

# **1994 U.S. Department of Education, Final Regulations, Student Right-to-Know and Campus Security Act**

**(34 c.f.r. PART 668)**

**SUMMARY:** The Secretary amends the Student Assistance General Provisions regulations. These regulations are needed to implement statutory Changes to the Higher Education Act of 1965, as amended by the Student Right-to-Know and Campus Security Act (Pub. L. 101-542), the Higher Education Technical Amendments of 1991 (Pub. L. 102-26), the Higher Education Amendments of 1992 (Pub. L. 102-325), and the Higher Education Technical Amendments of 1993 (Pub. L. 103-208).

These regulations require an institution of higher education to disclose information about its campus safety policies and procedures, and statistics concerning whether certain crimes took place on campus.

These regulations also make technical changes to Subpart F of the Student Assistance General Provisions regulations, which governs misrepresentation. Encouraging students to pursue high quality postsecondary education is an important element of the National Education Goals; a safe campus environment facilitates such education.

**EFFECTIVE DATE:** These regulations take effect July 1, 1994.

**FOR FURTHER INFORMATION CONTACT:** Paula M. Husselmann or Kimberly L. Goto, U.S. Department of Education, 400 Maryland Avenue, SW. (Regional Office Building 3, room 4318), Washington, DC 20202-5346. Telephone: (202) 708-7888. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Institutions should note that some of the provisions of these regulations may relate to the provisions of the Family Educational Rights and Privacy Act (FERPA). If an institution has questions concerning FERPA, the institution should contact Ellen Campbell at (202) 732-1807.

**SUPPLEMENTARY INFORMATION:** The Student Assistance General Provisions regulations implement requirements that are common to the participation of postsecondary institutions in the student financial assistance programs authorized by Title IV of the Higher Education Act of 1965, as amended (Title IV, HEA programs). These programs include the Federal Pell Grant, Federal Stafford Loan, Federal PLUS, Federal Supplemental Loans for Students (SLS), Federal Direct Student Loan (FDSL), State Student Incentive Grant (SSIG), Federal Perkins Loan, Federal Work-Study (FWS), Federal Supplemental Educational Opportunity Grant (FSEOG), Presidential Access Scholarship (PAS), and National Early Intervention Scholarship and Partnership (NEISP) programs.

On July 10, 1992 and October 22, 1993 the Secretary published two notices of proposed rulemaking (NPRMs) for 34 CFR part 668 in the Federal Register (57 FR 30826-30833 and 58 FR 54902-54905, respectively). Both of these proposed regulations included a discussion of the major issues surrounding the proposed changes that will not be repeated here. The list below summarizes those issues and identifies the pages of the preambles to the NPRMs on which a discussion of those issues may be found. The final regulations to implement the Student Right-to-Know Act, proposals for which were also included in the July 10, 1992 NPRM, are not included in these regulations. With the passage of the Higher Education Amendments of 1992, and its proliferation of completion and graduation rate provisions, it became necessary to write a second NPRM regarding these rates. The Secretary expects to publish the second NPRM this year. The Secretary does not want to delay publication of final regulations regarding campus security and is, therefore, proceeding with this publication separately. As indicated above, here is a summary of proposed issues relating to crime prevention and statistical disclosure:

Addition to student consumer provisions to require the disclosure of an annual security report (57 FR 30828 and 58 FR 54903);

Addition of list of actual disclosures to be made (57 FR 30828 and 58 FR 54903-54904);

Addition of time periods for collection of crime statistics (57 FR 30829 and 58 FR 54904, but superseded by subsequent statutory change reflected in these final regulations); and

Addition of a definition of campus for the purpose of section 668.47 of the Student Assistance General Provisions regulations (FR 57 30829 and FR 58 54904).

Substantive Changes Reflected in These Final Regulations Changes Pursuant to the Higher Education Amendments of 1992, Public Law 102-325

### **Sex Offenses, Forcible or Nonforcible**

Section 668.47(a)(12) of the final regulations has been changed to provide for the disclosure of certain policies and procedures, the purpose of which is to prevent forcible and nonforcible sex offenses and address various issues relating to these offenses. Institutions are required to establish campus sexual assault programs to prevent sex offenses and procedures for a victim to follow when a sex offense occurs.

