

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA  
OFFICE OF ETHICS, COMPLIANCE AND AUDIT SERVICES



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October 3, 2016

**PROVOST & EXECUTIVE VICE PRESIDENT DORR  
VICE PRESIDENT DUCKETT  
VICE PRESIDENT SAKAKI**

**SUBJECT:** Proposed Presidential Policy on Clery Act for Review and Comment

I am attaching for review and discussion by your office and respective constituents the final draft of the Presidential Policy for Clery Act compliance (the “Clery Act Policy”). This proposed Policy was developed at the request of our Campus Clery Coordinators with support by the President. A workgroup comprised of Campus Clery Coordinators, Office of General Counsel, Campus Police, and Office of Ethics, Compliance and Audit Services (ECAS) drafted the Policy.

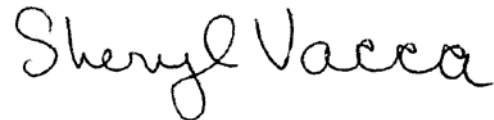
Background: ECAS oversees compliance at our University locations with the *Jeanne Clery Disclosure of Campus Security and Campus Crime Statistics Act (Clery Act)* to ensure the University is meeting its obligations for this important Act. The Clery Act requires colleges and universities that participate in federal financial aid programs to keep and disclose information about crime on and near their respective campuses. The Clery Act also includes rights that schools must provide to survivors of sexual assaults on campus. Our campuses each have a Clery Coordinator (often located in the Campus Police Office) who gathers this data, provides training to designated Campus Security Authorities (CSA), and issues the mandated Annual Security Report.

Purpose of the Proposed Clery Act Policy: Our Campus Clery Coordinators requested a systemwide Policy. They felt a Presidential Policy that outlines and provides an overview and legal guidance for how to comply with the Clery Act would provide the system with consistency, transparency and uniformity. Given the importance of the underlying data—campus safety and climate—we brought the request to the President who concurred with the need for this Policy. Campuses will still need to have their individual procedures and implementation policies, but this proposed Clery Policy would provide overarching system guidance.

Action Requested: Given the breadth of scope for this proposed Policy, we are asking that you send this final draft out for vetting among your constituents. Please let David Lane ([David.Lane@ucop.edu](mailto:David.Lane@ucop.edu)) know the timeline for your vetting process and coordinate any comments or suggestions received so that we may work with your offices and our policy work group to develop the final Policy.

Thank you for your assistance in reviewing this proposed policy. Please let us know if we can provide any further information.

Sincerely,

A handwritten signature in cursive script that reads "Sheryl Vacca".

Sheryl Vacca  
Senior Vice President and  
Chief Compliance and Audit Officer

Attachment: Final Draft of Proposed Clery Policy

cc: Susan Carlson, Vice Provost  
Jerlena Griffin-Desta, Deputy to the VP/Executive Director, Student Services  
Dianna Henderson, Chief of Staff to the VP Human Resources/Director of HR Policy  
David Lane, Systemwide Deputy Compliance Officer, ECAS



# Crime Awareness and Campus Security

<b>Responsible Officer:</b>	Rachael Nava
<b>Responsible Office:</b>	Chief Operating Officer and Business Operations
<b>Issuance Date:</b>	46T
<b>Effective Date:</b>	46T
<b>Last Review Date:</b>	
<b>Scope:</b>	This Policy applies to all University of California staff, faculty, and students. It applies to all Campuses, Medical Centers, Agriculture and Natural Resources, and the Lawrence Berkeley National Laboratory.

<b>Contact:</b>	David Lane
<b>Title:</b>	Systemwide Deputy Compliance Officer
<b>Email:</b>	<a href="mailto:David.Lane@ucop.edu">David.Lane@ucop.edu</a>
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## I. POLICY SUMMARY

The Clery Act (otherwise officially known as the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, section 485 of the Higher Education Act, codified at 20 U.S.C. 1092 (f)) is a federal law requiring colleges and universities across the United States that receive Title IV funding to disclose information about particular crimes on and around their campuses and related policies. It is the policy of the University to comply with its obligations under the Clery Act and California law.

The University of California is committed to providing a safe and secure learning and work environment for UC students and employees consistent with the Clery Act. In accordance with statutory requirements, the University strives to ensure students, faculty, other academic staff and staff employees (the “University Community”), have access to accurate information about crimes committed on and around the campus; as well as, access to University wide security policies and related campus procedures and a confidential reporting process for victims and witnesses. This *Policy* describes roles

and responsibilities for the University Community related to compliance with legal requirements regarding crime reporting, awareness, and prevention.

