

CRS Report for Congress

School and Campus Safety Programs and Requirements in the Elementary and Secondary Education Act and Higher Education Act

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Summary

In the United States, more than 73 million students are enrolled in elementary and secondary schools and institutions of higher education (IHEs). Safeguarding their security while they pursue an education is a paramount concern of federal, state, and local governments, as well as the school districts, schools, and institutions that enroll these students. Both the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the No Child Left Behind Act of 2001 (NCLBA; P.L. 107-110), and the Higher Education Act of 1965 (HEA) contain requirements regarding crime and student safety. The ESEA also includes specific grant programs that support efforts to prevent school violence.

ESEA authorizes the federal government's major programs to assist disadvantaged students, address teacher quality issues, provide support to limited English proficient and immigrant students, prevent school violence and drug abuse, and provide support for public school choice in elementary and secondary schools. While the prevention of school violence is not the primary focus of the ESEA, several ESEA programs could potentially contribute to this effort, most notably ESEA Title IV, Part A, the Safe and Drug-Free Schools and Communities Act (SDFSCA). In addition, the ESEA contains specific provisions related to students attending unsafe schools — the Unsafe School Choice Option.

The HEA authorizes the federal government's major student aid programs to support postsecondary education attendance, as well as other significant programs such as those providing aid to special groups of IHEs and support services to enable disadvantaged students to complete secondary school and enter and complete college. While the HEA does not authorize specific programs to address campus crime and security issues, Section 485(f) of Title IV of the HEA contains statutory requirements related to campus crime and security, known collectively as the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the Clery Act). Institutions must comply with these requirements to participate in the federal student aid programs and other programs authorized by Title IV (e.g., Pell Grants). Unlike funding for K-12 education, there are limited federal funds available through the U.S. Department of Education (ED) to support institutions of higher education in addressing campus crime and security issues.

This report discusses these provisions and programs as they apply to elementary and secondary schools and institutions of higher education. It begins with a description of programs and requirements included in the ESEA, which is followed by a discussion of relevant requirements included in the HEA.

This report will be updated as warranted by legislative action.

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School and Campus Safety Programs and Requirements in the Elementary and Secondary Education Act and Higher Education Act

Overview

In the United States, more than 73 million students are enrolled in elementary and secondary schools and institutions of higher education.¹ During the 2005-2006 school year, elementary and secondary students aged 5-18 were victims of 17 school-associated violent deaths.² In 2005, students aged 12-18 were victims of about 1.5 million nonfatal crimes at school, including thefts, simple assault, rape, sexual assault, robbery, and aggravated assault. At institutions of higher education in 2004, about 46,000 criminal incidents were reported as having occurred on campus, including 15 incidents of murder, 2,649 forcible sex offenses, 3,009 aggravated assaults, and 30,451 burglaries.³

Safeguarding the security of students as they pursue an education is a paramount concern of federal, state, and local governments, as well as the school districts, schools, and institutions that enroll these students. Both the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the No Child Left Behind Act of 2001 (NCLBA; P.L. 107-110), and the Higher Education Act of 1965 (HEA) contain requirements regarding crime and student safety. The ESEA also includes specific programs that support efforts to prevent school violence. While the HEA does not authorize specific programs to address campus crime and security issues, Section 485(f) of Title IV of the HEA contains statutory requirements related to campus crime and security, known collectively as the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act). Institutions must comply with these requirements to participate in the federal student aid programs and other programs authorized by Title IV (e.g., Pell Grants). Unlike K-12

¹ U.S. Department of Education, National Center for Education Statistics. (2008). *Digest of Education Statistics: 2007*, Table 2; available at [http://nces.ed.gov/programs/digest/d07/tables/dt07_002.asp].

² U.S. Department of Education, National Center for Education Statistics. (2006). *Indicators of School Crime and Safety: 2007* (NCES 2008-021); available at [<http://nces.ed.gov/pubs2008/2008021.pdf>].

³ CRS compilation of data available from the U.S. Department of Education, Office of Postsecondary Education, Summary Campus Crime and Security Statistics, available at [<http://www.ed.gov/admins/lead/safety/crime/summary.html>].

education, there are limited federal funds available through ED to support institutions of higher education in addressing campus crime and security issues.

This report discusses these provisions and programs as they apply to elementary and secondary schools and institutions of higher education. It begins with a description of programs and requirements included in the ESEA, which is followed by a discussion of relevant requirements included in the HEA.