Section 668.47(a)(6)(i) of the final regulations has been changed to provide that for the purpose of disclosing statistics about campus crimes, institutions must compile and disclose statistics on rape for periods of time prior to August 1, 1992 and sex offenses, forcible and nonforcible, for periods of time on or after August 1, 1992. This change reflects an amendment to section 485(f)(1)(F)(ii) of the HEA made by section 486(c)(1) of Public Law 102-325. An institution must use the definition of rape through July 31, 1992 found in the Uniform Crime Reporting (UCR) Handbook. In addition, an institution must use the definitions of forcible and nonforcible sex offenses found in the National Incident-Based Reporting System (NIBRS) Edition of the UCR Handbook for collection of these statistics on or after August 1, 1992.

### **Reporting of Crime Statistics**

Section 668.47(d)(1) of these final regulations, relating to the periods of time for which statistical data on campus crime must be compiled and disclosed, is changed to reflect Sec. 486(c)(3) of Public Law 102-325.

### **Analysis of Comments and Changes**

In response to the Secretary's invitation in the NPRMs, approximately 300 parties submitted comments on the proposed regulations. An analysis of the comments and of the changes in the regulations since publication of the NPRMs follows.

Substantive issues are discussed under the section of the regulations to which they pertain. Technical and other minor changes and suggested changes the Secretary is not legally authorized to make under the applicable statutory authority are not addressed.

#### Section 668.47 Institutional Security Policies and Crime Statistics

##### **Definition of Campus Security Authority**

**Comments:** Several commenters supported the intent of the statute and applauded the efforts to accurately collect and report information on crime and educate consumers, and believe the regulations are a deterrent towards criminal activity. The majority of commenters affirmed their support of the Secretary's removal of the term counselors from the proposed definition of campus security authority.

A number of commenters believed that the proposed regulatory definition of campus security authority struck the appropriate balance between the needs of a crime victim and the need for crime reporting.

Other commenters defended the inclusion of deans and residence directors in the proposed definition, maintaining that the definition allows victims to be served properly by reducing accusations concerning interference and coverup of crimes and, most importantly, reducing the risk of someone else becoming a victim of crime.

Many commenters believed that the proposed definition was too broad, particularly because it included deans and residence directors. The commenters offered a variety of reasons for this belief, the most common reason being the belief that a student who is a victim of rape, date rape, or similar crime will often solicit a dean or residence director to help him or her work through the trauma of the event; the victim may decide not to file an official action with the legal authorities. In these instances, the commenters believe the proposed rules could limit the victim's ability to receive immediate assistance and would most likely prolong his or her trauma. Several commenters indicated that deans and residence directors should play a strong role in educating students in security matters and in developing a disciplinary environment that refuses to support criminal behavior.

Several commenters said that the regulations should not define the term campus security authority at all, thereby ensuring maximum institutional flexibility with respect to

the reporting of crimes and the allocation of counseling responsibilities. The commenters suggested this course of action, stating that because of the variety of campus administrative structures (size, complexity, structure, and staffing patterns), an all-inclusive definition would be difficult to achieve. Other commenters said that the regulations should define the term but include only specific campus officials, such as the chief law enforcement official on campus or the dean of students, or specific offices, such as the campus security office.

Many commenters specifically objected to including campus officials such as deans and residence directors within the definition of campus security authority. These commenters advanced several arguments: Some commenters said that students should be able to seek confidential counseling from such administrators before deciding whether to report a campus crime and that by requiring these administrators to report possible crimes brought to their attention by students, would undermine the usefulness of the administrators as student advisors and advocates; other commenters noted that deans and residence directors are not trained in criminal law and that requiring them to report possible crimes would probably lead to double-counting of crimes, once by the dean or other campus official and once by the campus police. Several commenters noted that under the Federal Bureau of Investigation's (FBI's) Uniform Crime Reporting System, determining the number of crime counts is based on law enforcement investigation and does not include determinations by persons, such as those that might be made by deans and residence directors, who are not law enforcement personnel. Other commenters said it is unethical to require deans and residence directors to report crimes, that doing so is inconsistent with the intent of Congress, and that the proposed definition does not clearly exclude campus religious authorities, such as chaplains.

Many commenters asked for clarification as to how the definition of a campus security authority relates to the Family Educational Rights and Privacy Act (FERPA).

