



U.S. Department of Education  
Office of Safe and Drug-Free Schools  
Emergency Management for Higher Education



FY 2009 Final Grantee Meeting ♦ Philadelphia, PA ♦ August 5 – 6, 2010

## Implementing the Campus Security Requirements of the Higher Education Opportunity Act

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**Anthony Gargano** has almost thirty-five years experience with the Title IV, Higher Education Programs. He has an extensive background in compliance review and managing Federal Student Aid (FSA) team compliance operations. While with FSA, he was part of the sub-group which discussed and negotiated the recent regulatory changes impacting campus safety. His current position with the Department of Education is in the Office of Postsecondary Education as a policy team member.

**Brendan McCluskey** is a practicing emergency manager and the executive director of the Office of Emergency Management and Occupational Health and Safety at the University of Medicine and Dentistry of New Jersey (UMDNJ). He is responsible for all emergency planning, business continuity, and disaster operations for the largest independent academic medical sciences institution in the United States. Mr. McCluskey chairs the university's emergency management policy group and provides leadership across academic, operations, financial, and administrative departments. Mr. McCluskey also oversees the university's health and safety organization and has responsibility for critical infrastructure protection. He is a Certified Emergency Manager® and is the Chairperson of the International Association of Emergency Managers - Universities and Colleges Caucus.

As part of the comprehensive emergency management program developed by Mr. McCluskey at UMDNJ, he has organized and run tabletop and full scale exercises on a number of topics. Mr. McCluskey led a multi-university contingent evaluating New Jersey's response during the TOPOFF 3 exercise in 2005, and has conducted exercises for other higher education institutions, including Columbia University. In addition to various innovative training programs aimed at campus officials and emergency responders, Mr. McCluskey organized and lectured at a series of workshops for high containment biological laboratories. Emergency plans and related documents written by Mr. McCluskey have been adapted for use at a number of other colleges and universities across the country. He is a primary negotiator for campus safety issues on the U.S. Department of Education's negotiated rulemaking committee, and is a member of the NJ Governor's Campus Security Task Force and the New Jersey Health/Healthcare Sector Strategic Working Group.



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Mr. McCluskey got his start as a paramedic for the Newark (NJ) emergency medical services system run by University Hospital and worked his way up to managing the paramedic service and the EMS training unit. He has been involved with numerous high profile events and has lectured extensively on a number of disaster topics. He is formerly the deputy director of the UMDNJ Center for BioDefense and oversaw the development of novel emergency responder training programs and the formation of a specialized regional emergency response team throughout the state.

Mr. McCluskey has advanced degrees in law (Juris Doctorate) and public administration (Master of Public Administration). He is an assistant professor at the UMDNJ Graduate School of Biomedical Sciences teaching courses in emergency management, bioterrorism, weapons of mass destruction, public health, and homeland security.

***Donald Tantum*** has over 20 years of experience working for universities, colleges and the U.S. Department of Education on compliance related matters. He has in-depth knowledge of HEA / HEOA compliance and systems. For the last 10 years he has worked for the U.S. Department of Education's School Participation Team. His work experience for ED consists of leading and conducting regulatory compliance reviews, audit resolution, program eligibility reviews and providing technical assistance. Mr. Tantum has led and conducted several campus security reviews and serves as a subject matter expert. In addition, Mr. Tantum has provided training and technical assistance related to compliance issues.

# **EMHE 2010 GRANTEE MEETING PHILADELPHIA, PA**

**August 5, 2010**

**Anthony Gargano**

**U.S. Department of Education**



# **Summary of New and Revised Campus Safety and Security Reporting Requirements**

**Required by the Higher Education Opportunity Act  
(Public Law 110-315) effective date  
August 5, 2010**

**Presented by Anthony Gargano, Management & Program Analyst,  
U.S. Department of Education**

# **Summary of New and Revised Campus Safety and Security Reporting Requirements**

The Higher Education Act (HEA) as amended by the Higher Education Opportunity Act (HEOA) specifies new campus safety requirements.

These regulations took effect July 1, 2010.