Elementary and Secondary Education Act (ESEA)

The Elementary and Secondary Education Act (ESEA), whose programs are administered primarily by the U.S. Department of Education (ED), includes the federal government's major programs to assist disadvantaged students, address teacher quality issues, provide support to limited English proficient and immigrant students, prevent school violence and drug abuse, and provide support for public school choice.⁴ While the prevention of school violence is not the primary focus of the ESEA, there are several ESEA programs that could potentially contribute to this effort, most notably ESEA Title IV, Part A, the Safe and Drug-Free Schools and Communities Act (SDFSCA). In addition, the ESEA contains specific provisions related to students attending unsafe schools.

This section focuses primarily on the SDFSCA and the state and national program activities it authorizes. It also includes a discussion of other ESEA programs that could support efforts to prevent violence in elementary and secondary schools. The section concludes with an examination of the Unsafe Schools Choice Option, with which all elementary and secondary schools receiving funds under the ESEA are required to comply.

Safe and Drug-Free Schools and Communities Act

As previously mentioned, the SDFSCA (Title IV-A) is the federal government's major initiative to prevent drug abuse and violence in and around schools.⁵ The SDFSCA was initially enacted in 1994 (P.L. 103-382) in response to concerns about increased school violence and drug use among school-aged youth.⁶ The 1994 legislation extended, amended, and renamed the Drug-Free Schools and Communities Act of 1988 (DFSCA; P.L. 100-297).⁷ Violence prevention was added

⁴ For more information about programs authorized by the ESEA, see CRS Report RL33960, *The Elementary and Secondary Education Act, as Amended by the No Child Left Behind Act: A Primer*, by Wayne C. Riddle and Rebecca R. Skinner.

⁵ For more detailed information about this program, see CRS Report RL30482, *The Safe and Drug-Free Schools and Communities Program: Background and Context*, by Edith Fairman Cooper. This report, however, is now being handled by Gail McCallion.

⁶ On October 20, 1994, President Clinton signed into law the Improving America's School Act (P.L. 103-382), which reauthorized the ESEA, and created the SDFSCA as Title IV.

⁷ The Safe Schools Act was originally created by Title VII of the Goals 2000: Educate (continued...)

to DFSCA's original drug abuse-prevention purpose by incorporating the Safe Schools Act. Funding was authorized for federal, state, and local programs to assist schools in providing a disciplined learning environment free of violence and drug use, including alcohol and tobacco.

The SDFSCA was subsequently reauthorized as part of the ESEA in P.L. 107-110, the No Child Left Behind Act of 2001. Like all NCLBA programs, its authorization expires at the end of FY2008, and it is likely to be considered for reauthorization in the 110th Congress. The SDFSCA program supports two major grant programs — one for states and one for national programs. Grants are awarded to states based on a formula that incorporates poverty and population factors. States must use 93% of their allocation to make formula grants to local educational agencies (LEAs) based on poverty factors and each LEA's share of student enrollment in public and private nonprofit elementary and secondary schools. State governors are permitted to use up to 20% of their state's grant allocation for comprehensive activities that deter youth from using drugs and committing violent acts in schools. Governors award these funds as discretionary grants to LEAs, community-based organizations (CBOs), other private or public entities, or consortia thereof. National grants are used primarily for a variety of discretionary programs designed to prevent drug abuse and violence in elementary and secondary schools. In addition, the SDFSCA includes a provision requiring all states receiving ESEA funds to have a law requiring not less than a one-year expulsion for any student who brings a firearm to school.⁸

Grants to States. To receive an allotment under the SDFSCA, a state must submit an application, providing extensive information to ED that includes, among other things, a comprehensive plan to provide safe, orderly, and drug-free schools and communities through activities that meet the "principles of effectiveness" under Section 4115 (a) of the SDFSCA. Funded activities must foster a safe and drug-free learning environment that supports academic achievement. States must develop their applications in coordination with all appropriate state officials, and must coordinate all funded activities with other relevant programs, including the governor's drug and violence prevention programs. The application must also provide the results of a needs assessment for drug and violence prevention activities, including detailed information on illegal drug use and violence among youth, as well as other relevant data. The state must indicate how the needs assessment will be used to establish state performance measures, in consultation with LEAs, for funded programs; and how the state will provide technical assistance as needed, and will monitor, assess, and report on progress toward meeting performance goals.

⁷ (...continued)
America Act of 1994 (P.L. 103-227).

⁸ The chief administering officer of a local educational agency may modify this expulsion requirement on a case-by-case basis. In addition, the LEA may provide the student with educational services in an alternative setting (Section 4141).