**Discussion:** Section 485(f)(1)(F) of the HEA requires institutions to disclose statistics of certain campus criminal offenses reported to campus security authorities and local police agencies. As noted in the Preamble to the first NPRM, the proposed definition of campus security authority, which the statute does not define, represented an attempt to strike an appropriate balance between the need of individual crime victims for confidential

counseling and the need of the broader campus community for prevention and a complete reporting of campus crime.

The Secretary continues to believe that to achieve this balance, and to ensure consistent reporting of crime statistics, it is necessary to define the term campus security authority and to include within the definition a wider range of campus administrators than those exclusively devoted to criminal or security matters. Therefore, the definition of a campus security authority includes a campus law enforcement unit, an individual or organization specified in an institution's statement of campus security policy as the individual or organization to whom students and employees should report criminal offenses, and an official of an institution who has significant responsibility for student and campus activities, but does not have significant counseling responsibilities. The Secretary does not agree that including a broader range of administrators is unethical or unauthorized by the statute; neither is it inappropriate by virtue of their lack of specific training in criminal law, nor is it likely to lead to double-counting. The function of these administrators is not to determine authoritatively whether a crime took place—that is the function of law enforcement professionals working within the criminal justice system—but, with respect to these regulations to report to the appropriate law enforcement personnel, either campus or local police, those allegations of campus crimes that the administrators conclude are made in good faith. These administrators would, of course, be free to seek advice from legal experts before reporting any allegations. In addition, there is no penalty for reporting allegations of campus crime to the appropriate law enforcement personnel if those allegations turn out to be baseless. If the law enforcement personnel, upon further investigation, conclude that the allegations reported are not substantiated by the facts or the law, no campus crime need be disclosed as a statistic.

Because of the wide variety of institutions participating in the Title IV, HEA programs, the Secretary acknowledges that it is not appropriate to identify particular administrators, such as deans and residence directors, by their titles as being either included or excluded from the definition of campus security authority. Instead, the identifications must be made in terms of the functions of particular administrators. Institutions are expected to determine which officials have significant responsibility for student and campus activities and do not have significant counseling responsibilities for the purpose of this definition and to make this information known to the campus community. The

Secretary notes that it was never the intent of the proposed rule to include chaplains within the meaning of the term campus security authority.

Records created and maintained by a campus law enforcement unit, for the purpose of law enforcement, are not education records and are not protected from disclosure by FERPA. The definition of campus security authority also includes (1) an individual or organization specified in an institution's statement of campus security policy as the individual or organization to whom students and employees should report criminal offenses; and (2) an official of an institution who has significant responsibility for student and campus activities, but does not have significant counseling responsibilities.

Information on crimes reported to these officials could be included in records classified as protected from non-consensual disclosure under FERPA regulations. However, FERPA does not prohibit the disclosure of statistical, non-personally identifiable information. The Secretary does not interpret FERPA to prevent compliance with the timely warning provision, as in a case of an emergency involving the safety of others—even where the identity of an individual may be disclosed.

**Changes:** The Secretary has revised the definition of campus security authority to include, in addition to those individuals or organizations specified by the institution's statement of campus security policy as those to whom criminal offenses should be reported, other officials of the institution who have significant responsibility for student and campus activities, but only if those officials do not have significant counseling responsibilities. The definition has also been revised expressly to include a campus law enforcement unit.

### **Victim's Rights**

**Comments:** A number of commenters said that victims should have the option of consulting with student affairs personnel before deciding whether or not to report the occurrence of a crime. Some commenters said that the victim of a crime on campus should be allowed to report the crime anonymously.

**Discussion:** Under these final regulations, victims of a crime on campus remain free to seek confidential counseling from campus administrators who have significant counseling responsibilities. Section 485(f)(1)(F) of the HEA and these regulations require

the statistical reporting of crimes to the campus community, not personally identifiable accounts of crimes. A victim who reports a crime to a campus security authority may, of course, request anonymity to the extent practicable and permitted by local law.

**Changes:** None.

### **Monitoring Crimes On-Campus and Off-Campus**

**Comments:** A few commenters requested that the Secretary require institutions to monitor crimes that take place in areas other than those proposed in the NPRM. For example, the commenters believe it is within the spirit of the statute to monitor crime on public and private property that is not owned or controlled by an institution, but that is frequented by the institution's students. This recommendation would include the neighborhood surrounding the campus. One commenter indicated that there are many unidentifiable properties within the institution's area that are controlled by recognized organizations, but that the properties of the organizations are not officially recognized by the institution.

