

- the nature and extent of any prerequisites established for enrollment in any course; or
- any matters required to be disclosed to prospective students under 34 CFR 668.44 (institutional information) and 34 CFR 668.47 (campus security information).

### ***Nature of Financial Charges***

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Misrepresenting Financial Charges Cite  
34 CFR 668.73

Misrepresentation by an institution of the nature of its financial charges includes, but is not limited to, false, erroneous, or misleading statements concerning

- offers of scholarships to pay all or part of a course charge, unless a scholarship is actually used to reduce tuition charges that are applied to all students whether or not receiving a scholarship and are made known to the student in advance; or
- whether a particular charge is the customary charge at the institution for a course.

### ***Employability of Graduates***

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Employability of Graduates Cite  
34 CFR 668.74

Misrepresentation by an institution regarding the employability of its graduates includes, but is not limited to, false, erroneous, or misleading statements

- that the institution is connected with any organization or is an employment agency or other agency providing authorized training leading directly to employment;
- that the institution maintains a placement service for graduates or will otherwise secure or assist its graduates to obtain employment, unless it provides the student with a clear and accurate description of the extent and nature of this service or assistance; or
- concerning government job market statistics in relation to the potential placement of its graduates.

## **CAMPUS SECURITY**

### ***General Information***

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Campus Security Cite  
Sec. 485(f)  
34 CFR 668.46

The Department of Education is committed to assisting schools in providing a safe environment for students to learn and staff to work, and in keeping parents and students well informed about campus security. To this end Dear President letter ANN-96-5, issued jointly by the Department of Education, the Justice Department, and the Department of Health and Human Services in September 1996, provides suggestions to schools for use in developing and implementing a comprehensive policy to combat violence against women on campus.

The letter lists the following Web sites as possible resources:

- Department of Justice Violence Against Women Office

[www.ojp.usdoj.gov/vawo/](http://www.ojp.usdoj.gov/vawo/)

- Department of Education World Wide Web site on campus safety

[www.ed.gov/offices/ope/ppi/security.html](http://www.ed.gov/offices/ope/ppi/security.html)

- Higher Education Center for Alcohol and other Prevention World Wide Web site

[www.edc.org/hec/](http://www.edc.org/hec/)

**The Department is strongly committed to enforcing the provisions of the Campus Security Act of 1990 requiring a school to compile an annual campus security report.**

The Amendments of 1998 made several changes to the campus security and disclosure requirements. General changes include:

- The portion of the law that addresses campus security issues is now called the *Jeanne Cleary Disclosure of Campus Security Policy and Campus Crime Statistics Act*.
- The identification of victims or of persons accused of committing crimes included in the campus crime report is prohibited.
- The campus security requirements may not be construed to require the reporting or disclosure of a victim's confidential information.
- The Department must report to Congress any school that the Department determines not to be in compliance with the campus crime reporting requirements.
- The Department must impose a civil penalty up to \$25,000 if the Department determines that a school has substantially misrepresented the statistical information required to be reported.
- The Amendments clarify that these provisions do not cause a liability for a school or its employees or establish a standard of care.
- Evidence of compliance or noncompliance with the provisions is not admissible as evidence except for actions enforcing these requirements.

The changes resulting from negotiated rule making were published as final regulations on November 1, 1999. They are discussed below.

### *Distribution of the Campus Crime Report*

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Distribution Cite  
*34 CFR 668.41(e)*

By October 1 of each year, a school must publish and distribute its annual campus security report.

It must be distributed to all **enrolled students and current employees** directly by publications and mailings, including: direct mailing to each individual through the U.S. Postal Service, campus mail, or electronic mail.

If the school chooses to fulfill this requirement by posting the crime report on an Internet or Internet Web site, an **individual notice must be distributed to each student and current employee** that includes:

- a statement of the report's availability,
- a list and brief description of the information contained in the report,
- the exact electronic address (URL) of the Internet or Internet Web site at which the report is posted, and
- a statement saying the school will provide a paper copy upon request.