Grants to LEAs. To receive an SDFSCA grant, all LEAs are required to submit an application to the state education agency (SEA).⁹ This application must include, among other things, a detailed explanation of the LEAs' comprehensive plan for drug and violence prevention and an assurance that funded activities will meet the SDFSCA "principles of effectiveness" contained in section 4115(a). The application must describe how the plan will be coordinated with other agencies and what performance measures will be put in place and evaluated. The application must be developed in consultation with experts, state and local officials, and representatives from the schools to be served. The LEA must also provide assurances that the LEA has, or the schools to be served have, appropriate policies in place that prohibit, among other things, the illegal possession of weapons and that the school has prevention activities designed to create and maintain a safe, disciplined, and drug-free environment. The LEA must provide an assurance that it will provide security procedures at school and while students are on their way to and from school, as well as an assurance that the LEA has, or schools to be served have, a crisis management plan for responding to violent or traumatic events on school grounds.¹⁰

The programs and activities provided by the LEA must be designed to prevent or reduce violence. They must also create a well-disciplined environment, which includes consultation among school personnel to identify the early warning signs of violence. The statute permits LEAs to use funds for a wide variety of activities. While some activities, such as developing and implementing comprehensive school security plans, obtaining technical assistance regarding these plans, and the hiring and provision of mandatory training to school personnel in support of prevention activities implemented at the school, may be more directly relevant to the prevention of school violence issues, many if not all of the allowable activities could potentially contribute to these efforts. Below is a list of the authorized activities that are most closely related to prevention or amelioration of school violence:

- Acquiring and installing metal detectors and related devices.
- Reporting criminal offenses committed on school property.
- Developing and implementing comprehensive school security plans or obtaining technical assistance on such plans.
- Supporting safe zones of passage for students to and from school.
- Violence prevention and education activities to reduce victimization due to prejudice and intolerance.
- Alternative education programs for violent or drug-abusing students, particularly students who have been or are at risk of being suspended or expelled.
- Developing and implementing character education programs as part of drug and violence prevention that takes into account the views of students' parents.

⁹ The Safe Schools Act was originally created by Title VII of the Goals 2000: Educate America Act of 1994 (P.L. 103-227).

¹⁰ ED maintains a website that provides links to resources of potential use to school leaders developing a crisis management plan. More information is available at [<http://www.ed.gov/admins/lead/safety/emergencyplan/index.html>].

- Expanded and improved school-based mental health services, including early identification of violence and illegal drug use, assessment, and counseling services for students, parents, families, or school personnel by qualified providers.
- Conflict resolution programs, including peer mediation programs and youth anti-crime and anti-drug councils and activities.
- Counseling, mentoring, referral services, and other student assistance practices and programs, including assistance from qualified mental health service providers.
- Programs that encourage students to confide in and seek advice from trusted adults regarding violence and illegal drug use.
- Establishing and maintaining a school safety hotline.
- Programs that respond to the needs of students who are faced with domestic violence or child abuse.
- Professional development and training in prevention education, early identification and intervention, mentoring, or rehabilitation referral, for school personnel, parents and interested community members.
- Hiring and mandatory training of school security personnel.
- Conducting background checks on all school personnel and prospective employees to see whether they have been convicted of a crime that bears upon the employee's fitness.
- Creating an action plan and providing training to school personnel to prevent youth suicide.

National Programs. The SDFSCA provides general authority to the Secretary to award grants for a wide variety of national activities to prevent substance abuse and support violence prevention. Currently, funds are appropriated to support several national programs designed to prevent violence in elementary and secondary schools.¹¹ National Program funds support, among other activities:

- **Emergency Response and Crisis Management Grant Program:** This competitive grant program provides funds to LEAs to strengthen and improve their emergency response and crisis plans at the district and school levels. LEAs are required to form partnerships and collaborate with community organizations, local law enforcement agencies, heads of local government, and offices of public safety, health, and mental health as they review and revise these plans. Plans are required to be coordinated with state or local homeland security plans and must support the implementation of the National Incident Management System (NIMS).¹² Grants may be used for training school safety teams and students, conducting facility audits, informing families about emergency response

¹¹ National programs also provide financial and technical assistance to institutions of higher education for drug prevention and campus safety programs for students.