**Discussion:** Neither the HEA nor these regulations require institutions to gather data and report to the campus community about off-campus crime. Section 485(f)(1)(F) of the HEA and these regulations require institutions to disclose statistics about particular crimes that occur on campus. The statute includes in the definition of "campus" any building or property owned or controlled by student organizations recognized by the institution. Institutions should note, however, that an institution can be considered to control certain space that may be owned by a third party. For example, some institutions rent space in building owned by a third party; the institution controls the space that it occupies and that space is covered under these provisions of the HEA.

**Changes:** None.

### **Timely Warning to the Campus Community**

**Comments:** A few commenters requested a clear definition of "timely reports" for the purpose of section 485(f)(3) of the HEA and these regulations, which require an institution to make timely reports to the campus community on crimes that are reported to campus security authorities or local police and that are considered a threat to other

students and employees. Some commenters believed that timely warnings made by those who are not enforcement personnel could jeopardize a criminal investigation and allow a suspect to be released. Other commenters believe that the campus community must be informed of these threats and these provisions allow the law enforcement authorities to receive the evidence to build a case.

**Discussion:** The Secretary does not believe that a definition of "timely reports" is necessary or warranted. Rather, the Secretary believes that timely reporting to the campus community for this purpose must be decided on a case-by-case basis in light of all the facts surrounding a crime, including factors such as the nature of the crime, the continuing danger to the campus community, and the possible risk of compromising law enforcement efforts. Campus security authorities should consult the local law enforcement agency for guidance on how and when to release "timely reports" to the campus community.

**Changes:** None.

### **Coordination With State Requirements**

**Comment:** One commenter said that State and Federal requirements pertaining to the disclosure of crime statistics by institutions should be coordinated with respect to both the types of crimes reported and the dates for disclosure.

**Discussion:** The Secretary supports coordinated efforts to disclose all required statistical disclosures to the extent they are consistent with specific requirements of section 485(f) of the HEA and these regulations.

**Changes:** None.

### **Distribution of Annual Security Report**

**Comments:** One commenter requested clarification as to the means of distribution of the annual security report. The commenter wondered whether the institution would be required to mail the security report to current students and employees or could simply notify them about how to obtain the security report. Another commenter requested the Secretary to identify those to whom an annual security report is given only upon request.

**Discussion:** These regulations require that the annual security report be distributed to all current students and employees, and to any prospective student and employee upon request. As defined in Sec. 668.41(b), a prospective student is one who has requested information concerning admission to the institution. However, because of the importance of this information regarding personal safety, the Secretary believes that any person requesting information on admission should be notified of the availability of the report, given a summary of the report, and given an opportunity to request it. A prospective employee requesting an application for employment from the institution or information about employment at the institution should be treated in the same manner as a prospective student. The Secretary agrees that these regulations need to clarify how the report is distributed.

**Changes:** The regulations have been changed to clarify the methods of distribution that are to be used to ensure individual delivery of the security report. An institution may choose to distribute the report by any of the following means: (1) Directly mailing of the report to each individual through the U.S. Postal Service, campus mail, or computer network; or (2) providing the report directly to each individual (by hand-delivery). Institutions may include the security report as a part of an institutional publication that is distributed to each individual, such as a catalog, student handbook, registration materials, or tuition bill. An institution must provide prospective students and employees information about the availability of the report and a summary of the information in it.

### **Reporting Crime Data**

**Comments:** Some commenters asked if there is a form or format for reporting and disclosing crime data.

**Discussion:** With respect to a prescribed format or form on which to disclose and report crime statistics, the Secretary notes that an institution may voluntarily participate in the Uniform Crime Reporting (UCR) System of the FBI. In this system, there are prescribed forms for the reporting of crime. The Secretary notes that while the HEA does not mandate participation in the UCR System, the HEA does, however, require use of the UCR definitions in determining whether a crime has been committed.

**Changes:** None.

## **Institutional Security Policies**

**Comments:** Several commenters asked whether an institution that does not have programs to promote the awareness of rape, acquaintance rape, and other forcible and nonforcible sex offenses is required to establish these programs itself. They asked whether an institution could use as educators, in those areas, personnel who are experts in their respective fields.

