



at the heart of campus safety

On July 22, 2015, the Department of Education issued a Dear Colleague Letter providing an overview of the final regulations to the Clery Act, released in October 2014.

The Violence Against Women Reauthorization Act amended the Jeanne Clery Act to afford additional rights to campus victims of sexual assault, domestic violence, dating violence, and stalking.

A few key reminders:

- All policies and procedures, including those for the added crimes of dating violence, domestic violence, and stalking, should be updated and in place, by the July 1, 2015 deadline.
- Institutions should maintain credible documentation that substantiates their crime statistics.
- The Department will phase in the new statistical requirements by collecting data until three years are represented, starting with an institution's statistics for the 2014 calendar year.
- Institutions will be required to report the contact information of their lead Title IX Coordinator in their 2015 Campus Safety and Security Survey.

Institutions should look to the regulations to inform their policy and program development; however, this checklist can be used as a method of evaluating what practices currently exist at a specific college or university related to the Violence Against Women Act amendments to the Clery Act and identifying action steps moving forward.

Checklist:

VAWA Amendments to Clery

Statistical Reporting		
Requirement	Site Practice	Action Steps
Reports statistics for the required crimes:		
Sex offenses		
For recording sex offenses:		
<ul style="list-style-type: none"> If rape, fondling, incest, or statutory rape occurs in the same incident as a murder, the institution records both the sex offense and the murder in its statistics 		
<ul style="list-style-type: none"> Domestic violence 		
<ul style="list-style-type: none"> Dating Violence 		
<ul style="list-style-type: none"> Stalking 		
For recording reports on stalking, the institution:		
Records a crime statistic for each and every year in which the course of conduct is reported to a local police agency or to a campus security authority		

Statistical Reporting

Requirement	Site Practice	Action Steps
For recording reports of stalking, the institution:		
Records each report of stalking as occurring only at the first location within the institution's Clery geography in which a perpetrator engaged in the stalking course of conduct or a victim first became aware of the stalking		
For hate crimes, reports additional categories of bias (<i>in addition to: race, gender, religion, sexual orientation, ethnicity, & disability</i>):		
<ul style="list-style-type: none"> Gender identity 		
<ul style="list-style-type: none"> National origin 		
Reports to the Department of Education and discloses in its annual security report statistics the total number of crime reports that were "unfounded" and subsequently withheld from its crime statistics*		

* **SEE:** "Definitions & Terms: Unfounded Crimes"

Annual Security Report Policy Statements

The institution's annual security report should have specific policy statements that capture the elements within each category listed below. As a reminder, this checklist only addresses the VAWA Amendments to Clery - **not the Clery Act in its entirety.**

Requirement	Site Practice	Action Steps
Law Enforcement Relationships & Jurisdiction		
Addresses the enforcement authority and jurisdiction of security personnel		

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Requirement	Site Practice	Action Steps
Addresses the working relationship of campus security personnel with State and local police agencies, including:		
<ul style="list-style-type: none"> Whether those security personnel have the authority to make arrests 		
<ul style="list-style-type: none"> Any agreements, such as written memoranda of understanding between the institution and such agencies for the investigation of alleged criminal offenses 		
<p align="center">Procedures Victims Should Follow if a Crime of Sexual Assault, Domestic Violence, Dating Violence, or Stalking Has Occurred</p> <p align="center">Questions to consider:</p> <ul style="list-style-type: none"> Does the institution provide the victim with information about these procedures in writing? Is this information also reflected within the institution's annual security report? 		
The importance of preserving evidence that may assist in proving that the alleged criminal offense occurred or that may be helpful in obtaining a protection order		
How and to whom the alleged offense should be reported		
Options about the involvement of law enforcement and campus authorities, including notification of the victim's option to:		

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<ul style="list-style-type: none"> Notify proper law enforcement authorities, including on-campus and local police 		
<ul style="list-style-type: none"> Be assisted by campus authorities in notifying law enforcement authorities if the victim so chooses 		
<ul style="list-style-type: none"> Decline to notify such authorities 		
<ul style="list-style-type: none"> Where applicable, the rights of victims and the institution's responsibilities for orders of protection, "no-contact" orders, restraining orders, or similar lawful orders issued by a criminal, civil, or tribal court or by the institution 		
Confidentiality		
Information about how the institution will protect the confidentiality of victims and other necessary parties, including how the institution will:		
<ul style="list-style-type: none"> Complete publicly available record keeping, including Clery Act reporting and disclosures, without the inclusion of personally identifying information about the victim 		

