

~~This document needs to be reviewed by Senior Staff~~

## **AP 3515 REPORTING OF CRIMES**

### **References:**

Education Code Sections 212 and 87014;

Penal Code Section 245;

Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act of 1998;

20 United States Code Section 1232g;

34 Code of Federal Regulations Parts 99.31(a)(13), (14) and 668.46;

Campus Security Act of 1990

***NOTE: This procedure is **legally required**. Local practice may be inserted, but should include the following requirements.***

Individuals who are witnesses or victims of a crime at the colleges should immediately report the crime to Campus Safety & Security. Individuals who are witnesses or victims of a crime at the District Offices should immediately report the crime to the Police Department.

In the event an employee is assaulted, attacked or menaced by a student, the employee shall notify his/her supervisor as soon as practical after the incident. The supervisor of any employee who is attacked, assaulted or menaced shall assist the employee to promptly report the attack or assault to the appropriate law enforcement authorities. The supervisor himself/herself shall make the report if the employee is unable or unwilling to do so. Reporting a complaint to local law enforcement will not relieve the District of its obligation to investigate all complaints of harassment.

### To Report a Crime:

Contact Campus Safety & Security and or dial 9-1-1 (emergencies only). Any suspicious activity or person seen in the parking lots or loitering around vehicles or inside buildings should be reported to Campus Safety & Security the police department.

In addition, crimes should be reported to the following areas:

- Vice President of Student Services
- Vice President of Administrative Services
- District Human Resources Office

**[NOTE: Either Alternative 1 or Alternative 2 must be selected. One of the Alternatives is legally required.]**

**[Alternative 1]**

~~If you are the victim of a crime and do not want to pursue action within the District's System or the criminal justice system, you may still want to consider making a confidential report. With your permission, the [insert designated office] can file a report on the details of the incident without revealing your identity. The purpose of a confidential report is to comply with your wish to keep the matter confidential, while taking steps to ensure the future safety of yourself and others. With such information, the District can keep an accurate record of the number of incidents involving students, determine where there is a pattern of crime with regard to a particular location, method, or assailant, and alert the campus community to potential danger. Reports filed in this manner are counted and disclosed in the annual crimes statistics for the institution.~~

~~The [designated office or campus police] encourage anyone who is the victim or witness to any crime to promptly report the incident to the police. Because police reports are public records under state law, the [campus police department] police cannot hold reports of crime in confidence. Confidential reports for purposes of inclusion in the annual disclosure of crime statistics can generally be made to other campus security authorities as identified below. Confidential reports of crime may also be made to [insert designated officer] at [XXX-XXXX].~~

**[Alternative 2]**

**The Campus Directors of Safety & Security suggest Alternative 2.**

~~The District does not allow victims or witnesses to report crimes on a voluntary, confidential basis for inclusion in the annual disclosure of crime statistics.~~

**NOTE: The following procedural language is not legally required but authorized pursuant to 34 Code of Federal Regulations Part 99.31(a)(13),(14). It is suggested as good practice/optional.**

~~The District may disclose the final results of disciplinary proceeding to a victim of an alleged perpetrator of a crime of violence or a non-forcible sex offense, regardless of the outcome. The District may also disclose to anyone, the final results of a disciplinary proceeding in which it concludes that a student violated District policy with respect to a crime of violence or non-forcible sex offense. The offenses that apply to this permissible disclosure are:~~

- ~~• Arson;~~
- ~~• Assault offenses;~~
- ~~• Burglary;~~
- ~~• Criminal homicide – manslaughter by negligence;~~
- ~~• Criminal homicide – murder and non-negligent manslaughter;~~

- Destruction, damage, or vandalism of property;
- Kidnapping or abduction;
- Robbery;
- Forcible sex offenses.

The disclosure may only include the final result of the disciplinary proceeding with respect to the alleged criminal offense. The District shall not disclose the name of any other student, including a victim or witness, unless the victim or witness has waived his/her right to confidentiality.

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**NOTE:** The **red ink** signifies language that is **legally required** and recommended by the Policy and Procedure Service and its legal counsel. The language in **green ink** was added during the review with Wyman, David, and Kit on 4-4-14. The document was reviewed on 5-7-14 by Wyman, David, Kit and the Directors of Campus Safety & Security: Sean Prather and Antonio Puente.