**Discussion:** Section 485(f) of the HEA requires an institution to provide education programs to promote the awareness of rape, acquaintance rape, and other sex offenses. An institution may contract with experts in these areas, such as rape crisis intervention experts, local law enforcement officials, and social service personnel to provide training to students and staff.

**Changes:** None.

**Comments:** Two commenters questioned the change in terminology from sexual assault to sex offense with regard to procedures students should follow if a sex offense occurs. Two commenters were concerned over the issue of preserving evidence of a criminal offense: one commenter believed that this requirement could place the institution in the position of interpreting laws regarding evidence. The institutions asked for guidance with respect to preserving evidence. Two commenters agreed that a student should retain the right, under the regulations, to decide whether to report a sex offense.

**Discussion:** The Secretary changed the term sexual assault to sex offense to conform with the statutory provision requiring institutions to use the definitions of the FBI's UCR System; forcible and nonforcible sex offenses are defined. During negotiated rulemaking sessions with the academic community, many non-Federal negotiators recommended that institutions be required to define what is meant by "preserving evidence". The Secretary urges institutions to consult with their campus security officials, local law enforcement officials, and the local prosecutor's office in addressing what constitutes the preservation of evidence. The Secretary further encourages institutions to develop working relationships with the Emergency rooms of local hospitals and local rape crisis programs.

**Changes:** None.

**Comments:** One commenter asked to what extent an institution is required to assist a student in notifying proper authorities of the occurrence of a sex offense, if the student requests the institution's assistance.

**Discussion:** The Secretary expects an institution to accommodate a victim's request for assistance reasonably.

**Changes:** None.

**Comments:** Fifteen commenters addressed the requirement for an institution to notify students that the institution will change a victim's academic and living situations after an alleged sex offense and of the options for such changes, if changes are requested by the victim and are reasonably available. Some of the commenters recommended that this should apply only to institutions that have control over on- and off-campus housing. Some community colleges indicated that they do not have the experience or resources to handle such a request. Some commenters were concerned that this requirement could impose an unlimited liability on institutions. Some of the commenters asked the Secretary to specify what constitutes acceptable accommodation by an institution.

**Discussion:** With regard to those commenters who expressed concern over potential legal liability and those who wish to limit the scope of this provision to institutions that control housing, it is important to recognize that these requirements provide an institution flexibility. Moreover, section 485(f)(7)(c) of the HEA provides that no private right of action is created by this statute. A change to accommodate a victim must be reasonably available. If a change of living or academic situation requested by a victim is unreasonable, an institution is not required to make the change. As examples, an institution could allow a victim out of a housing contract with the institution so that the student may pursue off-campus housing; on the other hand, it would not be reasonable to expect the institution to pay for the rental of a private apartment for the student. The Secretary does not believe that it is useful to list in these regulations all examples of acceptable accommodation. Institutions are expected to make reasonable efforts at acceptable accommodation.

**Changes:** None.

**Comments:** Four commenters expressed concern that the Secretary has not specified how an institution must ensure due process for the accused in a campus disciplinary proceeding. The commenters were concerned that the institution not take punitive action against the accused until all of the evidence is weighed and there is a conviction.

**Discussion:** The commenters are correct that the HEA does not provide due process requirements under these provisions; due process is a matter of local law and other requirements. The purpose of this provision is to provide disclosure of an institution's disciplinary procedures with certain minimum requirements.

**Changes:** None.

#### Other Comments

**Comments:** A few commenters warned that the distribution of campus security policies could be dangerous because criminal elements might use the information provided to evade detection and plan further crimes.

**Discussion:** The Secretary expects institutions to consider the needs of the campus community for which they are providing a statement of campus security policies and to be judicious in the selection of information to be provided. The Secretary does not believe the required disclosures will aid crime. Rather, the disclosures will serve to discourage crime on campus.

**Changes:** None.

**Comments:** A few commenters said the statistics disclosed of campus crimes should represent only verifiable crimes or convictions.

**Discussion:** The occurrence of a crime on campus need not be disclosed to students and staff under these regulations unless the appropriate law enforcement officials conclude that the crime did occur with the same degree of certainty they would require for purposes of reporting under the FBI's Uniform Crime Reporting System. Convictions, however, are not required, because an acquittal means only that a specific defendant did not commit the crime charged, not that a crime did not occur. For information concerning "Unfounded Complaints" an institution should refer to the UCR Handbook. The Secretary

provided this clarification as a guide to disclosure requirements. It is in no way to be interpreted as discouraging the reporting of crime to the proper law enforcement agencies.

