

Edison State College

Clery Act Crime Reporting & Compliance Guide

Timely Warning Reports*

With the exception of counselors, a responsible official who receives a report of a crime that may warrant a timely report should call the Office of Public Safety, as soon as s/he receives the report of the incident.

Crime Reporting Obligations under Federal Law

Federal law requires colleges and universities to report certain crime statistics to students and employees annually. The law also directs institutions to make timely reports to the campus community about crimes that pose a threat to students and employees. In complying with these two requirements, institutions must account not only for crimes reported to campus security and police, but also for crimes reported to other school officials – even when those reports do not, for whatever reason, result in police reports or investigations.

Due to the reporting requirements and definitions of the various crimes, the most reasonable and effective way to manage the reporting of crimes is that if you observe any crime especially those listed below, or if any person reveals to you that he/she learned of, or was a victim of, perpetrator of, or witness to any crime, immediately contact public safety to complete a report.

If circumstances do not allow this, complete the attached incident report, and as indicated at the bottom of the form, send the original to the office of public safety. This includes any campus, center or at any other college property or college activity. Public Safety would prefer to be aware of any information you may have about any crime.

Please do not investigate any crime or attempt to determine, in fact, if a crime took place. Simply complete all the information required on the incident report and forward the information to the office of public safety.

If you are in doubt as to whether a crime is reportable, please err on the side of reporting the matter.

If you are on the distribution list for this outline, it has been determined that representatives of your department are among the College officials who have the reporting obligations described above. In order for the College to fully comply with its reporting obligations, therefore, these responsible College officials must provide relevant information to the Office of Public Safety, the unit charged with the responsibility of coordinating the College's compliance with these two reporting requirements.

This outline summarizes the applicable law regarding the requirements, explains how these obligations extend to certain faculty and administrators in your department, and describes the procedures that should be used to report required information.

What is Reportable?

The Crime Awareness and Campus Security Act of 1990, now known as the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“the Act”), requires institutions to report statistics concerning the occurrence on campus and in other geographic areas specified in the Act of the following criminal offenses reported to campus security authorities or local police: 1) murder; 2) sex offenses, forcible or non-forcible; 3) robbery; 4) aggravated assault; 5) burglary; 6) motor vehicle theft; 7) manslaughter; 8) arson; and 9) arrests or persons referred for campus disciplinary action for liquor law violations, drug-related violations and illegal weapons possessions.

In addition, the Act requires institutions to report statistics for certain bias-motivated crimes. Specifically, an institution’s hate crime statistics must account for the offenses numbered 1 through 8 above, larceny-theft, simple assault, intimidation, and destruction, damage, or vandalism of property, and of other crimes involving bodily injury to any person in which the victim is intentionally selected because of the actual or perceived race, gender, religion, sexual orientation, ethnicity or disability of the victim. These statistics must be presented according to category of prejudice.

Appendix A provides definitions for the offenses that are reportable under the Act.

The Act requires institutions to make a “timely warning” to the campus community when a report of murder, sex offense, robbery, aggravated assault, burglary, motor vehicle theft, manslaughter or arson is received by campus security authorities and, in the judgment of the institution, the crime at issue poses a threat to students and employees. The Act and its implementing regulations leave it to each institution to determine the suitability, timing and substance for these reports. At the College, the Office of Public Safety along with the campus President’s office is responsible for making these determinations and for issuing “timely warnings” when appropriate.

Who Must Report Crime Information?

Under the Act, the College’s annual statistics must include crimes reported to campus security authorities. The term “*campus security authorities*” is defined as “campus security officials and campus officials with significant responsibility for student and campus activities.” Based in part on guidance from the U.S. Department of Education, we have determined that certain administrators in your department fall within the group of College officials with reporting obligations. For example, the U.S. Department of Education has said that disciplinary officers, counselors, deans, athletic coaches and student affairs professionals are among the officials that have an obligation to provide information for the preparation of crime statistics. In most schools, the officials responsible for providing this information will be student affairs professionals and those administrators designated by each school to handle student complaints or provide support services. These and other responsible officials, in turn, must ensure that others within their department inform them about incidents that may be reportable.

