



# Idaho State University

## POLICIES AND PROCEDURES

### Clery Act Compliance

#### ISUPP 1050

#### *POLICY INFORMATION*

**Policy Section:** *Governance/Legal*

**Policy Title:** *Clery Act Compliance Policy*

**Responsible Executive (RE):** *General Counsel*

**Sponsoring Organization (SO):** *Public Safety*

**Effective Date:** *January 20, 2022*

**Last Reviewed:** *N/A*

**Next Review:** *January 2027*

## **I. INTRODUCTION**

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) in §485(f) of the Higher Education Act (HEA) of 1965, as amended, *20 U.S.C. §1092(f)*, is a Federal consumer protection statute that provides students, parents, employees, prospective students and employees, and the public with important information about public safety issues on American college campuses. It is intended to address crime on college campuses, increase awareness of crime statistics and security policies, encourage the development of security policies and procedures, and establish uniform and consistent crime reporting on campus.

The Clery Act applies to all institutions that participate in federal student financial aid programs under Title IV of the HEA. The institution must certify that it will comply with the Clery Act as part of its Program Participation Agreement to participate in Title IV federal student financial aid programs. The requirement to publish an annual fire safety report and establish missing student notification procedures likewise applies to institutions participating in federal student financial aid programs if the institution provides on-campus student housing.

## II. DEFINITIONS

- A. Annual Security and Fire Safety Report (ASF SR):** A report published annually containing campus safety, security, and fire safety policy statements and procedures. The report also includes statistical data for the three most recent calendar years for Clery crimes occurring in Clery geography and fires occurring in on-campus student housing facilities.
- B. Clery Compliance Coordinator:** The employee designated to collaborate with various offices at the University to develop, implement, and oversee programs that ensure the University's overall compliance with the Clery Act and associated regulations, including the gathering of all data and policies necessary for the timely filing and distribution of the Annual Security and Fire Safety Report.
- C. Campus Security Authority (CSA):** Individuals at the University who, because of their official job duties or functional role, have an obligation to notify the University of alleged, actual, and/or potential crimes that are reported to or witnessed by the CSA.
- D. Clery Act Reportable Crimes ("Clery crimes"):** The criminal offenses collected from reports made to the Department of Public Safety, Campus Security Authorities, and local law enforcement used to compile statistics and provide timely warnings. Clery crimes include all reported offenses, without regard to the findings of a court, the decision of a prosecutor, or the result of a disciplinary process.
1. Criminal offenses: Criminal homicide, including murder and non-negligent manslaughter, and manslaughter by negligence; sexual assault, including rape, fondling, incest, and statutory rape; robbery; aggravated assault; burglary; motor vehicle theft; and arson.
  2. Hate Crime: Any of the following criminal offenses that manifest evidence that the victim was intentionally selected because of the perpetrator's bias against the victim: murder and non-negligent manslaughter; sex offenses, including rape, fondling, incest, and statutory rape; robbery; aggravated assault; burglary; motor vehicle theft; arson; larceny-theft; simple assault; intimidation; or destruction/damage/vandalism of property.
    - a. The eight categories of actual or perceived bias are race, religion, sexual orientation, gender, gender identity, ethnicity, national origin, and disability.
  3. VAWA Offenses: Any incidents of sexual assault, domestic violence, dating violence, and stalking.
  4. Arrests and Referrals: The number of arrests and the number of persons referred for disciplinary action for weapons (carrying, possessing, etc.) law violations, drug abuse violations, and liquor law violations.