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**Date Approved:**

*(This is a new procedure recommended by the Policy and Procedure Service)*

## Legal Citations for AP 3515

**Penal Code Section 245; Education Code Sections 212, 67380, and 87014; Jeanne Clery Disclosure of Campus Security Policy and Crime Statistics of 1998; 20 U.S.C. Section 1232g; 34 C.F.R. Section 668.46; 34 C.F.R. Section 99.31(a)(13) and (14); Campus Security Act of 1990**

### Penal Code Section 245

**245.** (a) (1) Any person who commits an assault upon the person of another with a deadly weapon or instrument other than a firearm or by any means of force likely to produce great bodily injury shall be punished by imprisonment in the state prison for two, three, or four years, or in a county jail for not exceeding one year, or by a fine not exceeding ten thousand dollars (\$10,000), or by both the fine and imprisonment.

(2) Any person who commits an assault upon the person of another with a firearm shall be punished by imprisonment in the state prison for two, three, or four years, or in a county jail for not less than six months and not exceeding one year, or by both a fine not exceeding ten thousand dollars (\$10,000) and imprisonment.

(3) Any person who commits an assault upon the person of another with a machinegun, as defined in Section 12200, or an assault weapon, as defined in Section 12276 or 12276.1, or a .50 BMG rifle, as defined in Section 12278, shall be punished by imprisonment in the state prison for 4, 8, or 12 years.

(b) Any person who commits an assault upon the person of another with a semiautomatic firearm shall be punished by imprisonment in the state prison for three, six, or nine years.

(c) Any person who commits an assault with a deadly weapon or instrument, other than a firearm, or by any means likely to produce great bodily injury upon the person of a peace officer or firefighter, and who knows or reasonably should know that the victim is a peace officer or firefighter engaged in the performance of his or her duties, when the peace officer or firefighter is engaged in the performance of his or her duties, shall be punished by imprisonment in the state prison for three, four, or five years.

(d) (1) Any person who commits an assault with a firearm upon the person of a peace officer or firefighter, and who knows or reasonably should know that the victim is a peace officer or firefighter engaged in the performance of his or her duties, when the peace officer or firefighter is engaged in the performance of his or her duties, shall be punished by imprisonment in the state prison for four, six, or eight years.

(2) Any person who commits an assault upon the person of a peace officer or firefighter with a semiautomatic firearm and who knows or reasonably should know that the victim is a peace officer or firefighter engaged in the performance of his or her duties, when the peace officer or firefighter is engaged in the performance of his or her duties, shall be punished by imprisonment in the state prison for five, seven, or nine years.

(3) Any person who commits an assault with a machinegun, as defined in Section 12200, or an assault weapon, as defined in Section 12276 or 12276.1, or a .50 BMG rifle, as defined in Section 12278, upon the person of a peace officer or firefighter, and who knows or

reasonably should know that the victim is a peace officer or firefighter engaged in the performance of his or her duties, shall be punished by imprisonment in the state prison for 6, 9, or 12 years.

(e) When a person is convicted of a violation of this section in a case involving use of a deadly weapon or instrument or firearm, and the weapon or instrument or firearm is owned by that person, the court shall order that the weapon or instrument or firearm be deemed a nuisance, and it shall be confiscated and disposed of in the manner provided by Section 12028.

(f) As used in this section, "peace officer" refers to any person designated as a peace officer in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.

## Education Code Sections 212, 67380, and 87014

**212.** "Sex" means the biological condition or quality of being a male or female human being.

**67380.** (a) The governing board of each community college district, the Trustees of the California State University, the Board of Directors of the Hastings College of the Law, the Regents of the University of California, and the governing board of any postsecondary institution receiving public funds for student financial assistance shall do all of the following:

(1) Require the appropriate officials at each campus within their respective jurisdictions to compile records of both of the following:

(A) All occurrences reported to campus police, campus security personnel, or campus safety authorities of, and arrests for, crimes that are committed on campus and that involve violence, hate violence, theft or destruction of property, illegal drugs, or alcohol intoxication.

(B) All occurrences of noncriminal acts of hate violence reported to, and for which a written report is prepared by, designated campus authorities.

(2) Require any written record of a noncriminal act of hate violence to include, but not be limited to, the following:

(A) A description of the act of hate violence.