Two categories of school officials deemed to have significant responsibility for student and campus activities – namely, pastoral counselors and professional counselors – are exempted from this reporting requirement.

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

The regulations define a “professional counselor” as: “A person whose official responsibilities include providing mental health counseling to members of the institution’s community, and is functioning within the scope of his or her license or certification.” The U.S. Department of Education has specifically stated that this exemption is not intended to relieve non-professional and informal counselors from the reporting obligations.

It is important to note that the obligation to report statistics does not require responsible officials to disregard confidentiality. The information these officials provide to Public Safety should not include personally identifiable information about victims or anyone else involved in an incident. In addition, responsible officials within your department are not expected to decide whether a crime has occurred or how to categorize possible crimes. Their role is to provide relevant information about possible offenses to enable Public Safety to classify reported incidents within the rubric of the Act.

In order to promote confidential assistance to victims, the Department of Education has also exempted pastoral counselors and professional counselors from the “timely warning” requirement. Thus, College officials who fit within the category of either “pastoral counselor” or “professional counselor” (as defined above) are not required to provide information for “timely warning” reports.

How Do You Report Information?

Public Safety has developed the Edison State College Crime Statistics Reporting Data Form to collect information about incidents that may be reportable.

To provide required information about incidents reported to your department, you should complete the form and submit it to the Office of Public Safety.

Responsible officials should complete a separate form for each criminal incident reported to their department if the following conditions are met: 1) the incident appears to fit the definition of an offense described in Attachment A; and 2) the incident has not previously been reported to Public Safety. Again, the form does not require providing identifying information about victims or alleged offenders. However, in order to enable those compiling the College’s statistics to properly assign offense and geographical classifications to each incident, the person completing the form should provide a clear description of what occurred and as precise a location as possible for each incident. It is not necessary to provide a specific room or apartment number when doing so would compromise confidentiality. If there is evidence that the selection of the victim was motivated by bias, the person completing the form should describe the evidence and specify the type of prejudice involved.

Please note that this form is merely a tool to collect crime statistics data. It is not intended to be used for making referrals or notifying others about possible follow-up. Further, submitting this form to Public Safety does not amount to reporting a crime to the police. Responsible officials should complete and submit the Edison State College Crime Statistics Reporting Data Form when the two conditions described above are met even if a victim does not wish to make a police report or have an incident investigated.

With the exception of counselors, a responsible official who receives a report of a crime that may warrant a timely report should call the Office of Public Safety, as soon as s/he receives the report of the incident. Alternatively, the official can satisfy the two reporting obligations simultaneously by promptly submitting a completed Edison State College Crime Statistics Reporting Data Form to the Office of Public Safety upon receipt of the report.

How Do You Obtain Guidance?

If you have any questions about the legal obligations outlined in this memorandum or how they apply to administrators within your department, please call Human Resources, for appropriate legal counsel. If you wish to seek guidance about how to handle a particular incident, you may call the Office of Public Safety. If you have questions or comments about the Edison State College Crime Statistics Reporting Data Form, please contact Rick Parfitt, Director of Public Safety & Security.

Appendix A: Definitions of Crimes Reportable Under the Crime Awareness and Campus Security Act, as Amended by the Higher Education Amendments of 1998 *

1. Murder - The willful (non-negligent) killing of one human being by another.
2. Forcible Sex Offenses - Any sexual act directed against another person, forcibly and/or against that person's will; or not forcible or against the person's will where the victim is incapable of giving consent.
 - Forcible Rape - The carnal knowledge of a person, forcibly and/or against that person's will; or not forcibly or against the person's will where the victim is incapable of giving consent because of his/her temporary or permanent mental or physical incapacity (or because of his/her youth).
 - Forcible Sodomy - Oral or anal sexual intercourse with another person, forcibly and/or against that person's will; or not forcibly against the person's will where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.
 - Sexual Assault With An Object - The use of an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person's will; or not forcibly or against the person's will where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.
 - Forcible Fondling - The touching of the private parts of another person for the purpose of sexual gratification, forcibly and/or against that person's will; or not forcibly or against the person's will where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental incapacity.