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<ul style="list-style-type: none"> Maintain as confidential any accommodations or protective measures provided to the victim, to the extent that maintaining such confidentiality would not impair the ability of the institution to provide the accommodations or protective measures 		
<p>Disciplinary Action See below for specific descriptions and definitions for “prompt, fair, and impartial proceeding,” “advisor,” “proceeding,” and “result.”</p>		
<p>Explanation of the procedures for institutional disciplinary action in cases of alleged dating violence, domestic violence, sexual assault, or stalking, including:</p>		
<ul style="list-style-type: none"> Description of each type of disciplinary proceeding used by the institution 		
<ul style="list-style-type: none"> Steps, anticipated timelines, and decision-making process for each type of disciplinary proceeding 		
<ul style="list-style-type: none"> How to file a disciplinary complaint 		
<ul style="list-style-type: none"> How the institution determines which type of proceeding to use based on the circumstances of an allegation 		
<ul style="list-style-type: none"> Description of the standard of evidence that will be used during any institutional disciplinary proceeding 		

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<ul style="list-style-type: none"> List of all of the possible sanctions that the institution may impose following the results of any institutional disciplinary proceeding for an allegation of dating violence, domestic violence, sexual assault, or stalking 		
<ul style="list-style-type: none"> Description of the range of protective measures that the institution may offer to the victim following an allegation 		
Provides that the proceedings will:		
<ul style="list-style-type: none"> Include a prompt, fair, and impartial process from the initial investigation to the final result 		
<ul style="list-style-type: none"> Be conducted by officials who, at a minimum, receive annual training on: <ul style="list-style-type: none"> » the issues related to dating violence, domestic violence, sexual assault, and stalking » how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability 		

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Requirement	Site Practice	Action Steps
<ul style="list-style-type: none"> Provide the accuser and the accused with the same opportunities to have others present during any institutional disciplinary proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice* 		

* **NOTE:** The institution may not limit the choice of advisor or presence for either the accuser or the accused in any meeting or institutional disciplinary proceeding; however, the institution may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties.

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Requirement	Site Practice	Action Steps
<p>Disciplinary Action <i>See below for specific descriptions and definitions for "prompt, fair, and impartial proceeding," "advisor," "proceeding," and "result."</i></p>		
<p>States that the institution will simultaneously notify, in writing, both the accuser and the accused of:</p>		
<ul style="list-style-type: none"> The result of any institutional disciplinary proceeding that arises from an allegation of dating violence, domestic violence, sexual assault, or stalking 		
<ul style="list-style-type: none"> The institution's procedures for the accused and the victim to appeal the result of the institutional disciplinary proceeding, if such procedures are available 		

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Requirement	Site Practice	Action Steps
<ul style="list-style-type: none"> Any change to the result 		
<ul style="list-style-type: none"> When such results become final 		
Written Notification		
<p>Statement that the institution will provide written notification to students and employees about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for victims, both within the institution and in the community</p>		
<p>Statement that the institution will provide written notification to victims about options for, available assistance in, and how to request changes to:</p>		
<ul style="list-style-type: none"> Academic situations 		
<ul style="list-style-type: none"> Living situations 		

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Requirement	Site Practice	Action Steps
Written Notification		
Statement that the institution will provide written notification to victims about options for, available assistance in, and how to request changes to:		
<ul style="list-style-type: none"> • Transportation situations 		
<ul style="list-style-type: none"> • Working situations 		
<ul style="list-style-type: none"> • Protective measures 		
Accommodations or protective measures are provided if the victim requests them and if they are reasonably available, regardless of whether the victim chooses to report the crime to campus police or local law enforcement		
An explanation of procedures for institutional disciplinary action in cases of alleged dating violence, domestic violence, sexual assault, or stalking		
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		

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Requirement	Site Practice	Action Steps
<p>Programs to Prevent Dating Violence, Domestic Violence, Sexual Assault, & Stalking <i>See below for specific descriptions and definitions for "awareness programs," "bystander intervention," "ongoing prevention and awareness campaigns," "primary prevention programs," and "risk reduction."</i></p>		
<p>A description of the institution's educational programs and campaigns to promote the awareness of dating violence, domestic violence, sexual assault, and stalking, that includes:</p>		
<ul style="list-style-type: none"> A statement that the institution prohibits the crimes of dating violence, domestic violence, sexual assault, and stalking 		
<ul style="list-style-type: none"> The definitions of these terms and of consent, in reference to sexual activity, in the applicable jurisdiction 		
<ul style="list-style-type: none"> A description of safe and positive options for bystander intervention 		
<ul style="list-style-type: none"> Information on risk reduction 		
<p>A description of the institution's ongoing prevention and awareness campaigns for students and employees</p>		

While this document contains a discussion of general legal principles and specific laws, it is neither intended to be given as legal advice nor as the practice of the law, and should not be relied upon as such. Before taking any action, always check with a licensed attorney in your jurisdiction to ensure compliance with the law.