# Summary of New and Revised Campus Safety and Security Reporting Requirements

- Hate Crime Reporting
- Missing Student Notification
- Emergency Response and Evacuation Procedures
- Fire Safety Issues
- Annual Security Report

# Summary of New and Revised Campus Safety and Security Reporting Requirements

- **Hate Crime Reporting**

The previous regulations required institutions to report as hate crimes any occurrence of criminal homicide, sex offenses, robbery, aggravated assault, burglary, motor vehicle theft, arson, and any other crime involving bodily injury reported to local law enforcement agencies or a campus security authority that manifests evidence that the victim was intentionally selected because of the perpetrator's bias.

# Summary of New and Revised Campus Safety and Security Reporting Requirements

- **Hate Crime Reporting**

The current regulations added the crimes of larceny-theft, simple assault, intimidation, and destruction/damage/vandalism of property to the list of crimes that must be reported in hate crime statistics.

# Summary of New and Revised Campus Safety and Security Reporting Requirements

- **Hate Crime Reporting**

The FBI's Uniform Crime Reporting Hate Crime Collection Guidelines will continue to be the source for definitions.

# Summary of New and Revised Campus Safety and Security Reporting Requirements

- **Hate Crime Reporting**

All statistics will continue to be reported by Clery geographic area and category of bias in the Annual Security Report and will now also be reported that way in the web-based submission to ED.

# Summary of New and Revised Campus Safety and Security Reporting Requirements

- **Missing Student Notification:**

Any institution that maintains an on-campus housing facility must establish, for students who reside in an on-campus student housing facility, both a policy and procedures for missing student notification.

# **Summary of New and Revised Campus Safety and Security Reporting Requirements**

## **Missing Student Notification:**

The statement, to be included in the Annual Security Report, must include the following:

# Summary of New and Revised Campus Safety and Security Reporting Requirements

## Missing Student Notification:

- A list of titles of the persons or organizations to which individuals should report that a student has been missing for 24 hours.

# Summary of New and Revised Campus Safety and Security Reporting Requirements

## Missing Student Notification:

- A statement that each student living in an on-campus student housing facility has the option to register a confidential contact person to be notified in the case that the student is determined to be missing.

# Summary of New and Revised Campus Safety and Security Reporting Requirements

## Missing Student Notification:

- Also, that only authorized campus officials and law enforcement officers in furtherance of a missing person investigation may have access to this information.

# Summary of New and Revised Campus Safety and Security Reporting Requirements

## Missing Student Notification:

- A statement that advises all students, even if they have not registered a contact person, that the local law enforcement will be notified that the student is missing.

# Summary of New and Revised Campus Safety and Security Reporting Requirements

## Missing Student Notification:

- A statement that advises students less than 18 years of age and not emancipated that their parent or guardian must be notified.

# Summary of New and Revised Campus Safety and Security Reporting Requirements

## Missing Student Notification:

- A statement that requires that official missing student reports be referred immediately to an institutional police or campus security department or local law enforcement.

# Summary of New and Revised Campus Safety and Security Reporting Requirements

## Missing Student Notification:

- Specific procedures that the institution must follow when a student who resides in an on-campus student housing facility is determined to have been missing for 24 hours.

# Summary of New and Revised Campus Safety and Security Reporting Requirements

## **Missing Student Notification:**

This requirement does not preclude implementing these procedures in less than 24 hours if circumstances warrant a faster implementation.

# **Summary of New and Revised Campus Safety and Security Reporting Requirements**

## **Required Emergency Response and Evacuation Procedures:**

All institutions must include the following policy statements regarding emergency response and evacuation procedures in their Annual Security Report:

# **Summary of New and Revised Campus Safety and Security Reporting Requirements**

## **Required Emergency Response and Evacuation Procedures:**

- Procedures to immediately notify the campus community upon the confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees occurring on the campus.