3. Non-forcible Sex Offenses - Unlawful, non-forcible sexual intercourse.
 - Incest. Non-forcible Sexual intercourse between two persons who are related to each other within the degrees wherein marriage is prohibited by law.
 - Statutory Rape. Non-forcible sexual intercourse with a person who is under the statutory age of consent.
4. Robbery - The taking or attempting to take anything from the care, custody, or control of a person or persons by force, or threat of force, or violence and/or by putting the victim in fear.
5. Aggravated Assault - An unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of attack is usually assault accompanied by the use of a weapon or by means likely to produce death or great bodily harm. (It is not necessary that injury results from an aggravated assault when a gun, knife, or other weapon is used which could and probably would result in serious personal injury if the crime were successfully completed.)
6. Burglary - The unlawful entry of a structure to commit a felony or a theft. For reporting purposes this definition includes: unlawful entry with intent to commit a larceny or felony; breaking and entering with intent to commit a larceny; housebreaking; safe-cracking; and all attempts to commit any of the aforementioned.
7. Motor Vehicle Theft - The theft or attempted theft of a motor vehicle. (Classify as a motor vehicle theft all cases where automobiles are taken by persons not having lawful access even though the vehicles are later abandoned, including joyriding.)
8. Arson - Any willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, personal property of another, etc.
9. Manslaughter
 - Non negligent Manslaughter [same as murder] - the willful (nonnegligent) killing of one human being by another.
 - Manslaughter by Negligence [same as criminal homicide] - the killing of another person through gross negligence.
10. Weapon Law Violations - The violation of laws or ordinances dealing with weapon offenses, regulatory in nature, such as: manufacture, sale, or possession of deadly weapons; carrying deadly weapons, concealed or openly; furnishing deadly weapons to minors; aliens possessing deadly weapons; and all attempts to commit any of the aforementioned.
11. Drug Abuse Violations - Violations of state and local laws relating to the unlawful possession, sale, use, growing, manufacturing, and making of narcotic drugs. The relevant substances include : opium or cocaine and their

derivatives (morphine, heroin, codeine); marijuana; synthetic narcotics (Demerol, methadone); and dangerous non-narcotic drugs (barbiturates, Benzedrine).

12. Liquor Law Violations - The violation of laws or ordinances prohibiting: the manufacture, sale, transportation, furnishing, possessing of intoxicating liquor; maintaining unlawful drinking places; bootlegging; operating a still; furnishing liquor to a minor or intemperate person; using a vehicle for illegal transportation of liquor; drinking on a train or public conveyance; and all attempts to commit any of the aforementioned. (Drunkenness and driving under the influence are not included in this definition.)

Hate Crimes - A reportable hate crime is any of the crimes in the first nine categories listed above and larceny-theft, simple assault, intimidation, and destruction, damage, or vandalism of property or a crime involving bodily injury to any person in which the victim is intentionally selected because of the actual or perceived race, gender, religion, sexual orientation, ethnicity, or disability of the victim. (See 20 U.S.C. §1092(f).)

For more information on the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, please visit <http://www.securityoncampus.com>.

* The implementing regulations of the Crime Awareness and Campus Security Act incorporates the definitions used in the Federal Bureau of Investigation's Uniform Crime Reporting Program. The definitions for murder, robbery, aggravated assault, burglary, motor vehicle theft, manslaughter, weapon law violations, drug abuse violations, and liquor law violations are excerpted from the Uniform Crime Reporting Handbook. The definitions for forcible and nonforcible sex offenses are excerpted from the National Incident Based Reporting System Edition of the Uniform Crime Reporting Handbook. The Department of Education has not yet specified definitions for arson and manslaughter which were added to the reportable offenses in October 1998. The Department will most likely incorporate UCR definitions. Thus, the definitions provided above for arson and manslaughter are from the Uniform Crime Reporting Handbook.