If the school chooses to fulfill this requirement by posting the crime report on an Internet or Internet Web site, the notice described above must also contain:

- the exact electronic address (URL) at which the report is posted, and
- a statement that the school will provide a paper copy of the report upon request.

**Upon request, a school must provide its annual campus security report to a prospective student or prospective employee.**

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Annual Submission Cite  
*34 CFR 668.41(e)(5)*

Schools are required to submit the statistical section of their Annual Crime Report to the Department on an annual basis. To comply with the emerging requirements to communicate electronically with the public whenever possible, the survey data is collected through the Department's Campus Crime and Security Web site.

[surveys.ope.ed.gov/security](http://surveys.ope.ed.gov/security)

The use of an electronic format will eliminate mailing and processing paper questionnaires, significantly reduce the reporting burden, and improve the timeliness of the data from institutions.

## Definition of campus

Requirements regarding the campus security report must be met individually for each separate *campus*. The Amendments of 1998 have broken the former general definition of campus into three more specific categories: campus, non-campus buildings or property, and public property. The campus crime requirements must now be met for any location that meets one of these three definitions.

*Campus* includes

- any building or property (including residence halls) owned or controlled by a school within the same reasonably contiguous geographic area and used by the school in direct support of or in a manner related to its educational purposes.
- property within the same reasonably contiguous area that is owned by the school but controlled by another person, frequently used by students, and supports the school's purposes (such as a food or other retail vendor) (this portion of the definition was added by the Amendments of 1998).

The Amendments define the term *non-campus building or property* to mean

- any building or property owned or controlled by a student organization officially recognized by the school; and
- any building or property (other than a branch campus) owned or controlled by the school, that is **not** within the same reasonable contiguous area, is used in direct support of or in relation to the school's educational purpose, and is frequently used by the students (this portion was added by the Amendments).

The term *public property* means all public property including thoroughfares, streets, sidewalks, and parking facilities that is within the same campus or immediately adjacent to and accessible from the campus. This would not include, for example, highways that are adjacent to the campus, but that are separated from the campus by a fence or other man-made barrier. A school may use a map to visually illustrate the areas included in the definition of its campus.

## Timely Warning

In addition to the required annual campus security report, schools are required to provide timely warning to the campus community of any occurrences of the following crimes that are reported to campus security authorities or local police agencies and are considered to represent a continuing threat to students and employees, including:

- criminal homicide including, (a) murder and nonnegligent manslaughter, and (b) negligent manslaughter;

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Definition of a Campus Cite  
34 CFR 668.46(a)

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Timely Warning Cite  
34 CFR 668.46

- forcible and nonforcible sex offenses;
- robbery;
- aggravated assault;
- burglary;
- motor vehicle theft; and
- arson;
- separately by category of prejudice, each crime listed above and any other crime involving bodily injury reported to local police agencies or to a campus security authority that shows evidence of prejudice based on race, gender, religion, sexual orientation, ethnicity or disability;
- arrests for violations of drug law violations, and illegal weapons possession; and
- persons not arrested but referred for campus disciplinary action for liquor, drug, and weapons law violations.

A school is not required to provide timely warning with respect to crimes reported to a pastoral or professional counselor.

**Note:** A school must also include statistical and policy information related to these same crimes in its campus security report; see the discussion that begins on page 2-198.

### ***Campus Security Authority***

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Campus Security Authority Cite  
*34 CFR 668.46(a)*

The following are campus security authorities:

1. a campus law enforcement unit;
2. any individual or individuals who have responsibility for campus security but who do not constitute a campus security department, such as an individual who is responsible for monitoring entrance into school property (e.g. an access monitor);
3. an individual or organization specified in a school's campus security statement as the individual or organization to which students and employees should report criminal offenses; and
4. an official of a school who has significant responsibility for student and campus activities including, but not limited to, student housing, student discipline, and campus judicial proceedings.

