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TO: SUNY Council on International Education Members
FROM: Joseph Storch
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Re: SUNY Clery and Title IX Procedure for International Programs

This procedure was adopted by the SUNY Council on International Education at their meeting on October 28th, 2014. This memorandum details certain aspects of the procedure. After reviewing the most recent guidance and attempting to obtain additional clarification from the U.S. Department of Education (“DOE”), each standard was put to discussion and an informal vote at the April 2014 CIE meeting in Albany. This procedure reflects those discussions.

In Section I, the procedure reflects the definitions of “On Campus property,” “Public property,” and “Non-Campus property” provided in the DOE Clery Handbook.¹ Definitions of “long duration” and “repeated use of a location” stem from DOE guidance.²

¹ <https://www2.ed.gov/admins/lead/safety/handbook.pdf>

² Available at <http://counsel.cua.edu/res/docs/Clery-Campus-Safety-Survey.pdf>

Reporting for additional campuses and noncampus locations. Under the Clery Act, an institution is required to include in its crime statistics any Clery crimes reported as occurring in every building or property it owns or controls, domestic or foreign, that is used in direct support of, or in relation to, the institution’s educational purposes or any building owned or controlled by a student organization officially recognized by the institution. Control means that your institution (or the student organization) rents, leases, or has some other type of written agreement, no matter how informal, for the use of a location or a portion of a location (See page 12 of the Handbook). Such locations fall under either the separate campus or the noncampus category.

Any location (domestic or foreign) that: is owned or controlled by your institution; is not reasonably geographically contiguous with the main campus; has an organized program of study; and has at least one person on site acting in an administrative capacity is a separate campus and, under Clery, must meet all of the HEA safety-and security-related requirements (See examples on pages 15-16 of the Handbook). This includes completing the web-based survey and publishing an annual security report (and an annual fire safety report, if applicable) for that location.

Any additional location you own or control that is not a separate campus, but is used for your educational purposes, falls under the noncampus reporting category if it is frequently used by students and is not reasonably contiguous to your campus. A location is considered “frequently used by students” in the following types of situations:

- (a) The institution has a written agreement for a location used to offer one or more classes. An example is a rented wing of a high school where evening classes are held. The wing of the high school falls under the noncampus category for the dates and times it is rented, regardless of whether the institution rents it once or more than once.
- (b) The institution has a written agreement for a location used to house its students. Some examples are a hotel, an apartment building, or a student housing facility on another campus used for overflow housing. The hotel rooms, apartments or housing facilities specified in your written agreement plus any associated common areas are considered noncampus property.
- (c) The institution makes repeated use of a location. An example is, if every year students in the debate club take a

To Learn
To Search
To Serve



Since the DOE guidance discusses an example of a trip of long duration being a “three week art study trip to another city,” the procedure uses at least twenty nights or twenty days to draw the line just under three weeks. For repeated use, the guidance only provides the example of “every year.” To be conservative, CIE voted to count a location under repeated use if there is a written agreement for use of the geographic area for at least two students and for at least two nights, at least twice within a two calendar year period.

Section II defines responsibilities for crime reporting and incident collection as agreed upon by the CIE membership and Section III covers reporting pursuant to Title IX.

I am grateful to Andrea Stagg and Seth Gilbertson for their work on this project, and to the CIE membership for review and comment.

trip to Washington, DC and stay at the same hotel, you must include any Clery crimes reported as occurring in certain portions of the hotel in your crime statistics. As discussed on page 27 in the Handbook, you must report any crimes reported as occurring in the rooms rented to your students and any common areas used to access the rooms (lobby, elevators, etc.) for the times and dates specified in the rental agreement. Note that what matters here is repeated use of an owned or controlled location, not the number of days it is used or whether it is used by the same students or different students.