Definitions & Terms:

VAWA Amendments to Clery

1. **Sexual Assault:** An offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI's UCR program.
2. **Sex Offenses:** Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.
 - **Rape** – The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
 - **Fondling** – The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
 - **Incest** – Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
 - **Statutory Rape** – Sexual intercourse with a person who is under the statutory age of consent.
3. **Domestic Violence:** A felony or misdemeanor crime of violence committed
 - By a current or former spouse or intimate partner of the victim;
 - By a person with whom the victim shares a child in common;
 - By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
 - By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred;
 - By any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.
4. **Dating Violence:** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.
 - The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
 - For the purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
 - Dating violence does not include acts covered under the definition of domestic violence.
 - Any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.
5. **Stalking:** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to
 - Fear for the person's safety or the safety of others; or
 - Suffer substantial emotional distress.

For the purposes of this definition:

- *Course of conduct* means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- *Reasonable person* means a reasonable person under similar circumstances and with similar identities to the victim.
- *Substantial emotional distress* means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.
- Any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

Definitions & Terms:

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6. **Programs to prevent dating violence, domestic violence, sexual assault, and stalking:**

Comprehensive, intentional, and integrated programming, initiatives, strategies, and campaigns intended to end dating violence, domestic violence, sexual assault, and stalking that:

- Are culturally relevant, inclusive of diverse communities and identities, sustainable, responsive to community needs, and informed by research or assessed for value, effectiveness, or outcome; and
- Consider environmental risk and protective factors as they occur on the individual, relationship, institutional, community, and societal levels

Programs to prevent dating violence, domestic violence, sexual assault, and stalking include both primary prevention and awareness programs directed at incoming students and new employees and ongoing prevention and awareness campaigns directed at students and employees.

7. **Awareness programs:** Community-wide or audience specific programming, initiatives, and strategies that increase audience knowledge and share information and resources to prevent violence, promote safety, and reduce perpetration.

8. **Bystander intervention:** Safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of dating violence, domestic violence, sexual assault, or stalking;

Bystander intervention includes:

- Recognizing situations of potential harm
- Understanding institutional structures and cultural conditions that facilitate violence, overcoming barriers to intervening, identifying safe and effective intervention options, and taking actions to intervene

9. **Ongoing prevention and awareness campaigns:** Programming, initiatives, and strategies that are sustained over time and focus on increasing understanding of topics relevant to and skills for addressing dating violence, domestic violence, sexual assault, and stalking, using a range of strategies with audiences throughout the institution.

10. **Primary prevention programs:** Programming, initiatives, and strategies informed by research or assessed for value, effectiveness, or outcome that are intended to stop dating violence, domestic violence, sexual assault, and stalking before they occur through the promotion of positive and healthy behaviors that foster healthy, mutually respectful relationships and sexuality, encourage safe bystander intervention, and seek to change behavior and social norms in healthy and safe directions.

11. **Risk reduction:** Options designed to decrease perpetration and bystander inaction, and to increase empowerment for victims in order to promote safety and to help individuals and communities address conditions that facilitate violence.

12. **Prompt, fair, and impartial proceeding:** A proceeding that is completed within reasonably prompt timeframes designated by an institution's policy, including a process that allows for the extension of timeframes for good cause and with written notice to the accuser and the accused of the delay and the reason for the delay;

Conducted in a manner that:

- Is consistent with the institution's policies and transparent to the accuser and accused;
- Includes timely notice of meetings at which the accuser or accused, or both, may be present; and
- Provides timely and equal access to the accuser, the accused, and appropriate officials to any information that will be used during informal and formal disciplinary meetings and hearings; and
- Conducted by officials who do not have a conflict of interest or bias for or against the accuser or the accused.

Definitions & Terms:

VAWA Amendments to Clery

13. Advisor: Any individual who provides the accuser or accused support, guidance, or advice.

14. Proceeding: All activities related to a non-criminal resolution of an institutional disciplinary complaint, including, but not limited to, fact finding investigations, formal or informal meetings, and hearings.

Proceeding does not include communications and meetings between officials and victims concerning accommodations or protective measures to be provided to a victim.

15. Result: Any initial, interim, and final decision by any official or entity authorized to resolve disciplinary matters within the institution.

The result must include any sanctions imposed by the institution.

16. Unfounded Crimes: An institution may withhold, or subsequently remove, a reported crime from its crime statistics in the rare situations where sworn or commissioned law enforcement personnel have fully investigated the reported crime and, based on the results of this full investigation and evidence, have made a formal determination that the crime report is false or baseless and therefore “unfounded.” Only sworn or commissioned law enforcement personnel may “unfound” a crime report for purposes of reporting under this section. The recovery of stolen property, the low value of stolen property, the refusal of the victim to cooperate with the prosecution, and the failure to make an arrest do not “unfound” a crime report.