**Changes:** None.

### **Executive Order 12866**

These final regulations have been reviewed in accordance with Executive Order 12866. Under the terms of the order the Secretary has assessed the potential costs and benefits of this regulatory action. The potential costs associated with the final regulations are those resulting from statutory requirements and those determined by the Secretary to be necessary for administering this program effectively and efficiently. Burdens specifically associated with information collection requirements were identified and explained in the NPRM.

(Approved by the Office of Management and Budget under control number 1840-0537)

In assessing the potential costs and benefits—both quantitative and qualitative—of these regulations, the Secretary has determined that the benefits of the regulations justify the costs.

The Secretary has also determined that this regulatory action does not unduly interfere with State, local, and tribal government in the exercise of their governmental functions.

### **Assessment of Educational Impact**

In the notice of proposed rulemaking, the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Based on the response to the proposed rules and on its own review, the Department has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

### **List of Subjects in 34 CFR Part 668**

Administrative practice and procedure, Colleges and universities, Consumer protection, Education, Grant programs-education, Loan programs-education, Reporting and recordkeeping requirements, Student aid.

(Catalog of Federal Domestic Assistance Numbers: 84.007 Federal Supplemental Educational Opportunity Grant Program; 84.032 Federal Stafford Loan Program; 84.032 Federal PLUS Program; 84.032 Federal

Supplemental Loans for Students Program; 84.032 Federal Consolidation Program; 84.033 Federal Work-Study Program; 84.038 Federal Perkins Loan Program; 84.063 Federal Pell Grant Program; 84.069 State Student Incentive Grant Program; 84.226 Income Contingent Loan Program; 84.268 Federal Direct Student Loan Program; and 84.27 National Early Intervention Scholarship and Partnership Program. Catalog of Federal Domestic Assistance number for the Presidential Access Scholarship Program has not been assigned.)

**Dated:** April 22, 1994.

Richard W. Riley,

Secretary of Education.

The Secretary amends part 668 of title 34 of the Code of Federal Regulations as follows:

**PART 668—[AMENDED]**

1. The authority citation for part 668 is revised to read as follows:

Authority: 20 U.S.C. 1085, 1088, 1091, 1092, 1094, 1099c, and 1141, unless otherwise noted.

2. Section 668.43 is amended by removing the word "and" at the end of paragraph (c)(4); removing the period in paragraph (c)(5) and adding, in its place, the term "; and"; and adding a new paragraph (c)(6) to read as follows:

Sec. 668.43 Financial assistance information.

\* \* \* \* \*

(c) \* \* \*

(6) The institution shall provide and collect exit counseling information as required by 34 CFR 674.42 for borrowers under the Federal Perkins Loan Program, by 34 CFR 685.303 for borrowers under the Federal Direct Student Loan Program, and by 34 CFR 682.604 for borrowers under the Federal Stafford Loan and Federal SLS programs.

\* \* \* \* \*

3. Section 668.44 is amended by removing the word "and" at the end of paragraph (a)(6); removing the period at the end of paragraph (a)(7) and adding, in its place, the term "; and"; and adding a new paragraph (a)(8) to read as follows:

Sec. 668.44 Institutional information.

(a) \* \* \*

(8) A statement that a student's enrollment in a program of study abroad approved for credit by the home institution may be considered enrollment at the home institution for the purpose of applying for assistance under the Title IV, HEA programs.

\* \* \* \* \*

Sec. 668.46 [Reserved]

4. Section 668.46 is reserved.

5. A new Sec. 668.47 is added to subpart D to read as follows:

Sec. 668.47 Institutional security policies and crime statistics.

(a) An institution shall, by September 1, 1992, and by September 1 of each year thereafter, publish and distribute, through appropriate publications and mailings, an annual security report that contains, at a minimum, the following information:

(1) A statement of current campus policies regarding procedures and facilities for students and others to report criminal actions or other emergencies occurring on campus and policies concerning the institution's response to those reports, including policies for making timely reports to members of the campus community regarding the occurrence of crimes described in paragraph (a)(6) of this section.

This statement shall include a list of the titles of each person or organization to whom students and employees should report the criminal offenses described in paragraph (a)(6) for the purpose of making timely reports.

