFICER CERTIFICATION PROGRAM

NACCOP offers a Clery Compliance Officer Certification Program (CCO Certification Program) for eligible employees of colleges and universities who want to benefit from NACCOP's unmatched practical expertise in leading and managing Clery.

The CCO Certification Program will provide participants with the opportunity to immerse themselves in a comprehensive professional development program that leads to a professional credential from the only association serving the needs of Clery compliance officers and professionals.

NACCOP FOUNDATIONS OF THE CLERY ACT CLASS

This 2 day training will provide a basic overview of the requirements of the Clery Act and is suited for people who are new to the Clery Act as well as those who have previously attended Clery Act training, as we continually update the curriculum to include new information received from the U.S. Department of Education based on our questions about practical application of the regulations and handbook.



To learn more about any of these NACCOP classes/programs, visit: www.naccop.org

NACCOP ONLINE VAWA ADJUDICATOR TRAINING PROGRAM

Officials involved in adjudicating student conduct and employee violations involving incidents of dating violence, domestic violence, sexual assault, and stalking are required to receive annual training. This program, developed by the National Association of Clery Compliance Officers and Professionals (NACCOP) will allow for these officials to participate in a low-cost, convenient training program to meet this requirement.

This online, self-paced training program provides participants with an affordable, convenient way to meet the VAWA annual training requirement. Institutions can purchase the training for several hundred dollars for up to 20 learners.



**Title IX Coordinators /
Investigators: Join the
NACCOP Title IX & Equity
Alliance!**

NATIONAL ASSOCIATION OF CLERY COMPLIANCE OFFICERS AND PROFESSIONALS

**Membership benefits include free or discounted
access to the following resources:**

- Professional Development
- Legislative Updates
- Clery Related Studies & Press Releases
- Tools for Managing Compliance Objectives
- Complimentary Copy of the Annual NACCOP Journal
- Resource Library
- Network with other Clery Compliance Officers
- 10 part Clery Act Webinar Series (Free)
- 8 Free Additional Webinars each Year
- Clery Compliance Officer Certification Program

Institutional Membership Cost:

\$475 (\$125 /additional person)

See website for Special Rates for Clery Committee Membership

Join today at www.NACCOP.org



ANNUAL NACCOP CONFERENCE

Held every July in Maryland (to ensure easy access for the U.S. Department of Education and other officials from the Federal Government).

Check the website for exact dates: www.naccop.org

This 3 day conference offers expert training and guidance each year on compliance with Federal Laws and Regulations pertaining to campus safety and security, including but not limited to:

- The Clery Act
- Violence Against Women Act
- The Drug Free Schools and Communities Act
- Title IX

Attendees of this conference are immersed in educational opportunities that will immediately assist them in practically applying the requirements of these laws and regulations to their individual campuses. The conference offers more than 20 educational sessions each year to provide attendees with the ability to pick compliance topics of interest.

Pre-Conference Workshops:

Each year, NACCOP offers intensive half-day and full-day workshops for Clery Compliance Officers, Title IX Coordinators, and DFSCA/Part 86 Coordinators. You must attend the conference in order to be eligible to attend one of the pre-conference workshops.

REGISTER TODAY at www.NACCOP.org