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## II. DEFINITIONS

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- A. Annual Security Report (“ASR”)**– the Clery Act requires those postsecondary institutions participating in the Higher Education Act’s Title IV student financial assistance programs and each of their separate campuses to annually publish by October 1 a report containing the campus safety policy statements and Clery crime statistics for the 3 most recent calendar years. This annual report is known as the Annual Security Report (“ASR”). Campuses are required to distribute the ASR to current employees and enrolled students and to provide notice to prospective students and employees of the ASR’s availability upon request.
- B. Campus Security Authority (“CSA”)** - Individuals at the University who because of their functional role have an obligation to notify the University department responsible for collecting crime information ( e.g., the campus police department) of alleged Clery crimes that are reported in good faith or witnessed by the CSA. CSAs include campus police employees and other persons who:

1. Have responsibility for campus security but who are not employees of a campus police department or a campus security department;
  2. Are specified in the campus ASR as an individual to whom students and employees should report criminal offenses; or
  3. Have significant responsibility for student and campus activities, including, but not limited to, student housing, student discipline and campus judicial proceedings.
- C. CARE Advocate** – University staff employees who are professionally trained, and certified, to provide confidential support services to survivors of sexual violence, sexual assault, domestic violence, dating violence or stalking. CARE Advocates are not CSAs.
- D. Clery Crimes** – Certain crimes occurring on University Clery Geography (as defined below) that are required by the [Clery Act](#) to be reported annually by the University to the U.S. Department of Education and shared with the University Community. Requirements include reporting on the following offenses, as defined by the Uniform Crime Reporting Handbook of the Federal Bureau of Investigations: criminal homicide (murder and non-negligent manslaughter and negligent manslaughter), sex offenses (rape, fondling, incest and statutory rape), domestic violence, dating violence, stalking, robbery, aggravated assault, burglary, motor vehicle theft, arson, hate crimes (as defined below), and arrests or referrals for campus disciplinary action for liquor and/or drug-related legal violations and/or weapons possession.
- E. Clery Geography** - The geographic category as defined by the Clery Act where a Clery crime is reported to have occurred.
1. On-Campus - Any building or property (i) owned or controlled by the University within the same reasonably contiguous geographic area and used by the University in direct support of, or in a manner related to, the University's educational purposes, including residence halls; (ii) any building or property that is within or reasonably contiguous to the campus that is owned by the University but controlled by another person, is frequently used by students, and supports institutional purposes (such as a food or other retail vendor).
  2. Public Property - All public properties, including thoroughfares, streets, sidewalks, and parking facilities, that are within the campus, or immediately adjacent to and accessible from the campus.
  3. Non-Campus Property –
    - a. Buildings or property that are:
      1. owned or controlled by the University; and
      2. used in direct support of, or in relation to, the University's educational purposes, and
      3. Is frequently used by students, and



- M. Missing Student Notification** – A notification issued to an emergency contact, and/or a parent/legal guardian and the local law enforcement agency by a designated UC official when a student who lives in on-campus housing has been missing for 24 hours.
- N. Pastoral Counselors** – Individuals associated with and recognized by a religious order as someone who provides confidential counseling on behalf of the religious order. Pastoral Counselors do not have CSA responsibilities.
- O. Professional Counselors** – University employees who provide counseling and who function within the scope of the counselor’s license or certification. When acting within the scope of these responsibilities professional counselors are not CSAs.
- P. Sexual violence** – conduct of a sexual nature engaged in without the consent of the other person, or when the other person is unable to consent. For additional details refer to University Policy on Sexual Violence and Sexual Harassment.
- Q. Timely Warning** – A notification issued by the UC police department to alert the campus community about Clery Act crimes occurring within the University’s Clery geography, that are:
1. Reported to, or observed by, a CSA; and
  2. Considered by the University to represent a serious threat to students and employees.

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### III. POLICY STATEMENT

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Each UC location shall comply with the requirements set forth in the Clery Act and state laws in furtherance of providing a safe and secure learning and work environment for UC students and employees. System wide and local audit/compliance offices will conduct periodic audits to confirm compliance with this *Policy* and related local procedures.