(d) The institution sponsors short-stay “away” trips for its students. Generally a trip of short duration to a one-time-only location, such as an overnight trip to see a traveling art exhibit or an athletic event, would not meet this qualification, but some trips of longer duration would. An example is a three week art study trip to another city for a series of art lectures and demonstrations at a museum. In the latter type of situation, any classroom or housing space specified in any written agreement entered into by the institution would be noncampus property for Clery Act reporting purposes. However, if your institution doesn’t enter into an agreement for the use of a particular space or area, you are not required to include crimes in that area in your campus crime statistics. For example, an institution’s art students may visit museums that are open to the public without a special agreement for the use of the space in the museum. There are other situations, such as sports tournaments, for which the host institution makes all of the housing arrangements for visiting students. In these situations, the visitor institutions do not have a written agreement for the use of space and are not required to disclose crime statistics for the housing in which their students are located.

SUNY Clery & Title IX Reporting Procedure for International Programs

- I- SUNY campuses will include all Clery reportable crimes and incidents in the Annual Security Report when those incidents occur in geographic locations covered by the Clery Act. These locations include:
- On-Campus
 - All campuses of the institution.
 - At a Separate Campus, defined as a geographic location staffed by administrative personnel and where a student can take an organized program of study. An “organized program of study” means an entire educational program from which a student can attain a degree, diploma, or certificate. It does not include locations where a student can simply take some courses.
 - At any location designated as On Campus property, the institution will also collect and include crimes occurring in Public Property adjacent to and accessible from the On Campus property.
 - Non-Campus
 - All of the following factors must be met in order to make crimes at a given property reportable in the Non-Campus category:
 - Building or property;
 - Owned or controlled by the institution;
 - Used in direct support of, or in relation to, the institution’s educational purposes;
 - Frequently used by students; **and**
 - Not within the same reasonably contiguous geographic area.
 - Property is controlled by the institution if the institution has a written agreement for use of the geographic location or parts thereof, and it meets all the factors above. Analyze the following to determine whether the agreement meets the factors:
 - Geographic locations that are owned or controlled by the campus that are only used by faculty/staff and not students do not count for Clery reporting purposes.
 - The determination of whether an agreement for space meets the delineated factors will be determined based on an analysis of:
 - What the parties specifically agree to, whether the agreement outlines the terms of an experience without reference to any specific geographic location (e.g., building names or street addresses), or whether the agreement includes information regarding access and control of a specific geographic location;
 - Whether the institution maintains documents stating that students will live or study at a specific geographic location; and
 - Who makes the living or academic arrangements
 - If the student makes arrangements directly, the property does not count for Clery Act purposes; but

- If the institution makes the arrangements, the property may count if it meets the factors delineated above.
 - Frequently used by students: Third party property, hotels, and hostels. Property is frequently used by students if it is used for a “long duration” **or** is subject to “repeated use.”
 - Long Duration: A trip of long duration is a trip to a single geographic location for which the institution has a written agreement for accommodation or other use that includes at least two students for at least 20 nights or 20 days.
 - Repeated Use: A location is subject to repeated use if the institution has a written agreement for use of the geographic area for at least two students and for at least two nights at least twice within a two calendar year period. If there is a separation of at least two calendar years (730 days between stays), the location would not be subject to counting as a repeated use location.
 - Host families: Count crimes in the geographic location used for housing students with a host family if the institution has “significant control” of the space. An institution has significant control over a property when the students have a separate entrance to their living space, but not in homes where the students and the host family use the same entrance.
- If an institution owns property, crimes are reportable year round.
 - If an institution controls property pursuant to a written agreement, crimes are only reportable during the times when the institution has control, not before or after.
 - There is no reporting obligation for public property around Non-Campus property.

Crimes committed at locations that do not meet Clery geography definitions are not counted for Clery Act purposes, although certain crimes may need to be reported to campus officials pursuant to Title IX and other laws.

- II- To properly learn of and report crimes that occur in international and domestic education, Campus Security Authorities shall report crimes to the institution’s designated Clery compliance official. In addition, the institution will query local law enforcement and Campus Security Authorities for information about crimes occurring in qualifying geographic locations during times of institutional use and/or control (as defined in Part I).
- Campus Security Authorities are:
 - Police/Campus Security (Department members and others affiliated);
 - Those designated by the institution as Campus Security Authorities; and
 - Faculty/staff with **significant responsibility** for students and campus activities.
 - All faculty or staff **travelling with students** overseas or to a distant location that meets Clery geographic definitions established in Part I, are automatically designated as Campus Security Authorities, regardless of

whether they ordinarily possess significant responsibility for student and campus activities.