(B) Victim characteristics.

(C) Offender characteristics, if known.

(3) Make the information concerning the crimes compiled pursuant to subparagraph (A) of paragraph (1) available within two business days following the request of any student or employee of, or applicant for admission to, any campus within their respective jurisdictions, or to the media, unless the information is the type of information exempt from disclosure pursuant to subdivision (f) of Section 6254 of the Government **Code**, in which case the information is not required to be disclosed. Notwithstanding paragraph (2) of subdivision (f) of Section 6254 of the Government **Code**, the name of a victim of any crime defined by Section 261, 262, 264, 264.1, 273a, 273d, 273.5, 286, 288, 288a, 289, 422.6, 422.7, or 422.75 of the Penal **Code** shall not be disclosed without the permission of the victim, or the victim's parent or guardian if the victim is a minor.

For purposes of this paragraph and subparagraph (A) of paragraph

(1), the campus police, campus security personnel, and campus safety authorities described in subparagraph (A) of paragraph (1) shall be included within the meaning of "state or local police agency" and "state and local law enforcement agency," as those terms are used in subdivision (f) of Section 6254 of the Government **Code**.

(4) Require the appropriate officials at each campus within their respective jurisdictions to prepare, prominently post, and copy for distribution on request a campus safety plan that sets forth all of the following: the availability and location of security personnel, methods for summoning assistance of security personnel, any special safeguards that have been established for particular facilities or activities, any actions taken in the preceding 18 months to increase safety, and any changes in safety precautions expected to be made during the next 24 months. For the purposes of this section, posting and distribution may be accomplished by including relevant safety information in a student handbook or brochure that is made generally available to students.

(5) Require the appropriate officials at each campus within their respective jurisdictions to report information compiled pursuant to paragraph (1) relating to hate violence to the governing board, trustees, board of directors, or regents, as the case may be. The governing board, trustees, board of directors, or regents, as the case may be, shall, upon collection of that information from all of the campuses within their jurisdiction, transmit a report containing a compilation of that information to the California Postsecondary **Education** Commission no later than January 1 of each year, commencing January 1, 1993. The commission shall submit a report to the Legislature and the Governor on July 1, 1993, and every two years thereafter, on the type and number of incidents of hate violence occurring in institutions of public higher **education** in California. It is the intent of the Legislature that the governing board of each community college district, the Trustees of the California State University, the Board of Directors of the Hastings College of the Law, the Regents of the University of California, and the governing board of any postsecondary institution receiving public funds for student financial assistance establish guidelines for identifying and reporting occurrences of hate violence. It is the intent of the Legislature that the guidelines established by these institutions of higher **education** be as consistent with each other as possible. These guidelines shall be developed in consultation with the California Postsecondary **Education** Commission, the Department of Fair Employment and Housing, and the California Association of Human Rights Organizations. The report shall include, but not be limited to, the following:

(A) A comparison of incidents occurring in the year being reported to previous years for which there is hate violence data.

(B) To the extent possible, a comparison of incidents of hate violence occurring at community colleges, the California State University, the Hastings College of the Law, the University of California, and postsecondary institutions receiving funds for student financial assistance with incidents occurring at colleges and universities in other states and private universities in California.

(C) Findings and recommendations to the Legislature on the means of addressing hate violence at community colleges, the California State University, the Hastings College of the Law, the University of California, and postsecondary institutions receiving public funds for student financial assistance.

(b) Any person who is refused information required to be made available pursuant to subparagraph (A) of paragraph (1) of subdivision (a) may maintain a civil action for damages against any institution that refuses to provide the information, and the court shall award that person an amount not to exceed one thousand dollars (\$1,000) if the court finds that the institution refused to provide the information.

(c) For purposes of this section, "hate violence" means any act of physical intimidation or physical harassment, physical force or physical violence, or the threat of physical force or physical violence, that is directed against any person or group of persons, or the property of any person or group of persons because of the ethnicity, race, national origin, religion, sex, sexual orientation, disability, or political or religious beliefs of that person or group.

(d) This section does not apply to the governing board of any private postsecondary institution receiving funds for student financial assistance with a full-time enrollment of less than 1,000 students.

(e) This section shall apply to a campus of one of the public postsecondary educational systems identified in subdivision (a) only if that campus has a full-time equivalent enrollment of more than 1,000 students.