(2) A statement of current policies concerning security of and access to campus facilities, including campus residences, and security considerations used in the maintenance of campus facilities.

(3) A statement of current policies concerning campus law enforcement, including—

(i) The enforcement authority of security personnel, including their working relationship with State and local police agencies and whether those security personnel have the authority to arrest individuals; and

(ii) Policies that encourage accurate and prompt reporting of all crimes to the campus police and the appropriate police agencies.

(4) A description of the type and frequency of programs designed to inform students and employees about campus security procedures and practices and to encourage students and employees to be responsible for their own security and the security of others.

(5) A description of programs designed to inform students and employees about the prevention of crimes.

(6)(i) Statistics concerning the occurrence on campus of the following criminal offenses reported to local police agencies and to any official of the institution who has significant responsibility for student and campus activities:

(A) Murder.

(B) Rape (prior to August 1, 1992) or sex offenses, forcible or nonforcible (on or after August 1, 1992).

(C) Robbery.

(D) Aggravated assault.

(E) Burglary.

(F) Motor-vehicle theft; and

(ii) Statistics concerning the criminal offenses of murder, forcible rape, and aggravated assault, as listed in paragraph (a)(6)(i) of this section, that manifest evidence of prejudice based on race, religion, sexual orientation, or ethnicity, as prescribed by the Hate Crimes Statistics Act (28 U.S.C. 534).

(7) A statement of policy concerning the monitoring and recording through local police agencies of criminal activity in which students engaged at off-campus locations of student organizations recognized by the institution, including student organizations with off-campus housing facilities.

(8)(i) Statistics concerning the number of arrests for the following crimes occurring on campus:

(A) Liquor-law violations.

(B) Drug-abuse violations.

(C) Weapons possessions.

(ii) Statistics concerning those crimes listed in paragraph (a)(8)(i) of this section that manifest evidence of prejudice based on race, religion, sexual orientation, or ethnicity, as prescribed by the Hate Crimes Statistics Act (28 U.S.C. 534).

(9) A statement of policy regarding the possession, use, and sale of alcoholic beverages and enforcement of State underage drinking laws.

(10) A statement of policy regarding the possession, use and sale of illegal drugs and enforcement of Federal and State drug laws.

(11) A description of any drug or alcohol-abuse education programs, as required under section 1213 of the HEA. For the purpose of meeting this requirement, an institution may cross-reference the materials the institution uses to comply with section 1213 of the HEA.

(12) A statement of policy regarding the institution's campus sexual assault programs to prevent sex offenses, and procedures to follow when a sex offense occurs. The statement must include—

(i) A description of educational programs to promote the awareness of rape, acquaintance rape, and other forcible and nonforcible sex offenses;

(ii) Procedures students should follow if a sex offense occurs, including procedures concerning who should be contacted, the importance of preserving evidence for the proof of a criminal offense, and to whom the alleged offense should be reported;

(iii) Information on a student's option to notify proper law enforcement authorities, including on-campus and local police, and a statement that institutional personnel will assist the student in notifying these authorities, if the student requests the assistance of these personnel;

(iv) Notification to students of existing on- and off-campus counseling, mental health, or other student services for victims of sex offenses;

(v) Notification to students that the institution will change a victim's academic and living situations after an alleged sex offense and of the options for those changes, if those changes are requested by the victim and are reasonably available;

(vi) Procedures for campus disciplinary action in cases of an alleged sex offense, including a clear statement that—

(A) The accuser and the accused are entitled to the same opportunities to have others present during a disciplinary proceeding; and

(B) Both the accuser and the accused shall be informed of the outcome of any institutional disciplinary proceeding brought alleging a sex offense. Compliance with this subsection does not constitute a violation of the Family Educational Rights and Privacy Act (20 U.S.C. 1232g). For the purpose of this paragraph, the outcome of a disciplinary proceeding means only the institution's final determination with respect to the alleged sex offense and any sanction that is imposed against the accused; and

(vii) Sanctions the institution may impose following a final determination of an institutional disciplinary proceeding regarding rape, acquaintance rape, or other forcible or nonforcible sex offenses.