The definition of campus security authority includes others in addition to those individuals working for the school's campus security office or expressly performing a campus security function at the school's request. An official who has significant responsibility for student and campus activities is a campus security authority. For example, a dean of students who oversees student housing, a student center, or student extracurricular activities, has significant responsibility for student and campus activities. Similarly, a director of athletics, team coach, and faculty advisor to a student group also have significant responsibility for student and campus activities.

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## Disciplinary action or proceeding

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The investigation, adjudication, or imposition of sanctions by an educational agency or institution with respect to an infraction or violation of the internal rules of conduct applicable to students of the agency or institution.

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## Law enforcement unit

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Any individual, office, department, division, or other component of an educational agency or institution, such as a unit of commissioned police officers or noncommissioned security guards, that is officially authorized or designated by that agency or institution to

- enforce any local, state, or federal law, or refer to appropriate authorities a matter for enforcement of any local, state, or federal law against any individual or organization other than the agency or institution itself, or
- maintain the physical security and safety of the agency or institution.

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## Professional and pastoral counselors excluded from reporting requirements

Of itself, reporting a statistic is not likely to identify a victim. However, the need to verify the occurrence of a crime and the need for additional information about a crime to avoid double counting can lead to the identification of the victim. Therefore, in order to ensure that victims have access to confidential counseling, professional and pastoral counselors, as defined in the regulations are **not** required to report crimes discussed with them in their roles as counselors. Moreover, a school is not required to report statistics relating to crimes that are reported to a pastoral counselor or a professional counselor who is functioning within the scope of his or her license or certification. Other confidential reporting options are encouraged to obtain statistical data without infringing on an individual's expectation of confidentiality.

A *pastoral counselor* is a person who is associated with a religious order or denomination and who is recognized by that religious order or denomination as someone who provides confidential counseling, and is functioning as a pastoral counselor.

A *professional counselor* is a person whose official responsibilities include providing mental health counseling to members of the school's community and who is functioning within the scope of his or her license or certification.

## FERPA

The provisions of the Family Educational Rights and Privacy Act (FERPA) do not prohibit a school from complying with the campus security regulations. First, FERPA does not generally prohibit the disclosure of statistical, non-personally identifiable information. Second, as a matter of law, FERPA does not preclude a school's compliance with the timely warning requirement. The Department has concluded that as a later enacted, more specific statute, the Campus Security Act trumps FERPA's requirements against the release of personally identifiable information from a student's education record. Thus, institutions may make a timely warning report to the campus community on criminal activity, and even if the school discloses the identity of an individual, the school has not violated the requirements of FERPA.

Records created and maintained by a campus law enforcement unit are not education records and may be disclosed without a student's consent. In contrast, records of a disciplinary action or proceeding are considered education records of a student, and cannot be made available to the public without the consent of the student. FERPA does allow, however, a postsecondary institution to disclose the final results of disciplinary proceedings to a victim of an alleged perpetrator of a crime of violence or a nonforcible sex offense, regardless of the outcome. In addition, FERPA was recently amended to permit a postsecondary institution to disclose (to anyone) the final results of a disciplinary proceeding in which the institution concludes that a student violated school policy with respect to a crime of violence or a nonforcible sex offense. The offenses that apply to this permissible disclosure are listed in the FERPA regulations.

Institutions may seek additional guidance on FERPA by writing the Family Policy Compliance Office (FPCO) at FERPA@ED.Gov. The FPCO's Web site contains helpful information. Its address is: [www.ed.gov/offices/OM/fpc](http://www.ed.gov/offices/OM/fpc).