# Summary of New and Revised Campus Safety and Security Reporting Requirements

## Required Emergency Response and Evacuation Procedures:

- A statement that the institution will, without delay, and taking into account the safety of the community, determine the content of the notification and initiate the emergency notification system, unless the notification will, in the professional judgment of responsible authorities, compromise efforts to assist victims or to contain, respond to, or otherwise mitigate the emergency.

# Summary of New and Revised Campus Safety and Security Reporting Requirements

## Required Emergency Response and Evacuation Procedures:

- A description of the process the institution will use to confirm that there is a significant emergency, determine who to notify, determine the content of the notification, and initiate the notification system.

# **Summary of New and Revised Campus Safety and Security Reporting Requirements**

## **Required Emergency Response and Evacuation Procedures:**

- A list of the titles of the persons or organizations responsible for carrying out this process.

# **Summary of New and Revised Campus Safety and Security Reporting Requirements**

## **Required Emergency Response and Evacuation Procedures:**

- Procedures for disseminating emergency information to the larger community.

# Summary of New and Revised Campus Safety and Security Reporting Requirements

## Required Emergency Response and Evacuation Procedures:

- This **emergency notification** requirement does not replace the timely warning requirement.
- They differ in that the timely warning applies only to Clery reportable crimes while the **emergency notification** requirement addresses a much wider range of threats (i.e., gas leaks, tornadoes, contagious viruses, etc.).

# **Summary of New and Revised Campus Safety and Security Reporting Requirements**

## **Required Emergency Response and Evacuation Procedures:**

However, an institution that follows its emergency notification procedures is not required to issue a timely warning based on the same circumstances but must provide adequate follow-up information to the community as needed.

# Summary of New and Revised Campus Safety and Security Reporting Requirements

## Required Emergency Response and Evacuation Procedures:

- The institution's procedures to test the emergency response and evacuation procedures *on at least an annual basis*, including publicizing its procedures in conjunction with at least one test per calendar year, and documenting a description of the exercise as well as the date and time of the exercise and whether it was announced or unannounced.

# Summary of New and Revised Campus Safety and Security Reporting Requirements

**Fire Safety – Procedures, Statistics, Reports  
and Documentation:**

**Definition of a Fire:** For the purposes of fire safety reporting, a **fire** is, “***Any instance of open flame or other burning in a place not intended to contain the burning or in an uncontrolled manner.***”

# Summary of New and Revised Campus Safety and Security Reporting Requirements

## Fire Safety – Procedures, Statistics, Reports and Documentation:

Any institution that maintains an on-campus student housing facility must collect fire statistics and publish an Annual Fire Safety Report, and keep a “fire log.”

These requirements are new and separate from the Clery Act requirements.

# Summary of New and Revised Campus Safety and Security Reporting Requirements

## **Fire Log:**

This document is very similar to the crime log required for the Clery Act. It can be kept together with the crime log or separately. As with the crime log, it should be easily understood, and fires should be recorded by the date they were reported.

# Summary of New and Revised Campus Safety and Security Reporting Requirements

## Fire Log:

For each fire, include:

- The nature of the fire,
- The date the fire occurred,
- The time of day the fire occurred, and
- The general location of the fire.

# Summary of New and Revised Campus Safety and Security Reporting Requirements

## Fire Log:

Your institution may use either a hard copy log or an electronic format. Either format must be accessible on-site. That means, if you have separate campuses, the log must be available at each campus.

# Summary of New and Revised Campus Safety and Security Reporting Requirements

## Fire Log:

The fire log for the *most recent* 60-day period must be open to public inspection, upon request, during normal business hours

# Summary of New and Revised Campus Safety and Security Reporting Requirements

## Fire Log:

Any portion of the log that is *older* than 60 days must be made available within two business days of a request for public inspection. Information in the fire log should be used to gather the statistics that are required for the Annual Fire Safety Report.

# Summary of New and Revised Campus Safety and Security Reporting Requirements

## Fire Log:

As with all documentation, the fire log must be kept for *three* years following the publication of the last annual report to which it applies (in effect, seven years).