¹² For more information about NIMS, see [<http://www.fema.gov/emergency/nims/index.shtm>].

policies, implementing an Incident Command System (ICS),¹³ conducting drills and tabletop simulation exercises, preparing and distributing copies of crisis plans, and, to a limited extent, for purchasing school safety equipment. Grantees under this program may receive support in managing and implementing their projects and sustaining their efforts over time from the Emergency Response and Crisis Management Technical Assistance Center.¹⁴

- **Project SERV (School Emergency Response to Violence):** This program provides education-related services to LEAs that have been disrupted by a violent or traumatic crisis. Project Serv funds may be used for a wide variety of activities, including mental health assessments, referrals, and services for victims and witnesses of violence; enhanced school security; technical assistance in developing a response to the crisis, and training for teachers and staff in implementing the response. Appropriations for this program are requested on a no-year basis, to remain available for obligation at the federal level until expended. Thus, funds can be carried over from year to year in the event that there are no school-related crises in a given year.
- **Safe Schools/Healthy Students (SS/HS) grant program:** The SS/HS initiative is funded jointly by ED and the U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration (SAMHSA). The program is administered by ED, SAMHSA, and the U.S. Department of Justice (DOJ). The SS/HS initiative is a discretionary grant program that provides schools and communities with federal funding, via LEAs, to implement an enhanced, coordinated, comprehensive plan of activities, programs, and services that focus on healthy childhood development and the prevention of violence and alcohol and drug abuse. Grantees are required to establish partnerships with local law enforcement, public mental health, and juvenile justice agencies/entities.

In addition, there are several specifically authorized activities within the National Grant Program — three of these have never received funding (Hate Crimes Prevention, the School Security and Resource Center, and the National Center for School and Youth Safety). Other specifically authorized national activities include data collection by the National Center for Education Statistics on the incidence and prevalence of illegal drug use and violence in elementary and secondary schools; the Safe and Drug-Free Schools and Communities Advisory Committee; the National

¹³ For more information about ICS, see [<http://training.fema.gov/EMIWeb/IS/is100.asp>].

¹⁴ Additional information is available at [<http://www.ercm.org/>] and [<http://www.ed.gov/programs/dvpemergencyresponse/resources.html>].

Coordinator Program; the Community Service Grant Program; Grants to Reduce Alcohol Abuse; and mentoring programs.¹⁵

Reporting Requirements. The SDFSCA also requires states to establish a Uniform Management Information and Reporting System (UMIRS) for the collection and reporting of information related to school safety.¹⁶ Under this system, states must collect and make publicly available the following information:

- truancy rates;
- the frequency, seriousness, and incidence of violence and drug-related offenses resulting in suspensions and expulsions in elementary and secondary schools in the state;
- the types of curricula, programs, and services provided by the state's chief executive officer, the SEA, LEAs, and other recipients of funds under the act; and
- the incidence and prevalence, age of onset, perception of health risk, and perception of social disapproval of violence and drug use by youth in schools and communities.

The first two items for which states are required to collect and publish data must be reported on a school-by-school basis. The collected data are to include incident reports by school officials, anonymous student surveys, and anonymous teacher surveys. Additional reporting requirements related to schools identified as persistently dangerous are discussed in the unsafe school choice option section.

In addition, states are required to submit biennial reports to ED on the implementation and outcome of state and LEA programs funded under the SDFSCA, including data on progress in reaching performance measures for drug and violence prevention. States must also include information on efforts that have been taken to inform and include parents in violence and drug abuse prevention efforts.

Funding. For FY2007, \$577.4 million was appropriated for the SDFSCA.¹⁷

The appropriation was reduced to \$513.4 for FY2008. The majority of these funds are provided for state grants (\$294.8 million), with the remaining funds supporting national activities. For FY2009, the President requested \$282.0 million for the

¹⁵ These activities have received funding for one or more fiscal years under the SDFSCA.

¹⁶ Section 4112(c)(3). Additional information about the UMIRS is available from ED at [<http://www.ed.gov/policy/elsec/guid/unsafeschoolchoice.doc>].

¹⁷ Data for FY2007 and FY2008 appropriations and the FY2009 budget request were provided by the U.S. Department of Education, Budget Service, January 23, 2008. The FY2007 appropriation includes \$9 million for Persistently Dangerous Schools appropriated by Section 5502 of the U.S. Troops, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act of 2007 (P.L. 110-28). Funds for Persistently Dangerous Schools were appropriated to support the implementation of programs and strategies that address youth violence and related issues in local educational agencies that have been identified as persistently dangerous under Section 9532 of the ESEA. (U.S. Department of Education. *Justifications of Appropriation Estimates to the Congress: Fiscal Year 2009, Volume I*, p. F-34. Hereafter referred to as ED, *Budget Justifications: FY2009*.)