There are two different FERPA provisions concerning the release of records relating to a *crime of violence*. One concerns the release to the *victim* of any *outcome* involving an *alleged* crime of violence. This is found in section 99.31(a)(13) of the latest FERPA regulations. A separate provision, 99.31(a)(14), permits a

postsecondary institution to disclose to anyone the final results of any disciplinary hearing against an alleged perpetrator of a crime of violence where that student was *found in violation* of the institution's rules or policies with respect to such crime or offense.

A school is not relieved of compliance with the reporting requirements of the campus security regulations when the school refers a matter to a disciplinary committee, rather than to the school's law enforcement unit or directly to the local authorities.

### ***Daily Crime Log***

The Amendments of 1998 require schools that maintain a campus police or security department to make, keep, and maintain daily logs of any crime that occurred within the patrol jurisdiction of the campus police or the campus security department designated by the institution. The logs must be written in a manner that is easily understood. The school must record by date the crime was reported, the nature, date, time, and general location of each crime, and the disposition of the complaint, if known. The logs must be made public, except where prohibited by law or when disclosure would jeopardize the confidentiality of the victim. Schools are required to update logs with new information when available, but no later than two business days after the information is received, unless the disclosure is prohibited by law or would jeopardize the confidentiality of the victim. The school must disclose any information withheld once the adverse effect described is no longer likely to occur.

Often time passes between when a crime is committed and when it is discovered, making the date of occurrence unknown or uncertain. In addition, for statistical purposes, the FBI collects crime data based on when crimes are reported to the police. Therefore, **an institution should report crime data based on when the crime was reported to campus police or security authorities.**

The school must make the crime log for the most recent 60-day period open to public inspection during normal business hours. The school must make any portion of the log older than 60 days available within two business days of a request for public inspection.

A school may withhold information if (and as long as) the release of the information would jeopardize an ongoing criminal investigation or the safety of an individual, cause a suspect to evade detection, or result in the destruction of evidence. A school may withhold only the information that would cause the aforementioned adverse effects.

### ***The Annual Security Report***

The annual security report, due October 1, must contain the required crime statistics for the three calendar years preceding the year in which the report is disclosed. The crime report due October 1, 2001 must include statistics for the 1998, 1999, and 2000 calendar years. **Schools must retain records used to create their campus**

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**Crime Log Cite**  
*34 CFR 668.46(f)*

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**Security Report Cite**  
*34 CFR 668.46(b)*

**security reports for three years after the due date of the report.** Schools must maintain the information used in compiling the 2001 report and make the report available until September 30, 2004.

### *Policies and Procedures for Reporting Crimes*

The annual security report provides information regarding campus security policies and campus crime statistics. With limited exceptions, the campus security requirements do not prescribe policies and procedures for schools to follow. Rather, schools are required to make disclosures concerning the policies and procedures implemented by the school.

All schools must compile the required crime statistics in accordance with the definitions used in the Federal Bureau of Investigation's Uniform Crime Reporting (UCR) system, Hate Crime Data Collection Guidelines and the Training Guide for Hate Crime Collection. For further guidance concerning the application of definitions and classification of crimes a school must use either the *UCR Reporting Handbook* or the *UCR Reporting Handbook: NIBRS Edition*.

Except when determining how to report crimes committed in a multiple offence situation, a school must use the hierarchy rule found in the *UCR Reporting Handbook*. Copies of these publications are available from: FBI Communications Unit, 1000 Custer Hollow Road, Clarksburg, WV 26306 (telephone: 304-625-2823). Schools are encouraged but not required to participate in the FBI's UCR program.

The statistics required in the annual security report may not include the identification of the victim or the person accused of committing the crime.

A school must make a reasonable, good faith effort to obtain the required statistics and may rely on the information supplied by a local or state police agency. A school making a good faith effort will not be held responsible for the failure of local and state police agencies to supply the required statistics.