- E. Clery Act Reportable Location (or Clery geography):** Property that is owned, leased, controlled, or used by the University which includes: (1) on-campus, (2) on-campus student housing facility, (3) public property within or immediately adjacent to the campus, and (4) non-campus buildings or property that the University owns, controls, or leases, is frequented by students, and used in support of educational purposes.
- F. Emergency Notification:** A communication issued to promptly inform the campus community upon confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees occurring on the campus. An "Immediate threat" is defined as an imminent or impending threat which could include a significant fire, outbreak of a serious illness, extreme weather conditions, gas leak, armed suspect, terrorist incident, bomb threat, civil unrest, explosion, chemical spill, or other dangerous situations.
- G. Emergency Notification System:** A mechanism established for the purpose of and dedicated to enabling University officials to quickly contact or send messages to students and employees in the event of an emergency. Includes but is not limited to, ISU Alert emails, text messages, etc.
- H. Emergency Response and Evacuation Procedure Test:** Regularly scheduled drills, exercises, and appropriate follow-through activities, designed for assessment and evaluation of emergency plans and capabilities.
- I. Missing Student Notification:** A notification issued to a missing student contact, and/or a parent/legal guardian if the student is not emancipated, and the local law enforcement agency by a designated ISU official when a student who lives in on-campus housing has been missing for 24 hours.
- J. Pastoral Counselors:** Individuals associated with and recognized by a religious order or denomination as someone who provides confidential counseling and is functioning within the scope of that recognition. Pastoral Counselors, when acting within the scope of their official responsibilities, are not Campus Security Authorities.
- K. Professional Counselors:** Individuals whose official responsibilities include providing mental health counseling to members of the University community and who are functioning within the scope of their license or certification. Professional Counselors, when acting within the scope of these responsibilities, are not Campus Security Authorities.
- L. Timely Warning:** A communication issued to alert the University community about Clery crimes occurring within the campus Clery geography, that have already been committed but are determined to represent a serious or continuous threat.

### III. POLICY STATEMENT

Idaho State University is committed to maintaining a safe and secure environment. This policy establishes requirements for complying with the Clery Act and increasing overall safety on and near Idaho State University campuses and University-controlled property.

Students, employees, and visitors should report emergencies, criminal actions, and suspicious behavior to the Department of Public Safety by dialing (208) 282-2515 or local law enforcement by dialing 9-1-1.

#### A. Requirements of the Clery Act

Specifically, in accordance with this policy, the University shall:

##### 1. Publish an Annual Security and Fire Safety Report (ASFSR)

By October 1st each year or as otherwise mandated by the U.S. Department of Education, the Department of Public Safety will publish an ASFSR documenting three calendar years of Clery crime and fire statistics, security policies and procedures, descriptions of fire-safety systems in each student housing facility, fire policies and procedures, and information on the fundamental rights guaranteed victims of sexual assault.

The ASFSR is available to all employees, students, prospective students and employees, and the public on the Department of Public Safety website and is available in hardcopy upon request. In addition, websites for the Offices of Admissions and Human Resources will include a notice of availability for the ASFSR.

##### 2. Compile, Report, and Publish Crime and Fire Statistics

Annually compile and disclose crime and fire statistics for the three most recently completed calendar years to the U.S. Department of Education and in the ASFSR. Crime statistics include Clery Act identified crimes that occur in areas defined as reportable under the definition of Clery geography. Fire statistics include fires that occur in each on-campus student housing facility. Statistics consist of Clery crimes and fires reported to the Department of Public Safety, local emergency response agencies, University officials, or others associated with the University who have significant responsibility for student and campus activities.

##### 3. Identify, Notify, and Train Campus Security Authorities (CSA)

The University will identify CSAs on a regular, ongoing basis, and notify these individuals of their obligations under the Clery Act. The University requires CSAs to report any and all alleged, actual, and/or potential crimes that they witness or are reported to them, which may have occurred in a Clery reportable location. The University will provide mandatory training for all CSAs on an annual basis.

#### **4. Issue Timely Warnings**

Via issuance of timely warnings, alert the campus community of Clery crimes occurring in Clery reportable locations that pose a serious or continuing threat to the campus community. Timely warnings will be disseminated throughout the campus community as soon as pertinent information is available. It will provide information that will allow the campus community to take precautions to protect themselves and prevent similar crimes from occurring. Timely warnings will never identify the victim of a crime.

