

Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act: Applicability to Education Abroad Programs

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Disclaimer: This document is intended to prompt considerations and further conversations on U.S. campuses. It is not legal advice and the authors recommend that readers consult their own legal counsel and campus Clery expert(s).

INTRODUCTION

The [Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act](#) (20 USC § 1092(f)) requires U.S. colleges and universities who participate in Title IV federal student financial aid programs to disclose information about crime on and around their campuses, or in off-campus facilities as described by the Act. The “Clery Act” is named in memory of [Jeanne Ann Clery](#), a university freshman who was raped and murdered in her campus residence hall in 1986.

The Clery Act currently requires institutions to act or report in the following ways:

- publish an annual report disclosing three years of crime statistics and campus security policy statements;
- provide *timely warnings* to the campus community about crimes that pose an ongoing threat to students and employees;
- maintain and make available a public crime log in their police or security department (if one exists);
- maintain a daily residence hall fire log and report and publish an annual fire safety report alone or along with the annual crime statistics;
- provide certain rights to sexual assault victims and make specific statements about sex offenders;
- take action within 24 hours when students in residence halls are *reported missing*.

A major intention of the Clery Act is to provide accurate and timely safety information to the public, parents, students and potential students about the level of crimes, and student alcohol and

drug violations that occur on a campus. This means making all incident data readily available in a complete and accurate manner for all parties who inquire at your institution, thus enabling them to make an informed decision about their safety.

The Clery Act also requires yearly reporting for specific crimes: Murder/non-negligent manslaughter; negligent manslaughter, sex offenses (forcible and non-forcible), robbery, aggravated assault, burglary, motor vehicle theft, arson, and arrests and disciplinary referrals for violations of weapons, and drug and liquor laws. In addition, universities must also report hate crimes.

Failure to comply with the policy requirements can result in substantial fines for an institution (in the tens of thousands of dollars) or in an extreme case, in the loss of all participation in Title IV federal financial aid programs.

THE YEARLY REPORT: APPLICATION TO EDUCATION ABROAD

The [2011 Handbook for Campus Safety and Security Reporting](#) (hereafter referred to as the Handbook), available through the U.S. Department of Education, recommends that each campus designate an individual or office to coordinate and oversee the Clery reporting process. In addition, each campus, depending on size and structure, will have at least one [Campus Security Authority](#) (CSA) for the purpose of providing incident reports to the coordinating office or person.

The Clery Act has a real role in the operational actions of education abroad programs. In fact, as an education abroad professional you may be considered a CSA for your campus. The Handbook provides language about education abroad situations where institutions are subject to reporting crimes that occur in and around property that is controlled or owned by your institution abroad. For example:

If your institution sends students to study abroad at an institution that you don't own or control, you don't have to disclose statistics for crimes that occur in those facilities. However, if your institution rents or leases space for your students in a hotel or student housing facility, you are in control of that space for the time period covered by your agreement. Host family situations do not normally qualify as non-campus locations unless your written agreement with the family gives your school some significant control over space in the family home. (Handbook, page 30).

Understanding your obligations

Each Title IV institution will interpret and create procedures for adhering to the Clery Act. As a result, education abroad professionals should confer with the Clery expert(s) on your campus. A good place to start is with your legal office or the Academic Dean or Dean of Students who supervises education abroad. Other resources might include your campus police or campus safety office. They will be well acquainted with the institutional obligations for Clery on campus.

The following questions can be used to discuss your obligations with your campus Clery expert(s).

- What is the process for our campus year report? IF we have reportable crimes, how would education abroad fit into this system?
- How does our timely warning system work on campus? What are your thoughts on how this should apply overseas?
- Which office maintains our public crime log (if one exists)? Do they want to receive immediate reports of our crimes on education abroad programs?
- What rights do we provide sexual assault victims? What are our statements about sex offenders? Share practices and processes in place for education abroad.

Reporting incidents and crimes abroad

Determine who on your campus is responsible for producing the institution's Clery report and set up a meeting with them. Take time to explain the types of education abroad activities that your institution provides. You may find it helpful to start an inventory of all of your education abroad programs and any related property contracts to facilitate conversation with the campus Clery expert(s).

Once you have determined that you have any programs that have property that your institution "owns or controls", work collaboratively with your campus Clery expert to develop a recording and reporting process for Clery incidents and crimes from education abroad sites. Any education abroad incident or crime data collection practices that you currently follow may or may not compliment Clery reporting timelines and procedures, so you will need to consult with your campus Clery expert(s) to determine your campus process.