All faculty or staff travelling with students overseas or to a distant location regardless of whether it meets Clery geographic definitions established in Part I, are designated as responsible employees for Title IX purposes, and are required to report learned of or observed cases of sex discrimination, including sexual violence, to the institution's Title IX Coordinator or designee.

- The institution will query local law enforcement for locations that meet the definitions of Clery Act geography in Part I asking for records of Clery Act reportable crimes occurring during the timeframes in which the institution controlled the property (or if the property is owned, during the entire calendar year). The institution will use “good faith” to contact these law enforcement entities via paper mail, telephone, or electronic messaging, and will keep a record of the contact and whether or not any statistics were received.
- Reporting Crimes:
 - Campus Security Authorities must report all crimes to the individual designated by the institution, with no exceptions.
 - Crimes are to be reported immediately or as soon as possible.
 - It is *never* appropriate for faculty or staff to handle crimes in house, investigate, or adjudicate, except as specifically instructed by institutional officials.
 - It is *never* appropriate for faculty or staff to attempt to mediate an accusation of sexual assault or sexual violence.
 - With the exception of crimes that include sexual violence or sexual harassment, the Campus Security Authority may keep the identity of the victim private.
 - If the Campus Security Authority receives a report of sexual harassment, including sexual violence, s/he is required to report to the Title IX Coordinator (or designee) regardless of where or when the incident is alleged to have occurred.
 - If the Campus Security Authority is a pastoral or professional counselor, s/he may keep reports confidential pursuant to law and policy.
- Timely Warnings: The College will provide students with Timely Warnings of crimes occurring in relevant Clery Act geography.
 - For Clery act crimes occurring in Clery Act geography:
 - The institution, trip leader or designee will notify students on the trip of such crimes in a timely fashion;
 - Notification may occur by use of paper or digital messaging or may have an oral warning come through the group leader;
 - While there is no defined method, the Timely Warning must be active, not passive.

III- To ensure student safety and Title IX compliance, SUNY campuses will follow the protocol established below when informed about cases of sex discrimination, including sexual violence, involving SUNY students or employees.

- Definitions:
 - Home Institution: Student's original institution, from which the degree is anticipated, or to which the study abroad credits will transfer.
 - Host Institution: Domestic or overseas institution that student from Home Institution will be temporarily enrolled for a term or set length of time.
 - Provider (Program, Administering, Sponsor): Non-SUNY institution or entity through which an overseas academic program is provided (e.g., partner).
 - Complainant: Individual with a complaint of sex discrimination, including sexual violence (i.e., victim, survivor, accuser).
 - Accused Individual: Person accused of misconduct.
- Host Institutions and Providers that learn about incidents of sex discrimination, including sexual violence, will work collaboratively with the Home Institution(s) of the complainant and accused individual to ensure the following:
 - The complainant is notified of any and all options, remedies, resources, and services available through the Home, Host and Provider;
 - The appropriate institution or entity can conduct a prompt, impartial investigation, which may lead to adjudication through the formal student conduct or Title IX grievance process.
- Students participating in study abroad through a Host or Provider are subject to the policies and procedures of the Provider or Host, as well as those of his or her Home Institution.
 - Which institution takes the lead in investigating and responding to allegations of sexual harassment and/or violence shall be determined immediately following the reporting of an incident. Factors to consider include:
 - the location of the incident;
 - the enrollment status of the student(s) involved;
 - the nature and duration of the program;
 - the timing of the report (during or after a program).
 - Generally, the institution with immediate and primary control over the parties and evidence shall lead the investigation and response.
 - At all times the fairness of the process, effectiveness of the investigation/response, and best interests of the parties shall govern the decision making of SUNY officials.
- The Title IX Coordinators of the SUNY institutions should consider all incidents and allegations consistent with their responsibilities to spot patterns and track complaints.
- Consistent with working collaboratively, a Host Institution or Provider will promptly provide any incident reports and related information to the Home Institution.