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### IV. COMPLIANCE/RESPONSIBILITIES

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**A. Location implementation responsibilities:**

Each University campus, Medical Center, Agriculture and Natural Resources, and the Lawrence Berkeley National Laboratory must:

1. Have procedures for students and employees to voluntarily and confidentially notify the University of crimes on and around campus.
2. Designate, notify and train a Clery Coordinator/Officer.
3. Identify, notify and train all Campus Security Authorities (CSAs).
4. Ensure compliance with all Clery policies, procedures and disclosures.

**B. University of California Clery Coordinator/Officer:**

The Clery Coordinator/Officer, or designee, responsibilities shall include, but are not limited to, the following:

1. In collaboration with the campus police department, collecting and reporting crime statistics for Clery crimes on Clery geography as defined in the Clery Act.
2. Publishing and distributing annual crime statistics through the ASR.
3. In collaboration with the campus police department, reviewing the statistics for accuracy prior to submission to the U.S. Department of Education.
4. In coordination with campus real estate and/or other similar departments, developing and classifying local Clery geographic parameters.
5. Coordinating the distribution of this Policy, and related campus procedures, with appropriate campus offices.
6. Chairing local Clery compliance committee.
7. Serving as liaison with the U.S. Department of Education regarding Clery Act matters.
8. Coordinating with the campus fire marshal to ensure compliance/coordination of the FSR.
9. Ensuring the ASR is distributed to enrolled students and current employees by October 1<sup>st</sup> each year.
10. Ensuring that prospective students and employees are notified that the ASR is available upon request.
11. Identifying all Campus Security Authorities (CSAs) and notifying them of their designation and responsibilities as a CSA.
12. Ensuring that all CSAs are trained upon their initial appointment and providing ongoing training to CSA's as appropriate.
13. Submitting the ASR to the Office of Ethics, Compliance & Audit Services, Office of the President for informational purposes.
14. For UC locations that maintain on-campus student housing facilities, the Clery Coordinator shall coordinate with the campus fire marshal, student housing, and other appropriate departments to:
  - a. Ensure that the FSR is distributed to enrolled students and current employees by October 1<sup>st</sup> each year.
  - b. Ensure that prospective students and employees are notified that the FSR is available upon request.



### C. Campus Security Authority (“CSA”)

Using the functional duties of a position, rather than the job title, UC locations shall identify and inform students, faculty, other academic staff and staff employees and volunteers (paid or unpaid, if deemed to be a CSA based on their function) of CSA reporting responsibilities and provide the CSAs with appropriate related training.

The CSA should not investigate any crime or seek to apprehend any perpetrator.

The CSAs’ responsibilities include, but are not limited to, the following:

1. Reporting, immediately – or as soon as reasonably practical (but not delaying until end of year), to the campus police department any Clery Act crimes or incidents which they have been made aware, or witnessed, including information on:
  - a. When the crime or incident occurred,
  - b. When the crime or incident was reported,
  - c. Where the crime or incident occurred,
  - d. The nature or description of the crime or incident;
2. The CSA is not a confidential resource; and should inform the survivor of sexual assault, domestic violence, dating violence, or stalking that the campus CARE office is the confidential resource to provide information about their rights and options regarding reporting the crime to the police and available campus/community resources.
3. In accordance with California state law, the CSA shall immediately, or as soon as reasonably practicable, notify the campus police department of any report received by the CSA of a Part 1 violent crime (willful homicide, forcible rape, robbery, or aggravated assault, as defined in the Uniform Crime Reporting Handbook of the Federal Bureau of Investigation), hate crime or sexual assault (including, but not limited to, rape, forced sodomy, forced oral copulation, rape by a foreign object, sexual battery, or the threat of any of these), whether committed on On-Campus, Public or on Non-Campus Property.
4. For reports of Part 1 violent crimes, sexual assaults and hate crimes, the CSA shall not disclose to the campus police department the identities of the survivor and alleged perpetrator unless the survivor consents to being identified after being informed of their right to remain anonymous. If the survivor does not consent to being identified, the alleged perpetrator shall not be identified in the information disclosed to the campus police department. For reports of crimes involving sexual violence, sexual assault, domestic violence, dating violence or stalking, the CSA shall notify the campus Title IX

office of such reports in accordance with local campus procedures. Any CSA who knowingly fails to report a crime may be subject to disciplinary action.