*Exception: Crimes that would otherwise be reportable but are reported to a licensed mental health counselor or pastoral counselor, in the context of a privileged (confidential) communication, are not subject to the timely warning requirement.*

#### **5. Issue Emergency Notifications**

Via issuance of emergency notifications, alert and inform the campus community about a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees occurring on the campus. An emergency notification expands the definition of timely warning as it includes both Clery crimes and other types of emergencies (e.g., fire, infectious disease outbreak, etc.). Emergency events may be localized; therefore notifications may be tailored exclusively to the segment of the campus community at risk.

*General Exception: Emergencies where issuing a notification would compromise efforts to assist a victim, contain the emergency, respond to the emergency, or mitigate the emergency are not subject to the emergency notification requirement.*

The University also must have emergency response and evacuation procedures in place specific to its facilities on-campus. A summary of these procedures must be disclosed in the ASFSR. Additionally, the emergency response and evacuation procedures must be tested at least once annually.

#### **6. Respond to Reports of Missing Students**

In the event that a student residing in on-campus student housing is reported as missing, create and maintain procedures to contact the appropriate University offices, notify local law enforcement with jurisdiction, and notify those listed as the student's missing person contact. Every student residing in on-campus residence halls and apartments is provided the opportunity to identify an individual to be contacted in the event that student is missing.

The Department of Public Safety shall investigate all reports of missing students residing in on-campus housing and will notify and cooperate with other law enforcement agencies, as necessary, to further the investigation.

**7. Maintain a Daily Crime Log**

Maintain a daily crime log of all crimes reported that documents the nature, date, time, and general location of each crime reported to the Department of Public Safety or a Campus Security Authority (CSA) within the last 60 days and the disposition, if known, of the reported crimes. Incidents must be entered into the log within two business days of receiving the report. This log will be available on the Department of Public Safety website and must be made available for public inspection during normal business hours. Requests for public inspection of daily crime log entries beyond 60 days must be made in writing to the Department of Public Safety and will be made available within two business days of the request.

**8. Maintain a Daily Fire Log**

Maintain a daily fire log recording any fire that occurred in an on-campus student housing facility, including nature of the fire, date occurred, date and time reported, and general location of each fire-related incident reported to any University official. Incidents must be entered into the log within two business days of receiving the report. This log will be available on the Department of Public Safety website and must be available for public inspection during normal business hours. Requests for inspection of daily fire log entries beyond 60 days must be made in writing to the Department of Public Safety and will be made available within two business days of the request.

**9. Create Clery Act Education Programs**

Create, establish, and conduct programs required by federal regulations to educate the campus community about campus security procedures and practices, which may include programs to encourage students and employees to be responsible for their own security and the security of others, and programs designed to inform students and employees about the prevention of crimes. These regulations may additionally require educational programs and campaigns to promote awareness of dating violence, domestic violence, sexual assault, and stalking including primary prevention and awareness programs offered to new students and employees, and ongoing prevention and awareness campaigns for current students and employees.

**10. The Clery Act Compliance Committee**

The Office of General Counsel, in conjunction with the Department of Public Safety, appoints members of the Clery Act Compliance Committee from across the institution, which will oversee the policy's compliance with applicable law and make recommendations to the University for implementation of the policy.

#### **IV. AUTHORITY AND RESPONSIBILITY**

The following section identifies key individuals and departments with the authority and responsibility to perform the various duties set forth in this policy to comply with the Clery Act. This organizational separation of responsibilities reflects the fact that Clery Act compliance is an institutional responsibility.

**A. The President, Vice Presidents, Deans, and Department Directors shall:**

Assist, annually, the Clery Compliance Coordinator in identifying positions within their units who may be Campus Security Authorities (CSAs).