SDFSCA. Under this proposal, appropriations for state grants would be reduced to \$100.0 million, and appropriations for national grants would be reduced from \$218.6 million in FY2008 to \$182.0 million for FY2009. In justifying the requested reduction in state grant appropriations, the Administration has argued that the structure of the state grants program is flawed and spreads funding too broadly to support quality interventions.¹⁸

Other Relevant ESEA Programs

In addition to the SDFSCA, there are several smaller ESEA programs that could potentially contribute to violence prevention efforts. A brief summary of the most relevant programs is included in this section.¹⁹

Innovative Programs. Innovative Programs, the only federal K-12 education block grant program, is authorized by Title V-A. Under this program, aid is provided to SEAs and LEAs for a wide range of educational services and activities. Formula grants are made to states on the basis of total population aged 5-17. States must subsequently distribute funds to LEAs using state-developed formulas that take into consideration various enrollment factors. LEAs may use their funds for any of 27 different types of “innovative assistance programs.” Of these, one of the allowable uses of funds is for school safety programs. Funds may also be used to expand and improve school-based mental health services, including the early identification of violence. For FY2007, \$99.0 million was appropriated for this program.²⁰ The program was not funded for FY2008. In the FY2009 budget request, the President did not request funding for this program.

Elementary and Secondary School Counseling. The Elementary and Secondary School Counseling program is authorized by Title V-D-2. This program provides competitive grants to LEAs to help them establish or expand elementary and secondary school counseling programs. ED is to give priority to applicants that demonstrate the greatest need for counseling programs, propose to implement promising and innovative programs, and show potential for replication and dissemination. For FY2007, \$34.7 million was appropriated for this program.²¹ The appropriation was increased to \$48.6 million for FY2008. In the FY2009 budget request, the President did not request funding for this program.

Partnerships in Character Education. The Partnerships in Character Education program is authorized by Title V-D-3. The program provides competitive grants to SEAs in partnership with LEAs or nonprofit entities, or to LEAs alone or in consortia with other entities (including institutions of higher education). The grants must be used for character education programs that are based on scientifically based

¹⁸ ED, *Budget Justifications: FY2009*, p. F-20.

¹⁹ Given the breadth of programs authorized by the ESEA, it is possible that other programs not covered in this report could also be used to support violence prevention programs.

²⁰ Data for FY2007 and FY2008 appropriations and the FY2009 budget request were provided by the U.S. Department of Education, Budget Service, January 23, 2008.

²¹ Ibid.

research that can be integrated into classroom instruction, are consistent with state academic standards, and are carried out in conjunction with other educational reform efforts. Grantees are required to use a portion of their grant for program evaluation and information dissemination. For FY2007 and FY2008, \$24.2 million and \$23.8 million, respectively, were appropriated for this program.²² In the FY2009 budget request, the President did not request funding for character education as a distinct program, instead requesting that it be included as part of the SDFSCA national programs.

Unsafe School Choice Option²³

The Unsafe School Choice Option (USCO) policy is authorized under Title IX-E-2.²⁴ Under the USCO policy, states are required to establish statewide policies under which any student who attends a persistently dangerous public elementary or secondary school,²⁵ or who becomes a victim of a violent crime while in or on the grounds of the public elementary or secondary school the student attends, must be offered the opportunity to transfer to another public school located within the same LEA. To be considered in compliance with the USCO policy, states are required to do the following:

- establish a state USCO policy (through consultation with a representative sample of LEAs within the state);
- identify persistently dangerous schools;
- identify types of offenses that are considered to be violent criminal offenses;
- provide a safe public school option; and
- certify annually compliance with the USCO.

Higher Education Act (HEA)

The HEA, whose programs are administered by the U.S. Department of Education (ED), includes the federal government's major student aid programs to support postsecondary education attendance, as well as other significant programs such as those providing aid to special groups of institutions of higher education (IHEs) and support services to enable disadvantaged students to complete secondary school and enter and complete college. Although important support from outside of the HEA is provided through multiple federal agencies for activities such as research

²² Ibid.

²³ A more detailed discussion of the Unsafe School Choice Option policy is included in CRS Report RL33506, *School Choice Under the ESEA: Programs and Requirements*, by David P. Smole.

²⁴ Section 9532.

²⁵ Most states establish some threshold number of violent offenses relative to school enrollment that must be exceeded for either two or three consecutive years in order for a school to be identified as persistently dangerous.

and development, the federal government's presence in postsecondary education is shaped to a substantial degree by the HEA.