Some campuses use the Campus Authority Form (see sample form on page 249 of the Handbook) and require the same timely reporting required by Clery for U.S. incidents—as close to the date of the incident as is possible but usually within 48 hours of the victim's reporting of the crime. Others require only a yearly incident report from their education abroad office with a summary of incidents for possible inclusion in the yearly report. Whichever process your campus uses, work with your campus Clery expert(s) to create a process that comports with your existing campus procedures.

Verify whether obtaining a police report from the country/locale involved is required and if so, determine whether this is even possible in that location. Faculty/staff leading programs will need to be briefed and trained on how to carry out the procedure according to the wishes of the home institution.

When you don't own or control

You need only report incidents or crimes on programs where you own or control housing, classroom space, office space etc. Therefore, if your institution sends students abroad on exchanges or programs run by other universities or third party providers, you don't need to report any incidents that occur in those locations. To be sure you understand these definitions as applied to your institution, consult with your campus Clery expert(s) to ascertain if you "own or control" any of your program locations as defined by Clery. It is a good idea to make your campus Clery

expert(s) aware of the types of programs and any contractual arrangements your international office has made to send students abroad.

If you work for a third party provider organization that is not a Title IV institution, you are not subject to the rules of the Clery Act and will not need to report crimes according to the Clery Act.

When you do own or control

The Handbook indicates that not all Clery type crimes on the program that you do own or control will be included in reports. Rather, in most cases, only those incidents in the locations you own or control, during the time specified in your contract will be reported. The following examples illustrate the complicated nature of the Clery requirements that we hope will motivate discussions on your campus.

Example 1: If your university owns classroom and housing space in London, you are required to report incidents in that space. You are not required to report incidents on the program that occur in public places (restaurants, bars, public transportation) or when students are away on independent weekend travel.

Example 2: If your university rents classroom space in Paris, you are required to report incidents that occur in that space. However, depending on your contract, it is possible that you will only report incidents that occur within the specific hours, days or months included in your contract. Additionally, depending on the contract, your reporting may be further limited to those incidents occurring in the specific rooms and required passageways to those rooms. You may not need to report incidents that occur on the other floors or sections of the building.

Hotels and Host Families

The Handbook clarifies the reporting requirements for hotels and host families. If your institution rents hotel rooms for students to stay for an overnight as part of an excursion, you may not have to record and disclose crimes that occur there because such a location likely does not meet the frequently used criteria. However, you will have to report incidents that happened in a hotel that is rented and the agreement establishes “control” by your institution. For example, it may depend on whether the hotel can assign students to any room in the hotel or whether the agreement is for a specific block of rooms on a specific floor. Be sure to discuss hotel agreements with your campus Clery expert(s).

Much of the same reasoning applies to host families. In many cases, Clery incidents or crimes that occur within host family placements won’t be reportable. However, depending on the nature of your agreement and the level of institutional “control”, it is possible the incident will fall under the Clery requirements.

It would be wise to review these descriptors with your campus Clery expert(s) to ensure you agree on the reporting conditions.

INCIDENT REPORTING AND TRACKING GENERALLY

Despite the narrow scope of incidents and crimes that must be reported to Clery, there is good reason to take the opportunity to examine your institutional practices related to incident reporting and tracking. The following are a few of the reasons to develop a robust process of reporting and recording incidents on your education abroad programs:

- (1) Some of the data may now be required for Clery and if not today, the data may be required tomorrow.
- (2) One of the key philosophies behind Clery is that information facilitates individual safety decision-making. This informed decision-making philosophy also guides advising and orientation discussions with our students. If your institution has data to provide publicly, or when specifically asked, you will be further assisting student in making their own safety decisions as adults.
- (3) Incident data will assist with program staffing decisions. More incidents generally mean more work.
- (4) Incident data will assist with important programming decisions and inform orientation topics. If you see trends in data, you might move student housing to another part of town or change orientation messages to stress certain risks and provide targeted mitigation advice.

SUMMARY

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act has implications for policy and procedure in the education abroad offices of Title IV campuses. The Handbook for Campus Safety and Security Reporting, published by the U.S. Department of Education in February 2011, details all aspects of compliance with this act. In order to comply, consult your campus officials and appropriate university leadership for guidance. Remember, education abroad professionals don't have to be experts on Clery. Our job is to know our programs, consult with the Clery expert(s) on our campus. We also must be sure to have incident reporting and tracking procedures in place so we can provide the information required for the yearly Clery report.

RESOURCES

Handbook for Campus Safety and Security Reporting (February, 2011)

<http://www.ed.gov/admins/lead/safety/handbook.pdf>

Campus Safety and Security Reporting (Video Training)

<http://www2.ed.gov/admins/lead/safety/campus.html>

Related Information

http://www.securityoncampus.org/index.php?option=com_content&view=article&id=271&Itemid=60

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