**B. All University Faculty, Staff, and Students on University Property shall:**

1. Promptly report any activity that is perceived as criminal, potentially dangerous, or suspicious to the Department of Public Safety or local law enforcement.
2. Promptly report any student residing in on-campus housing believed to be missing to the Department of Public Safety, the Dean of Students, or University Housing Officials.
3. Promptly report any instance of fires occurring in University owned or controlled buildings or property to the Department of Public Safety or local Fire Department, including seemingly minor fires that have already been extinguished and do not require an emergency response.

**C. The Department of Public Safety shall:**

1. Appoint a Clery Compliance Coordinator who will ensure University compliance with the Clery Act.
2. Issue timely warnings to alert the campus community about Clery crimes.
3. Issue emergency notifications to the campus community when deemed necessary and appropriate.
4. Provide paper copies of the Annual Security and Fire Safety Report (ASFSR) upon request.
5. Investigate all reports of students residing in on-campus housing who are believed to be missing in cooperation with other law enforcement agencies and University officials, as necessary.
6. Establish Clery Act-related educational programs and promotion of safety awareness programs.
7. Conduct a test of emergency response and evacuation procedures on at least an annual basis and publicize to the University community the emergency response and evacuation procedures in conjunction with at least one test per calendar year.

8. Coordinate a Clery Compliance Committee to regularly review policies and ensure compliance with the Clery Act.
9. Manage the Emergency Notification System.

**D. The Clery Compliance Coordinator shall:**

1. Direct, collaborate, and coordinate Clery Act reporting and compliance for all Clery geography locations.
2. Monitor the University's Clery Act compliance.
3. Annually produce, publish, and distribute a notice of the availability of the ASFSR to current employees, enrolled students, prospective employees, and prospective students.
4. Collect reports of Clery crimes made to the Department of Public Safety, University officials who have significant responsibility for student and campus activities, and local law enforcement with jurisdiction over the University's Clery geography.
5. Compile statistics by type, location, and year for reportable crimes under the Clery Act reported on Clery geography locations.
6. Submit crime statistics to the U.S. Department of Education for reportable crimes under the Clery Act for the preceding year by type, location, and year.
7. Create and maintain a public crime log for reported criminal offenses that occur on Clery geography locations or within the patrol jurisdiction of the Department of Public Safety.
8. Collect fire statistics relative to each on-campus student housing facility for inclusion in the ASFSR and submission to the U.S. Department of Education.
9. Create and maintain a public fire log relative to each on-campus student housing facility. The fire log may be combined with the crime log so long as it contains the required elements for both logs.
10. Collaborate with Human Resources, University Vice Presidents, and other departments to identify job classifications with functions that meet the definition of CSAs, coordinate notice to and/or training for CSAs, and provide oversight of all requirements for CSAs.
11. Collaborate with Facilities Services, the Controller's Office, and other relevant departments annually to identify all buildings, properties, or additional parcels of land that ISU owns or controls and uses for educational purposes to correctly classify for Clery Act purposes. Such determinations are made in accordance with the Clery Act definitions of "on-campus," "non-campus building or property," and "public property."

**E. Campus Security Authorities (CSAs) shall:**

1. Understand the requirements of the Clery Act pertaining to reportable crimes.
2. Undergo mandatory training and education as determined by the Department of Public Safety and the Office of General Counsel.
3. Record and immediately notify the Department of Public Safety or the Clery Compliance Coordinator of any alleged, actual, and/or potential crimes which they have been made aware or witnessed, including information regarding:
  - a. When the crime or incident occurred;
  - b. When the crime or incident was reported;
  - c. Where the crime or incident occurred; and
  - d. The nature or description of the crime or incident.
4. Respond to an annual request for verification that they have reported all crimes reported to them or certify they have not received any crime reports.
5. Notify the Title IX Office of crimes involving sexual harassment as defined by the Title IX regulations and ISUPP 3100.
6. Understand the following about their role:
  - a. CSAs, other than appropriate members of the Department of Public Safety, are not responsible for determining whether a crime actually took place and may not investigate any crime or seek to apprehend any perpetrator. Nothing contained herein is intended to preclude a CSA from conducting appropriate investigations pursuant to other University policies.
  - b. Any CSA who knowingly fails to report a crime or complete mandatory training may be subject to disciplinary action in accordance with other University policies.
7. Immediately report any information or suspicion that a student residing in on-campus housing may or could be missing to the Department of Public Safety.