The principal objective of the HEA is to expand postsecondary education opportunity, particularly for low-income individuals, and increase college affordability.²⁶ Title IV of the HEA authorizes programs that provide student financial aid (e.g., student loans, Pell Grants) to support attendance at a variety of postsecondary education institutions. During the 2006-2007 academic year, a total of 6,700 public, private nonprofit, and private for-profit (proprietary) institutions were classified as Title IV IHEs.²⁷ It is estimated that Title IV federal student aid programs made more than \$70 billion available to students attending IHEs during the 2006-2007 academic year.²⁸

This section begins with an overview of institutional eligibility requirements that institutions must meet to participate in the Title IV programs. That is followed by a detailed discussion of the campus crime and security requirements included in the HEA, including provisions to enforce compliance with these requirements. The section concludes with an examination of funding and related support available for complying with these requirements and addressing campus crime and security issues, as well as a discussion about crime statistics and information made publicly available.

HEA Title IV Institutional Eligibility Requirements

To participate in the Title IV federal student aid programs, institutions must meet specific criteria, including requirements related to program offerings, student enrollment, and operations.²⁹ For example, Title IV eligible IHEs must be licensed to operate in the state in which they are located, be accredited by an accrediting agency or association recognized by the Secretary of Education, and meet eligibility and certification requirements established by ED. Institutions that do not meet these requirements are ineligible to participate in the Title IV programs, meaning that students attending these institutions are unable to access federal student aid. While not all postsecondary institutions in the United States are Title IV-eligible institutions, the vast majority are, in order to ensure that their students will be eligible for federal aid.

²⁶ For more information about federal student aid programs authorized by the HEA, see CRS Report RL24214, *A Primer on the Higher Education Act (HEA)*, by Blake Alan Naughton.

²⁷ This includes institutions in the United States and outlying areas. (U.S. Department of Education, National Center for Education Statistics, 2007, *Postsecondary Institutions in the United States: Fall 2006 and Degrees and Other Awards Conferred: 2005-06*, NCES 2007-166, Table 1. Available at [<http://nces.ed.gov/pubs2007/2007166.pdf>].)

²⁸ This includes federal loans, work-study, and grants. College Board, October 2007, *Trends in Student Aid: 2007*, Table 1a. Available at [http://www.collegeboard.com/prod_n_downloads/about/news_info/trends/trends_aid_07.pdf].

²⁹ For more information about institutional eligibility requirements, see CRS Report RL33909, *Institutional Eligibility for Participation in Title IV Student Aid Programs Under the Higher Education Act: Background and Reauthorization Issues*, by Rebecca R. Skinner.

Campus Crime and Security Requirements in the HEA

Campus crime and security requirements were first included in the HEA with the enactment of the Student Right to Know and Campus Security Act (P.L. 101-542) in 1990. Title II of this act, the Crime Awareness and Campus Security Act of 1990, amended the HEA. HEA campus crime and security requirements were subsequently amended in 1992, 1998, and 2000.

Under current law, Section 485(f) contains the statutory requirements related to campus crime and security. These requirements are collectively known as the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the Clery Act).³⁰ Institutions must comply with these requirements to participate in Title IV programs.

As part of these requirements, each institution³¹ is required to provide an annual security report to all current students and employees and to any prospective students or employees, upon request, that provides information about campus security policies and campus crime statistics.³² The report must include, at a minimum, the following items:

- Statement of current campus policies regarding procedures for the reporting of criminal actions or other emergencies occurring on campus and the institution's response to these reports.
- Statement of current policies concerning security and access to campus facilities, including residence halls.
- Statement of current policies concerning campus law enforcement, including the relationship between campus law enforcement and state and local law enforcement agencies and policies to promote the accurate and prompt reporting of all crimes to campus police and appropriate law enforcement agencies.
- Description of the type and frequency of programs designed to inform students and employees about campus security procedures and to encourage them to be responsible for their own security and the security of others.
- Description of programs designed to inform students and employees about crime prevention.
- Statistics on criminal offenses reported to campus security or local police agencies that occurred on campus, in dormitories or other student residential facilities on campus, in or on noncampus buildings or property, and on public property during the most recent

³⁰ The campus crime and security requirements were named for Jeanne Clery, a freshman at Lehigh University who was asleep in her residence hall before she was raped and murdered in 1986. The 1998 HEA amendments formally named the law in memory of Ms. Clery.

³¹ An institution must comply with these requirements for each separate campus (34 CFR 668.46).

³² Regulatory requirements for the annual security report and reporting and disclosure of information are included in 34 CFR 668.41 and 34 CFR 668.46.

calendar year and two preceding calendar years for which data are available.³³

- Statement of policy concerning the monitoring and recording of criminal activity of off-campus student organizations that are recognized by the institution, including those organizations with off-campus housing.
- Statement regarding the possession, use, and sale of alcoholic beverages and the possession, use, or sale of illegal drugs.
- Statement indicating where information about registered sex offenders may be obtained.
- Statement of policy regarding the institution's sexual assault prevention programs and procedures that will be followed if a sexual offense has occurred.