(f) Notwithstanding any other provision of this section, this section shall not apply to the California Community Colleges unless and until the Legislature makes funds available to the California Community Colleges for the purposes of this section.

**87014.** (a) Whenever any employee of a community college district is attacked, assaulted, or menaced, by any student, it shall be the duty of that employee, and the duty of any person under whose direction or supervision the employee is employed who has knowledge of the incident, to promptly report the same to the appropriate law enforcement authorities of the county or city in which the same occurred. Failure to make the report shall be a misdemeanor punishable by a fine of not more than two hundred dollars (\$200).

(b) An act by any member of the governing board of a community college district, or any employee of any community college district which is designed directly or indirectly to influence or urge a person under a duty to make the report prescribed by subdivision (a) not to make the report, shall be a misdemeanor, and shall be punishable by a fine of not less than one hundred dollars (\$100) or more than two hundred dollars (\$200).

**The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act** is the landmark federal law, originally known as the Campus Security Act, that requires colleges and universities across the United States to disclose information about crime on and around their campuses.

Because the law is tied to participation in federal student financial aid programs it applies to most institutions of higher education both public and private. It is enforced by the U.S. Department of Education.

### **Clery Act Summary**

- Schools must publish an annual report disclosing campus security policies and three years worth of selected crime statistics.
- Schools must make timely warnings to the campus community about crimes that pose an ongoing threat to students and employees.
- Each institution with a police or security department must have a public crime log.
- The U.S. Department of Education centrally collects and disseminates the crime statistics.
- Campus sexual assault victims are assured of certain basic rights.
- Schools that fail to comply can be fined by the Department of Education.

### **TITLE 20**

#### § 1232g. Family educational and privacy rights

(b) Release of education records; parental consent requirement; exceptions; compliance with judicial orders and subpoenas; audit and evaluation of federally-supported education programs; recordkeeping

(7)

(A) Nothing in this section may be construed to prohibit an educational institution from disclosing information provided to the institution under section [14071](#) of title [42](#) concerning registered sex offenders who are required to register under such section.

TITLE 34--EDUCATION  
DEPARTMENT OF EDUCATION

PART 668--STUDENT ASSISTANCE GENERAL PROVISIONS--Table of Contents  
Subpart D--Institutional and Financial Assistance Information for  
Students

Sec. 668.46 Institutional security policies and crime statistics.

(a) Additional definitions that apply to this section.

Business day: Monday through Friday, excluding any day when the institution is closed.

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, including residence halls; and

(2) Any building or property that is within or reasonably contiguous to the area identified in paragraph (1) of this definition, that is owned by the



institution but controlled by another person, is frequently used by students, and supports institutional purposes (such as a food or other retail vendor).

Campus security authority: (1) A campus police department or a campus security department of an institution.

(2) Any individual or individuals who have responsibility for campus security but who do not constitute a campus police department or a campus security department under paragraph (1) of this definition, such as an individual who is responsible for monitoring entrance into institutional property.

(3) Any individual or organization specified in an institution's statement of campus security policy as an individual or organization to which students and employees should report criminal offenses.

(4) An official of an institution who has significant responsibility for student and campus activities, including, but not limited to, student housing, student discipline, and campus judicial proceedings. If such an official is a pastoral or professional counselor as defined below, the official is not considered a campus security authority when acting as a pastoral or professional counselor.

Noncampus building or property: (1) Any building or property owned or controlled by a student organization that is officially recognized by the institution; or

(2) Any building or property owned or controlled by an institution that is used in direct support of, or in relation to, the institution's educational purposes, is frequently used by students, and is not within the same reasonably contiguous geographic area of the institution.

Pastoral counselor: A person who is associated with a religious order or denomination, is recognized by that religious order or denomination as someone who provides confidential counseling, and is functioning within the scope of that recognition as a pastoral counselor.

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

Public property: All public property, including thoroughfares, streets, sidewalks, and parking facilities, that is within the campus, or immediately adjacent to and accessible from the campus.

Referred for campus disciplinary action: The referral of any person to any campus official who initiates a disciplinary action of which a record is kept and which may result in the imposition of a sanction.

(b) Annual security report. An institution must prepare an annual security report that contains, at a minimum, the following information:

(1) The crime statistics described in paragraph (c) of this section.