**F. The Office of the Dean of Students/Division of Student Affairs shall:**

1. Immediately report any and all alleged, actual, and/or potential crimes witnessed or are reported, which may have occurred in a Clery reportable location, to the Department of Public Safety or the Clery Compliance Coordinator for consideration of a timely warning or emergency notification, inclusion in the annual crime statistics, and entry on the crime log, as necessary.
2. Annually provide all conduct referral data for alleged violations of law to the Clery Compliance Coordinator for inclusion in the ASFSR.

3. Immediately report any information or suspicion that a student residing in on-campus housing may or could be missing to the Department of Public Safety.

**G. University Human Resources shall:**

1. Include on the Human Resources website a notice of the availability of the ASFSR, the exact electronic address at which the report is posted, a brief description of the report's contents, and a statement that a paper copy of the report will be provided upon request;
2. Provide a paper copy of the ASFSR upon request to a prospective or current faculty or staff member;
3. Immediately report any and all alleged, actual, and/or potential crimes witnessed or are reported, which may have occurred in a Clery reportable location, to the Department of Public Safety or the Clery Compliance Coordinator for consideration of a timely warning or emergency notification, inclusion in the annual crime statistics, and entry on the crime log, as necessary;
4. Annually provide all conduct referral data for alleged violations of law to the Clery Compliance Coordinator for inclusion in the ASFSR; and
5. Assist, annually, the Clery Compliance Coordinator in identifying positions who may be Campus Security Authorities.

**H. The Offices of Admissions and Graduate School shall:**

1. Include on their websites a notice of the availability of the ASFSR, the exact electronic address at which the report is posted, a brief description of the report's contents, and a statement that a paper copy of the report will be provided upon request; and
2. Provide a paper copy of the ASFSR upon request.

**V. PROCEDURES TO IMPLEMENT**

**A. Annual Security and Fire Safety Report**

Every year, the Clery Compliance Coordinator prepares the ASFSR, which is posted on the Department of Public Safety website.

1. The ASFSR shall include, at a minimum:
  - a. Annual statistics for all Clery Act Reportable crimes and fires occurring in on-campus student housing facilities; and
  - b. Institutional policies and procedures as mandated by the Clery Act.

2. By October 1st each year, or as otherwise mandated by the U.S. Department of Education,
  - a. The ASFSR is published on the Department of Public Safety website;
  - b. A notice of the availability of the ASFSR is distributed to all currently enrolled students and employees. This notice includes a statement of the report's availability, the exact electronic address at which the report is posted, a brief description of the report's contents, and a statement that a paper copy of the report will be provided upon request; and
  - c. Websites for the Offices of Admissions and Human Resources will include a notice of availability for the ASFSR for prospective students and employees. This notice includes a statement of the report's availability, the exact electronic address at which the report is posted, a brief description of the report's contents, and a statement that a paper copy of the report will be provided upon request.

## **B. Campus Security Authorities (CSAs)**

The President, Vice Presidents, Deans, Department Directors, Human Resources, and other units as necessary shall annually coordinate with the Clery Compliance Coordinator to identify CSAs based on a position's actual job duties and functions.

1. CSA Identification
  - a. Because personnel and job positions change, a position designated as a CSA one year might not be a CSA the following year. To determine which positions are CSAs, the practical function served by that position must be considered. If a position has significant responsibility for student and campus activities, that position is a CSA.
  - b. CSAs include all employees of the Department of Public Safety and other positions that:
    - i. Have security-related responsibilities but are not employees of the Department of Public Safety (e.g., a position responsible for monitoring the entrance to University property such as a Residence Hall or the Library);
    - ii. Are specified in the campus ASFSR as a position to whom students and employees should report criminal offenses; or
    - iii. Are officials with significant responsibility for student and campus activities. An Official is defined as any person who has the authority and the duty to take action or respond to particular issues on behalf of the University. These positions may include but are not limited to:
      1. Employees in the Division of Student Affairs, Coordinator for Student Leadership and Engagement, Title IX Coordinator, Coordinator for Student