At a minimum, the annual security report must include the following:

1. the required institutional crime statistics, including:
  - a. criminal homicide, including (1) murder and nonnegligent manslaughter, and (2) negligent manslaughter
  - b. sex offenses, including (1) forcible sex offenses, and (2) nonforcible sex offenses
  - c. robbery
  - d. aggravated assault

- e. burglary
- f. motor vehicle theft
- g. arson
- h. separately by category of prejudice, each crime listed above and any other crime involving bodily injury reported to local police agencies or to a campus security authority that shows evidence of prejudice based on race, gender, religion, sexual orientation, ethnicity or disability
- i. arrests for violations of drug law violations, and illegal weapons possession; and
- j. persons not arrested but referred for campus disciplinary action for liquor, drug, and weapons law violations.

The Amendments require schools to report crime statistics by means of separate categories:

- on campuses;

**Note:** Crimes that occur in dormitories or other residential facilities for students are reported as a subset of crimes on campus.

- in or on a non-campus building or property; and
- on public property.

2. a statement of current campus policies regarding procedures for reporting crimes and other emergencies occurring on campus and the policies for the school's response to these reports, including:
  - a. policies for making timely reports of the above described crimes to members of the campus community;
  - b. policies for preparing the annual disclosure of crime statistics; and
  - c. a list of the titles of each person or organization to whom the criminal offenses described above should be reported for the purpose of making timely warning reports and the annual statistical disclosure.

This statement must also describe any institutional policies or procedures that allow voluntary or confidential reports made by victims or witnesses to be included in the annual disclosure of crime statistics.

3. a statement of the school's policies concerning the security of, and access to, all campus facilities, including residences, and security considerations used in the maintenance of campus facilities,
4. a statement of the school's policies concerning campus law enforcement, including
  - a. the enforcement authority of campus security personnel, their working relationship with state and local police and other law enforcement agencies, and whether the security personnel have the authority to arrest individuals; and
  - b. policies that encourage accurate and prompt reporting of crimes to campus police and the appropriate police agencies; and
  - c. procedures that encourage pastoral counselors and professional counselors, if and when they deem it appropriate, to inform their clients of any procedures to report crimes on a voluntary, confidential basis for inclusion in the annual disclosure of crime statistics.
5. descriptions of the type and frequency of programs that
  - a. inform students and employees about campus security procedures and practices; and
  - b. encourage students and employees to be responsible for their own security and the security of others.
6. a description of institutional crime prevention programs;
7. a statement of the policies concerning the monitoring and recording (through local police agencies) of student criminal activity at off-campus locations of student organizations recognized by the school, including student organizations with off-campus housing facilities (see the definition of a *campus* on page 2-201);
8. the policies concerning the possession, use, and sale of alcoholic beverages, including the enforcement of state underage drinking laws;
9. a statement of institutional policies concerning the possession, use, and sale of illegal drugs including the enforcement of state and federal drug laws;
10. a description of the drug and alcohol-abuse education programs available to students and employees, as required under section 120(a) through (d) of the Higher Education Act;

11. a statement of the sexual assault prevention programs available and the procedures to be followed when a sex offense occurs, including:
  - a. a description of educational programs to promote the awareness of rape, acquaintance rape, and other forcible and nonforcible sex offenses;
  - b. procedures a student should follow if a sex offense occurs (who to contact and how to contact them, the importance of preserving evidence for proof of a criminal offense);
  - c. options for the notification of local law enforcement officials (including on-campus and local police) and a statement that school personnel will assist the student in notifying these authorities, if requested by the student;
  - d. availability of on- and off-campus counseling, mental health, or other student services for victims of sex offenses;
  - e. notice to students that the school will change a victim's academic and living situations after the alleged sex offense and of the options for changes, if changes are requested by the victim and are reasonably available,
  - f. procedures for campus disciplinary actions in cases of an alleged sex offense, including a clear statement that both the accuser and the accused
    - are entitled to the same opportunities to have others present during a disciplinary proceeding, and
    - will be informed of the school's final determination any school disciplinary proceeding with respect to the alleged sex offense and any sanction that is imposed against the accused,
  - g. sanctions the school may impose following a final determination of a school disciplinary proceeding regarding rape, acquaintance rape, or other forcible or nonforcible sex offenses.