(2) A statement of current campus policies regarding procedures for students and others to report criminal actions or other emergencies occurring on campus. This statement must include the institution's policies concerning its response to these reports, including--

(i) Policies for making timely warning reports to members of the campus community regarding the occurrence of crimes described in paragraph (c) (1) of this section;

(ii) Policies for preparing the annual disclosure of crime statistics; and

(iii) A list of the titles of each person or organization to whom students and employees should report the criminal offenses described in paragraph (c) (1) of this section for the purpose of making timely warning reports and the annual statistical disclosure. This statement must also disclose whether the institution has any policies or procedures that allow victims or witnesses to report crimes on a voluntary, confidential basis for

inclusion in the annual disclosure of crime statistics, and, if so, a description of those policies and procedures.

(3) 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.

(4) A statement of current policies concerning campus law enforcement that--

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

(ii) Encourages accurate and prompt reporting of all crimes to the campus police and the appropriate police agencies; and

(iii) Describes procedures, if any, that encourage pastoral counselors and professional counselors, if and when they deem it appropriate, to inform the persons they are counseling of any procedures to report crimes on a voluntary, confidential basis for inclusion in the annual disclosure of crime statistics.

(5) 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.

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

(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 officially recognized by the institution, including student organizations with off-campus housing facilities.

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

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

(10) A description of any drug or alcohol-abuse education programs, as required under section 120(a) through (d) of the HEA. For the purpose of meeting this requirement, an institution may cross-reference the materials the institution uses to comply with section 120(a) through (d) of the HEA.

(11) 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 appropriate 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 must be informed of the outcome of any institutional disciplinary proceeding brought alleging a sex offense. Compliance with this paragraph 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.

(12) Beginning with the annual security report distributed by October 1, 2003, a statement advising the campus community where law enforcement agency information provided by a State under section 170101(j) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071(j)), concerning registered sex offenders may be obtained, such as the law enforcement office of the institution, a local law enforcement agency with jurisdiction for the campus, or a computer network address.

(c) Crime statistics. (1) Crimes that must be reported. An institution must report statistics for the three most recent calendar years concerning the occurrence on campus, in or on noncampus buildings or property, and on public property of the following that are reported to local police agencies or to a campus security authority:

(i) Criminal homicide:

(A) Murder and nonnegligent manslaughter.

(B) Negligent manslaughter.

(ii) Sex offenses:

(A) Forcible sex offenses.

(B) Nonforcible sex offenses.

(iii) Robbery.

(iv) Aggravated assault.

(v) Burglary.

(vi) Motor vehicle theft.

(vii) Arson.

(viii) (A) Arrests for liquor law violations, drug law violations, and illegal weapons possession.

(B) Persons not included in paragraph (c)(1)(viii)(A) of this section, who were referred for campus disciplinary action for liquor law violations, drug law violations, and illegal weapons possession.

(2) Recording crimes. An institution must record a crime statistic in its annual security report for the calendar year in which the crime was reported to a campus security authority.

(3) Reported crimes if a hate crime. An institution must report, by category of prejudice, any crime it reports pursuant to paragraphs (c)(1)(i) through (vii) of this section, and any other crime involving bodily injury reported to local police agencies or to a campus security authority, that manifest evidence that the victim was intentionally selected because of the victim's actual or perceived race, gender, religion, sexual orientation, ethnicity, or disability.

(4) Crimes by location. The institution must provide a geographic breakdown of the statistics reported under paragraphs (c)(1) and (3) of this section according to the following categories:

(i) On campus.

(ii) Of the crimes in paragraph (c)(4)(i) of this section, the number of crimes that took place in dormitories or other residential facilities for students on campus.

(iii) In or on a noncampus building or property.

(iv) On public property.

(5) Identification of the victim or the accused. The statistics required under paragraphs (c)(1) and (3) of this section may not include the identification of the victim or the person accused of committing the crime.

(6) Pastoral and professional counselor. An institution is not required to report statistics under paragraphs (c)(1) and (3) of this section for crimes reported to a pastoral or professional counselor.