Institutions are also required to make timely reports to the campus community on crimes considered to be a threat to students or employees that have been reported to campus police or local law enforcement. Statutory language notes that these reports must be made in a manner that is "timely" and will aid in the prevention of similar occurrences.³⁴

Each institution that has a police or security department is also required to maintain a daily crime log that includes the nature, date, time, and general location of each crime, as well as the disposition of the complaint, if known. All entries, unless prohibited by law or where disclosure of the information would jeopardize the confidentiality of the victim, must be made public within two business days of the initial report. Information may also be withheld if there is evidence that releasing such information would jeopardize an ongoing investigation, cause a suspect to flee, or result in the destruction of evidence. The information must be released, however, once these factors are no longer a concern.

Enforcement of Requirements. As previously discussed, institutional compliance with the Clery Act is required for participation in Title IV programs. All institutions that are eligible to participate in these programs are required to sign a Program Participation Agreement (PPA), which conditions an institution's initial and continued participation in any Title IV program on the institution's compliance with the relevant statutory and regulatory requirements. The PPA also lists specific requirements with which an institution must comply. Included on this list is a

³³ Criminal offenses must be reported in the following categories: murder; sex offenses, forcible or nonforcible; robbery; aggravated assault; burglary; motor vehicle theft; manslaughter; arson; and arrests or persons referred for disciplinary action for liquor law violations, drug-related violations, and weapons possession. With the exception of the last category of criminal offenses, if the victim in any of the other types of crimes was deliberately selected due to the individual's actual or perceived race, gender, religion, sexual orientation, ethnicity, or disability, the crime must be reported as a hate crime. The statistics must be compiled according to the definitions used in the uniform crime reporting system of the Department of Justice, Federal Bureau of Investigation, and the modifications of these definitions included in the Hate Crimes Statistics Act. These statistics must be submitted annually to ED. (See 34 CFR 668.46 for related regulatory requirements.)

³⁴ See 34 CFR 668.46 for related regulatory requirements.

requirement that the institution certify that it has established a campus security policy and that it has complied with the disclosure requirements of the Clery Act.³⁵

While failure to comply with the requirements of the Clery Act or the PPA can result in a loss of Title IV eligibility, if it is determined that an institution has substantially misrepresented the number, location, or nature of crimes, the institution may be subject to civil penalties. For each violation or misrepresentation, the Secretary may impose a fine not to exceed \$25,000.³⁶

Funding and Related Support

IHEs do not receive specific funding from the federal government to aid in compliance with these requirements. However, to assist IHEs in meeting the requirements of the Clery Act, a series of seminars co-sponsored by the U.S. Department of Justice (DOJ)³⁷ is being offered. The four regional seminars being offered in 2007 will focus on victim assistance policies, crime statistics, reporting through timely warnings and public crime logs, the annual security report, promising practices, and the development of collaborative partnerships.³⁸

Also available to aid IHEs in meeting the requirements of the Clery Act is the *Handbook for Campus Crime Reporting* produced by ED.³⁹ It provides procedures, examples, and references for IHEs to use in complying with the Clery Act requirements.

ED provides support for campus-based violence prevention through the Safe and Drug-Free Schools and Communities (SDFSC) program authorized by Title IV of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the No Child Left Behind Act of 2001 (NCLBA; P.L. 107-110).⁴⁰ The SDFSC program supports both formula grants to states and national programs. While the formula grants and most of the national programs are primarily focused on elementary and secondary schools, one national program provides support to IHEs. Grants to Prevent High-Risk Drinking and Violent Behavior Among College Students provide funds to develop, enhance, implement, and evaluate campus-based or community-based prevention strategies designed to reduce high-risk drinking and violent behavior

³⁵ Section 487(a) and 34 CFR 668.14.

³⁶ Section 487(c)(3)(B).

³⁷ The training seminars are being supported by DOJ and conducted in partnership with Security on Campus, Inc., and in collaboration with the International Association of Campus Law Enforcement Administrators (IACLEA) and the International Association of Chiefs of Police (IACP).

³⁸ The first of the four seminars has already occurred. Additional information about these training seminars is available at [<http://www.securityoncampus.org/cat/>].

³⁹ The handbook is available at [<http://www.ed.gov/admins/lead/safety/handbook.pdf>].