#### **D. University of California Campus Police Departments**

Each campus police department will maintain a public crime log, recording criminal incidents within two business days in accordance with regulatory requirements. Any reports of a Part 1 violent crime, hate crime, or sexual violence/assault, received by campus police must be immediately, or as soon as practicably possible, disclosed to the local community law enforcement agency with whom the campus has a written agreement pursuant to the Kristen Smart Campus Safety Act of 1998. The campus police may only disclose the identities of the survivor and the alleged perpetrator to the local law enforcement agency(ies) if the survivor consents to being identified. The campus police department will coordinate with the Clery Coordinator/Officer who is responsible for filing the ASR. The campus police department is responsible for providing timely warnings/emergency notifications for Clery Act crimes that occur on Clery geography or deemed to be a serious threat to the safety of other students and employees.

#### **E. Confidential Resources**

1. Disclosures made to licensed professional psychologists and counselors, and Pastoral Counselors, are privileged and confidential and thus are exempt from the CSA reporting requirements.
2. Campus CARE Advocates are confidential resources for survivors seeking assistance for crimes of a sexual nature and the CARE Advocates are exempt from reporting such crimes. However, while maintaining the survivor's confidentiality, the CARE Advocate may report general de-identified information about incidents of a sexual nature to the Title IX Officer (nature, date, time and general location of incident) and, when applicable, to the Clery Coordinator/Officer. CARE Advocates should not report any identifiable personal information regarding incidents of sexual violence without a survivor's permission. Disclosures about sexual violence incidents to CARE Advocates will not trigger a University investigation.

#### **F. Safety and Security Reporting /The ASR**

By October 1<sup>st</sup> of each year locations will publish and disseminate the ASR with annual crime statistics, campus procedures and policies that comport with the Clery Act. Each location will submit the web based crime statistics to the U.S. Department of Education by a date set annually by the Department of Education (typically mid-October).

The ASR will be made available to current students, employees and upon request to prospective students and employees.

ASRs and supporting documents will be retained according to federal law for 7 years. All records pertaining to pending litigation, or a request for records, will be maintained according to instructions from legal counsel.

Data for Clery crimes occurring on Non-Campus Property, operated by the UC Division of Agriculture and Natural Resources (“ANR”) programs, will be included in the ASR that is submitted on behalf of the UC campus that is associated with the particular ANR program. For the UC Education Abroad Program and other UC managed programs (e.g. Washington D.C. office), their Clery crime data will be included in the ASR submitted in the UC Office of the President ASR.

### **G. Retaliation**

This *Policy* and 34 CFR Section 668.46(m) prohibit retaliation against a person who makes a Clery report. This protection also extends to anyone who assists someone with a report and anyone involved in an investigation or resolution of a sexual violence report. Retaliation includes, but is not limited to, threats, intimidation, coercion, reprisals, and/or harmful (adverse) actions related to employment or education.

Any member of the University community who participates in retaliation may be subject to disciplinary action, including dismissal, according to the University disciplinary procedures.

### **H. Noncompliance with the Policy**

Noncompliance with this *Policy* is handled in accordance with Personnel and Student Policies pertaining to disciplinary matters.

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## **V. REQUIRED PROCEDURES**

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The Executive Officer or designee at each location is authorized and responsible for developing procedures or other supplementary information to support the implementation of this *Policy*. All local procedures must be consistent with the *Policy*.

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## **VI. RELATED INFORMATION**

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- A. [The University of California Whistleblower Protection Policy](#)
- B. [The University of California Whistleblower Policy](#)
- C. [The University of California Sexual Harassment and Sexual Violence Policy](#)
- D. [The University of California Reporting Child Abuse and Neglect Policy](#)
- E. [Clery Act – US Department of Education](#)
- F. [Kristen Smart Campus Safety Act of 1998](#)

- G. [Uniform Crime Reporting Handbook of FBI](#)
- H. [University Policy on Substance Abuse](#)
- I. [PACAOS 100.00 Policy on Student Conduct and Discipline](#)
- J. [Title IV funding reference](#)
- K. [Clery center summary : http://clerycenter.org/summary-jeanne-clery-act](http://clerycenter.org/summary-jeanne-clery-act)
- L. [Clery Act full text: http://clerycenter.org/Jeanne-clery-act](http://clerycenter.org/Jeanne-clery-act)
- M. [Department of Education: http://op.ed.gov/security](http://op.ed.gov/security)
- N. [Department of Education: http://www2.ed.gov/admins/lead/safety/campus.html](http://www2.ed.gov/admins/lead/safety/campus.html)

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## **VII. FREQUENTLY ASKED QUESTIONS**

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Not Applicable

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## **VIII. REVISION HISTORY**

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XX/XX/2015- This is the initial issuance of this Policy.