# Summary of New and Revised Campus Safety and Security Reporting Requirements

## Fire Safety – Procedures, Statistics, Reports and Documentation:

**Fire Statistics:** The following statistics must be collected and reported, both in the annual fire safety report and the Department of Education's web-based data collection system, for each on-campus student housing facility.

# **Summary of New and Revised Campus Safety and Security Reporting Requirements**

## **Fire Safety – Procedures, Statistics, Reports and Documentation:**

The number of fires and the cause of each fire.

The cause categories to be used are:

# Summary of New and Revised Campus Safety and Security Reporting Requirements

## Fire Safety – Procedures, Statistics, Reports and Documentation:

- Unintentional Fire
  - Cooking
  - Smoking materials
  - Open Flames
  - Electrical
  - Heating equipment
  - Hazardous products
  - Machinery/Industrial
  - Natural
  - Other

# **Summary of New and Revised Campus Safety and Security Reporting Requirements**

## **Fire Safety – Procedures, Statistics, Reports and Documentation:**

- Intentional Fire**
- Undetermined Fire**
- The number of deaths related to the fire.
- The number of injuries related to the fire that resulted in treatment at a medical facility.
- The value of property damage related to the fire.

# **Summary of New and Revised Campus Safety and Security Reporting Requirements**

## **Fire Safety – Procedures, Statistics, Reports and Documentation:**

Remember that arson is a Clery reportable crime. Therefore, any fire that is determined to be arson must be reported both as a fire statistic and as a crime statistic.

# **Summary of New and Revised Campus Safety and Security Reporting Requirements**

## **Annual Fire Safety Report:**

This report will be due at the same time as the Annual Security Report. The two reports can be published together or separately.

# **Summary of New and Revised Campus Safety and Security Reporting Requirements**

## **Annual Fire Safety Report:**

If published together, the title of the document must clearly state that it contains both the Annual Security Report and the Annual Fire Safety Report.

# **Summary of New and Revised Campus Safety and Security Reporting Requirements**

## **Annual Fire Safety Report:**

If published separately, each report must contain information on how to directly access the other report. The report must contain:

# Summary of New and Revised Campus Safety and Security Reporting Requirements

## Annual Fire Safety Report:

- The fire statistics listed above for each on-campus student housing facility separately.
- A description of the fire safety system for each on-campus student housing facility.

# Summary of New and Revised Campus Safety and Security Reporting Requirements

## Annual Fire Safety Report:

- The number of fire drills held the previous calendar year.
- The institution's policies or rules on portable electrical appliances, smoking, and open flames in student housing facilities.

# **Summary of New and Revised Campus Safety and Security Reporting Requirements**

## **Annual Fire Safety Report:**

- Procedures for student housing evacuation.
- Policies for fire safety education and training programs for students, faculty, and staff.

# **Summary of New and Revised Campus Safety and Security Reporting Requirements**

## **Annual Fire Safety Report:**

- A list of the titles of each person or organization to which individuals should report that a fire has occurred.
- Plans for future improvements in fire safety, if determined necessary by the institution.

# Summary of New and Revised Campus Safety and Security Reporting Requirements

Handbook for Campus Crime & Safety Reporting

Currently being revised

**Will include all campus safety topics**

- Provides contact information for questions
  - Help Desk #: **1-800-435-5985**
  - Help Desk email:

**[Campussecurityhelp@westat.com](mailto:Campussecurityhelp@westat.com)**

# Summary of New and Revised Campus Safety and Security Reporting Requirements

Thank you –

**QUESTIONS?**

We appreciate your comments and feedback!