(b) An institution shall distribute the security report required by paragraph (a) of this section annually to all—

(1) Current and prospective students and employees by appropriate publication and mailings, through—

(i) Direct mailing to each individual through the U.S. Postal Service, campus mail, or computer network; and

(ii) Publications provided directly to each individual; and

(2) Prospective students as defined in Sec. 668.41(b) and prospective employees as defined in paragraph (f) of this section, upon request, provided that such individuals are informed of the availability of the security report, given a summary of its contents, and given the opportunity to request a copy.

(c) An institution shall comply separately with the requirements of this section for each campus. A branch, school, or administrative division within an institution that is not within a reasonably contiguous geographic area with the institution's main campus is considered to be a separate campus.

(d)(1)(i) An institution's first annual security report (due September 1, 1992) must contain the statistics described in paragraph (a)(6) of this section covering the period January 1, 1991, through December 31, 1991, and the two preceding calendar years, or the portion thereof for which data are reasonably available. The first annual security report must

contain those statistics covering at least the period from August 1, 1991, through July 31, 1992.

(ii) An institution's second and third annual security reports (due September 1, 1993 and September 1, 1994, respectively) must contain the statistics described in paragraph (a)(6) of this section covering the most recent calendar year and the two preceding calendar years, or the portion thereof for which data are reasonably available. The second annual security report must contain those statistics covering at least the period from August 1, 1991, through December 31, 1991, and calendar year 1992. The third annual security report must contain those statistics covering at least the period from August 1, 1991, through December 31, 1991, and calendar years 1992 and 1993.

(iii) An institution's annual security report due September 1, 1995, and each subsequent report, must contain the statistics described in paragraph (a)(6) of this section covering the three calendar years preceding the year in which the report is disclosed.

(iv) In each annual security report due on or after September 1, 1993, September 1, 1994, September 1, 1995, an institution must, in accordance with paragraphs (d)(1) (ii) and (iii) of this section, report statistics covering rape for periods of time prior to August 1, 1992, and statistics concerning sex offenses, forcible or nonforcible, for periods of time on or after August 1, 1992.

(v) In all subsequent annual security reports, an institution shall report statistics for sex offenses, forcible and nonforcible.

(2)(i) An institution's first annual security report (due September 1, 1992) must contain the statistics described in paragraph (a)(8) of this section covering the period January 1, 1991, through December 31, 1991, or the portion thereof for which those statistics are available. The first annual security report must contain that data covering at least the period August 1, 1991, through December 31, 1991.

(ii) An institution's second annual security report (due September 1, 1993) and each subsequent report must contain the statistics described in paragraph (a)(8) of this section, covering the calendar year preceding the year during which the report is to be disclosed.

(3) An institution shall compile crime statistics required under paragraph (a) (6) and (8) of this section in accordance with the definitions used in the Federal Bureau of Investigation's Uniform Crime Reporting Program as provided in Appendix E to this part.

(4) Upon the request of the Secretary, an institution must submit to the Secretary the statistics required by paragraphs (a)(6) and (a)(8) of this section.

(e) An institution shall, in a manner that is timely and will aid in the prevention of similar crimes, report to the campus community on crimes that are—

(1) Described in paragraph (a)(6) of this section;

(2) Reported to campus security authorities as identified under the institution's statement of current campus policies pursuant to paragraph (a)(1) of this section or local police agencies; and

(3) Considered by the institution to represent a threat to students and employees.

(f) The following definitions apply to this section:

**Campus:** (1) Any building or property owned or controlled by an institution within the same reasonably contiguous geographic area and used by the institution in direct support of, or in a manner related to, the institution's educational purposes. (2) Any building or property owned or controlled by a student organization recognized by the institution. (3) Any building or property controlled by the institution, but owned by a third-party.

**Campus security authority:** (1) A campus law enforcement unit. (2) An individual or organization specified in an institution's statement of campus security policy as the individual or organization to whom students and employees should report criminal offenses. (3) An official of an institution who has significant responsibility for student and campus activities, but does not have significant counseling responsibilities.

**Prospective employee:** An individual who has contacted an institution participating in any Title IV, HEA program for the purpose of requesting information concerning employment with the institution.

(Approved by the Office of Management and Budget under control number 1840-0537)

(Authority: 20 U.S.C. 534, 1092, and 1232g)

6. Section 668.72 is amended by revising paragraph (l) to read as follows:

Sec. 668.72 Nature of educational program.

\* \* \* \* \*

(l) Any matters required to be disclosed to prospective students under Secs. 668.44 and 668.47 of this part.