The final regulations published on November 1, 1999 made the following changes to a school's annual security report.

1. The list of crimes that an institution must disclose in its annual security report has changed as follows:
  - a. An additional category of manslaughter, broken into two sub categories, nonnegligent and negligent manslaughter, is added to the category of murder. *Murder and nonnegligent manslaughter* is the willful (nonnegligent) killing of one

human being by another. *Manslaughter by negligence* is the killing of another person through gross negligence. The new regulations incorporate manslaughter into the regulations by adding nonnegligent manslaughter to the current murder category and adding a new negligent manslaughter category. Collectively the two categories are referred to as *criminal homicide* consistent with the FBI's definitions.

- b. The category of arson is added to the crime disclosure list. Arson is any willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, personal property of another, etc.
2. The period for which liquor-law, drug-law and weapons possession violations must be reported has changed from the most recent year to the most recent three years. In addition, the school must disclose not only the number of arrests for these crimes but also the unduplicated number of persons who were referred for campus disciplinary action for these activities.

**Institutions should not include students referred for campus disciplinary action for alcohol, drug, and weapons possession unless those violations were also violations of law.** For example, if a student of legal drinking age in the state where the institution is located violates the institution's *dry campus* policy and is referred for disciplinary action, that statistic should not be included in the institution's crime statistics. If a student was both arrested and referred for campus disciplinary action for the same violation, the new regulations require that the institution report the statistic only under arrests.

3. The hate crime disclosure requirement now requires a school to disclose, by category of prejudice, the number of hate crimes among all the crimes it is required to report and any other crimes involving bodily injury reported to a local police agency or a campus security authority. In addition, schools must use the UCR standard of evidence of prejudice to assist in determining if a hate crime occurred.
4. A school must provide a geographic breakdown for the required crime statistics according to the following categories:
  - a on campus,
  - b non-campus building or property,
  - c public property, and
  - d dormitories or other residential facilities for students on campus. (Dormitories and other residential facilities are a subset of the campus category.)

5. Crimes must be reported for the calendar year in which the crime was reported to a campus security authority rather than the calendar year in which the crime occurred.
6. Schools are specifically prohibited from identifying the victim or the alleged perpetrator of the crime in the school's disclosure of its crime statistics.
7. A school must disclose the previous three calendar years' crime statistics for the required statistical disclosures.
8. Schools were required to begin collecting statistics using the new categories effective calendar year 1999. A school's 2001 report — which will include statistics for calendar years 1998, 1999, and 2000 — must include statistics for calendar years 1999 and 2000 using the new categories. Schools may continue to report statistics for calendar years 1998 using the previously applicable categories, except that a school must use the new categories for those years if the data are available.
9. A school is not required to report statistics related to crimes that are reported to a pastoral counselor or a professional counselor, as defined in the regulations, who is functioning within the scope of his or her license or certification.
10. A school may rely on statistical information supplied by local and state police agencies, as long as the school makes a reasonable, good-faith effort to obtain these statistics.
11. The school must disclose its annual security report by October 1 of each year.
12. The definition of a campus security authority was broadened.
13. A school with a campus police or campus security department of any kind must maintain a daily, written crime log of any crime reported to that department that occurred on campus, in or on a non-campus building or property, or on public property.
14. Each school must annually submit the statistical section of its security report to the Department of Education. There is no requirement that a school submit statistical information in the crime log to the Department. The school must maintain campus security records to document the information included in its annual security report.

### ***Complaints against schools***

When a complaint is filed against a school alleging noncompliance with the campus security regulations, the Department will assess the complaint and determine the appropriate response.

Technical assistance to schools in administering the campus security regulations is available from the Department's Customer Support Branch at 1-800-433-7327.