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**OSDFS**

Office of Safe and Drug-Free Schools

# Campus Safety Regulations of the 2008 Higher Education Opportunity Act

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Chair – Universities and Colleges Caucus  
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# Disclaimer

- **The views and opinions expressed during this presentation neither constitute legal advice nor necessarily reflect the policy of the U.S. Department of Education (ED) or the University of Medicine and Dentistry of New Jersey (UMDNJ). The slides represent the work of the author and are used with permission.**

# Higher Education Law

- Higher Education Act of 1965
- *Clery Act*
- Higher Education Opportunity Act of 2008
  - Enacted on August 14, 2008 (P.L. 110-315)
  - Amends and reauthorizes the HEA
  - Many provisions, including four (4) key “Campus Safety” sections
  - “Dear Colleague” letter issued

# Implementing the Law

- **U.S. Department of Education**
  - **Implementation of law via regulations**
  - **Develop regulations through negotiated rulemaking process**
    - **31 issues for TEAM V (including the 4 on campus safety)**
  - **Notice of Proposed Rulemaking (August 21, 2009)**
  - **Rule adopted on October 29, 2009**
  - **Rule enforceable as of July 1, 2010**
  - **First major milestone is October 1, 2010**

# Self-implementing Regulations

- **Self-implementing (i.e., not negotiated) regulations related to campus safety**
  - **Mutual aid agreements between law enforcement agencies must be reported in the annual security report**
- **Other regulations not related to campus safety**
  - **Many, including:**
    - **Peer-to-peer file sharing**
    - **Pell grants and federal work study grants**
    - **Students with intellectual difficulties**

# Negotiated Rulemaking Campus Safety Issues Subcommittee

- Department of Education
- Consumer Advocates
  - Security on Campus, Inc.
  - Campus Firewatch/Michael H. Minger Foundation
  - Center for Campus Fire Safety
- Campus Practitioners
  - IAEM (emergency management)
  - IACLEA (law enforcement/security)
  - CSHEMA (health and safety)

# Timely Warning (Clery Act)

- ***If*, follow emergency notification procedures**
- ***Then*, not required to issue a timely warning based on the same circumstances**
- ***But*, must provide adequate follow-up information to the community as needed**

# Definitions

- **Immediate**
  - **Without delay (but first..., and except...)**
- **Fire**
  - **Any instance of open flame or other burning in a place not intended to contain the burning or in an uncontrolled manner**
- **Value of property damage**
  - **Estimated value of the loss of the structure and contents**

# Definition of “TEST”

- **Test of emergency response and evacuation procedures on annual basis**
- **“Regularly scheduled drills, exercises, and appropriate follow-through activities, designed for assessment and evaluation of emergency plans and capabilities”**
- **Drawn from the Emergency Management Accreditation Program (EMAP) Standard**

# Negotiated Rulemaking

- **Public Comment Period**
  - Parents of students given opportunity to speak
- **Full Committee**
- **Publication of proposed rule**
  - Public comment period
  - a.k.a. “Notice and Comment Rulemaking”
- **Publication of final rule**

# Compliance Handbook

- 200+ page handbook for compliance with the Clery Act provisions
- Situations, scenarios, examples
- Currently under revision with anticipated release in late Summer 2010

## The Handbook for Campus Crime Reporting



U.S. DEPARTMENT OF EDUCATION  
OFFICE OF POSTSECONDARY EDUCATION  
2005

# Other Resources

- **REMS/TA Center**
  - <http://rems.ed.gov/>
- **ED Office of Post-Secondary Education**
  - <http://www2.ed.gov/about/offices/list/ope/index.html>
- **FEMA Emergency Management Institute**
  - <http://training.fema.gov>
    - ICS-100.HE
    - L363 Multi-Hazard Emergency Planning for Higher Education

# IAEM Universities and Colleges Caucus (UCC)

- Represents the EM issues surrounding college and university campuses
- Special and sometimes unique considerations
- Voice on a national and international scale to ensure needs are being addressed by government and industry officials
- <http://www.iaem.com/committees/ucc>

# IAEM UCC

- **DRU Listserv**
  - <http://lists.uoregon.edu/list-interface.html>
- **DRU Repository**
  - <http://safetyservices.ucdavis.edu/emergency-management/dru>
- **Twitter**
  - [http://www.twitter.com/iaem\\_ucc](http://www.twitter.com/iaem_ucc)
- **Facebook**
  - <http://www.facebook.com/group.php?gid=35866702685&ref=ts>
- **DHS S&T Communities of Practice**
  - <https://communities.firstresponder.gov>

# Thank You!

# Questions?

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