Care and Assistance, Housing Director, Associate and Assistant Housing Directors, Hall Directors, Apartment Building Managers, Resident Assistants, and others involved with student discipline and campus judicial proceedings;

2. Faculty and Staff Advisors to Student Organizations;
3. Athletic Director, Associate or Assistant Athletic Directors, Athletic Trainers, and Coaches (including Assistant Coaches, Volunteer Coaches, or Club Coaches);
4. Administrators at Branch, Satellite, or Separate Campuses;
5. Employees who accompany students on qualifying overnight trips;
6. Vice Presidents; and
7. the University President.

- c. CSAs may or may not include employees who meet the definition of “any official...who has the authority to institute corrective measures” for Title IX purposes. See ISUPP 3100.
  - d. CSAs generally would not include a faculty member who does not have any responsibility for student and campus activity beyond the classroom and clerical or cafeteria staff.
  - e. When acting within the scope of their official responsibilities, CSAs exclude professional counselors, persons uncertified but acting under the supervision of a professional counselor, and pastoral counselors. The exemption is intended to insure these individuals can provide appropriate counseling services and protect counselor-client relationships.
    - i. If an individual has dual roles as either a professional or pastoral counselor and the other as an official who qualifies as a CSA, and the roles cannot be separated, that individual is considered a CSA and is obligated to report crimes of which they are aware.
    - ii. CSA responsibilities can usually be met without disclosing personally identifying information.
2. CSA Notification and Training
- a. The Clery Compliance Coordinator, or designee, will coordinate notice to and/or training for CSAs.
  - b. Employees, including volunteers and student employees, will be advised in writing of their CSA designation and required duties.
  - c. CSAs will receive an annual notice reminding them of their responsibilities under the Clery Act to immediately report any alleged, actual, and/or potential crimes

which they have been made aware and/or witnessed, and to respond to an annual request for crime statistics.

### **C. Records Retention**

The ASF SR and supporting records used in compiling the report shall be retained for three years from the latest publication of the report to which they apply—in effect, seven years. All documentation shall be dated and easily retrievable. These records include, but are not limited to:

1. Copies of crime reports;
2. The daily crime and fire logs;
3. Records for arrests and referrals for disciplinary action;
4. Timely warning and emergency notification reports;
5. Correspondences to and from local police, CSAs, and the Department of Education having to do with Clery Act compliance; and
6. Copies of notices to employees, students, prospective students and employees, and the public about the availability of the ASF SR.

## **VI. RELATED POLICIES**

- A. ISUPP 1110 *Equal Opportunity, Anti-Harassment, and Non-discrimination*
- B. ISUPP 1120 *Sexual Harassment Under Title IX*

## **VII. ADDITIONAL AUTHORITY**

- A. 20 U.S.C. §1092(f), Disclosure of Campus Security Policy and Campus Crime Statistics (Clery Act)
- B. 34 C.F.R. § 668.41, Reporting and Disclosure of Information
- C. 34 C.F.R. § 668.46, Institutional Security Policies and Crime Statistics
- D. 20 U.S.C. §1092(i), Disclosure of Fire Safety Standards and Measures
- E. 34 C.F.R. § 668.49, Institutional Fire Safety Policies and Fire Statistics
- F. 20 U.S.C. §1092(j), Missing Person Procedures
- G. 34 C.F.R. § 600.2, Institutional Eligibility Under the Higher Education Act of 1965, as Amended

- H. U.S. Department of Education, Office of Postsecondary Education, *The Handbook for Campus Safety and Security Reporting, 2016 Edition*, Washington, D.C., 2016
- I. Federal Student Aid (FSA) Handbook, Clery Act Appendix