(7) UCR definitions. An institution must compile the crime statistics required under paragraphs (c)(1) and (3) of this section using the definitions of crimes provided in appendix A to this subpart and the Federal Bureau of Investigation's Uniform Crime Reporting (UCR) Hate Crime Data Collection Guidelines and Training Guide for Hate Crime Data Collection. For further guidance concerning the application of definitions and classification of crimes, an institution must use either the UCR Reporting Handbook or the UCR Reporting Handbook: NIBRS EDITION, except that in determining how to report crimes committed in a multiple-offense situation an institution must use the UCR Reporting Handbook. Copies of the UCR publications referenced in this paragraph are available from: FBI, Communications Unit, 1000 Custer Hollow Road, Clarksburg, WV 26306 (telephone: 304-625-2823).

(8) Use of a map. In complying with the statistical reporting requirements under paragraphs (c)(1) and (3) of this section, an institution may provide a map to current and prospective students and employees that depicts its campus, noncampus buildings or property, and public property areas if the map accurately depicts its campus, noncampus buildings or property, and public property areas.

(9) Statistics from police agencies. In complying with the statistical reporting requirements under paragraphs (c)(1) through (4) of this section, an institution 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. If the institution makes such a reasonable, good faith effort, it is not responsible for the failure of the local or State police agency to supply the required statistics.

(d) Separate campus. An institution must comply with the requirements of this section for each separate campus.

(e) Timely warning. (1) An institution must, in a manner that is timely and will aid in the prevention of similar crimes, report to the campus community on crimes that are--

(i) Described in paragraph (c)(1) and (3) of this section;

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

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

(2) An institution is not required to provide a timely warning with respect to crimes reported to a pastoral or professional counselor.

(f) Crime log. (1) An institution that maintains a campus police or a campus security department must maintain a written, easily understood daily crime log that records, by the date the crime was reported, any crime that occurred on campus, on a noncampus building or property, on public property, or within the patrol jurisdiction of the campus police or the campus security department and is reported to the campus police or the campus security department. This log must include--

(i) The nature, date, time, and general location of each crime; and

(ii) The disposition of the complaint, if known.

(2) The institution must make an entry or an addition to an entry to the log within two business days, as defined under paragraph (a) of this section, of the report of the information to the campus police or the campus security department, unless that disclosure is prohibited by law or would jeopardize the confidentiality of the victim.

(3) (i) An institution may withhold information required under paragraphs (f) (1) and (2) of this section if there is clear and convincing evidence that the release of the information would--

(A) Jeopardize an ongoing criminal investigation or the safety of an individual;

(B) Cause a suspect to flee or evade detection; or

(C) Result in the destruction of evidence.

(ii) The institution must disclose any information withheld under paragraph (f) (3) (i) of this section once the adverse effect described in that paragraph is no longer likely to occur.

(4) An institution may withhold under paragraphs (f) (2) and (3) of this section only that information that would cause the adverse effects described in those paragraphs.

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

### **34 C.F.R. Section 99.31(a)(13) and (14)**

#### **7. Section 99.31(a) (13) and Sec. 99.39 Disclosure of Final Results of Certain Disciplinary Proceedings**

The HEA amended the statute to allow a postsecondary institution to disclose the final results of any disciplinary proceeding conducted by the institution against a student who is an alleged perpetrator of a crime of violence if the institution determines, as a result of the proceeding, that the student committed a violation of the institution's rules or policies with regard to that crime.

A new section (Sec. 99.39) provides guidance to institutions regarding this change, and lists the applicable definitions. The Secretary particularly welcomes comment on this provision.

#### **8. Section 99.31(a) (14) Prior Consent Not Required for Disclosures to Parents and Legal Guardians Regarding Violations of Alcohol or Drug Laws or Rules**

The HEA amended the statute to permit postsecondary institutions to disclose to parents and legal guardians of students under the age of 21, without the student's consent, information regarding the student's violation of any Federal, State, or local law, or any rule or policy of the institution governing the use or possession of alcohol or a controlled substance.

In addition to this new provision, the statute already provides that postsecondary institutions may disclose certain information from a student's education records to parents or legal guardians under several exceptions to the prior consent rule. Under Sec. 99.31(a) (8) of the regulations, institutions may release information to parents or guardians, without the student's consent, if the student is a dependent for tax purposes. Also, under Sec. 99.31(a) (10), an institution may release information to a parent or guardian in connection with a health or safety emergency. This provision adds a new exception to the prior consent requirement of FERPA.