⁴⁰ U.S. Department of Education. *Justifications of Appropriation Estimates to the Congress: Fiscal Year 2008, Volume I*, p. F-31.

among college students.⁴¹ Grants are made to consortia of IHEs and other public and private nonprofit organizations. For FY2007, the program received \$2.5 million to award 17 new grants and \$1.6 million to support 12 continuation grants. Most of the FY2007 grant recipients indicated the funds would be used to address high-risk drinking behaviors.⁴² In FY2008, \$211,000 was appropriated to support 1 new grant, and \$2.5 million was appropriated to support 18 continuation grants. The President's FY2009 budget request included \$2.4 million for 17 new grants and \$211,000 to support 1 continuation grant.⁴³

SDFSC national program funds are also used to support the Higher Education Center for Alcohol and Other Drug Abuse and Violence Prevention.⁴⁴ The Center serves as ED's primary provider of services related to alcohol and drug abuse and violence prevention in higher education. One aspect of the Center's mission is to assist ED in serving IHEs in developing and implementing programs that will promote campus and community safety by preventing violence among college students. For example, the Center publishes a newsletter, *The Catalyst*, which provides information about relevant innovative practices at IHEs. Appropriations for the Center for FY2008 were \$2.4 million. For FY2009, the President's budget request would provide \$2.5 million.

The President's budget request for FY2009 also included a request for \$5.0 million to support initiatives in emergency preparedness for IHEs under the SDFSC national programs.⁴⁵ ED would use these funds to develop and disseminate information about emergency planning that is specific to the needs of IHEs.

Public Information Availability

As previously discussed, the Clery Act requires IHEs to make information about crime public and to submit an annual report on campus security to ED. In addition to the measures taken by individual IHEs to provide this information to current and prospective students and their families, ED makes the data publicly available online. ED maintains a campus crime statistics website known as the Campus Security Data Analysis Cutting Tool (CSDACT).⁴⁶ For each Title IV IHE, data are reported on the number of criminal offenses, hate crimes, and arrests over the most recent three-year period for which data are available. Information is provided to indicate whether the data include incidents occurring in residence halls and whether data include local

⁴¹ Additional information about this program is available at [<http://www.ed.gov/programs/dvphighrisk/index.html>].

⁴² More information is available at [<http://www.higheredcenter.org/grants/high-risk/0701/awardees.html>].

⁴³ All data on FY2007 and FY2008 awards and the FY2009 budget request are available from ED, *Budget Justifications: FY2009*, p. F-36.

⁴⁴ Additional information about the Center is available at [<http://www.higheredcenter.org/>] and [<http://www.ed.gov/about/offices/list/osdfs/resources.html#tac>].

⁴⁵ ED, *Budget Justifications: FY2009*, p. F-32.

⁴⁶ The CSDACT can be accessed at [<http://ope.ed.gov/security/>].

statistics. ED also provides a link to these data from the College Navigator website, operated by the National Center for Education Statistics (NCES).⁴⁷ The College Navigator website provides myriad information about all Title IV eligible IHEs such as enrollment data, tuition and fees, financial aid, and graduation rates. For each institution, it also includes information on campus security, which is linked to the CSDACT.⁴⁸

ED also makes summary crime statistics available on its website.⁴⁹ Data are provided in four major categories — arrests, criminal offenses, hate crimes, and crimes involving drug arrests, illegal weapon possessions, and liquor law violations — that are subsequently broken into subcategories (e.g., aggravated assault, arson, murder/non-negligent manslaughter), if appropriate.⁵⁰ For each subcategory, data are available based on the reporting location of where the incident occurred (i.e., on campus, in a residence hall, at a non-campus location, and on public property) and are provided by institutional sector (e.g., public, four-year or above institutions).⁵¹ Data are provided for the three most recent years for which data are available.

⁴⁷ The COOL website can be accessed at [<http://nces.ed.gov/ipeds/cool/>].

⁴⁸ The major difference between these websites are that COOL focuses on multiple aspects of an institution, while CSDACT only provides data on campus security. If campus security data are accessed directly from CSDACT (as opposed to linking to the data through COOL), users have more options for analyzing the campus security data.

⁴⁹ These data are available at [<http://www.ed.gov/admins/lead/safety/crime/summary.html>].

⁵⁰ Statistics on arrests are reported for drug arrests, illegal weapon possessions, and liquor law violations only.

⁵¹ In higher education, institutions are divided into nine sectors based on institutional control (public, private nonprofit, and private for-profit) and institutional level (four-year or above, two-year, less than two-year).