



International Association of Campus Law Enforcement Administrators

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2017 ISSUE BRIEF: REAUTHORIZATION OF THE HIGHER EDUCATION ACT (HEA) AND ELIMINATING EXCESSIVE REGULATION

IACLEA urges Congress and the incoming Administration to simplify federal statutes and regulations, and avoid duplication, confusion and unnecessary expense in compliance with U.S. Department of Education requirements for college and university public safety reporting and practices.

PROBLEM

The six pages of federal law governing college and university campus public safety has been translated into over 600 pages of regulations, sub-regulatory guidance and a resource handbook for compliance by the U.S. Department of Education. What began as reporting of crime statistics for prospective and current students and their families has transformed into recordkeeping of incidents (many not classified as crimes), and duplicative and conflicting reporting requirements. Further, a required accounting of incidents that occur overseas and off-campus is not only impractical, but where reporting is possible, it is costly and portrays a misleading picture due to the irrelevancy of the required data.

Compliance with many of these regulations creates a needless burden on campus law enforcement without benefiting public safety or transparency, or providing clarity or useful information to the consumer. Rather, it takes away valuable patrol and training time from those who could and should be available to students who need them. Colleges and universities are incurring real cost as a result of these regulations – equivalent to more than one officer on the beat. (*Old Dominion University study, 2014*)

NEEDED REFORMS

IACLEA strongly supports the regulatory reform proposals contained in the report *Recalibrating Regulation of Colleges and Universities*, issued in 2015 by the Task Force on Federal Regulation of Higher Education.

The Task Force was formed by a bipartisan group of senators in 2013, including Lamar Alexander (R-TN), Barbara Mikulski (D-MD), Michael Bennet (D-CO) and Richard Burr (R-NC), to address widespread concerns about provisions contained in laws and regulations and their impact on colleges and universities. The Task Force was comprised of 16 higher education leaders. IACLEA was involved in this effort, assisting the American Council of Education in the development of specific recommendations detailed within the report.

IACLEA's recommendations include:

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Uniform Definitions of Clery Crimes –The federal government should rely on the expertise of the Department of Justice in creating the standard definitions for crimes, and the Clery Act should require reporting on crimes as they are defined in other reporting requirements – UCR or NIBRS.

IACLEA fully supports transparency about the safety of our campuses. However, rather than shed light, existing regulations requiring reporting one incident multiple times and in different ways causes great confusion among those reading the numbers. Some regulations require reporting of crimes that are not crimes in all states. In some cases regulations do not define terms, nor are those terms defined in state law. And in some instances, ED definitions are at odds with state definition as well.

The definitional inconsistencies create immense difficulties for campus law enforcement and generate tremendous inefficiencies and confusion rather than clarity and transparency. It creates needless paperwork and inordinate expense to our educational institutions. This must be fixed.

Timely Warnings About Threats to Campuses – Campus law enforcement must have clear authority to use their own expert judgment to determine when a serious or continuing threat exists and when they have the appropriate information to issue a Timely Warning. The Department, except in cases of clear negligence, should give deference to the judgment of the law enforcement professionals who implement these rules on campus day in and day out, and it should acknowledge good faith efforts by institutions to protect their campus communities by appropriately informing them of safety threats.

Non-campus Property – The definition of non-campus property should be clarified and narrowed to focus more directly on property that is a core part of a college or university. At a minimum, it should exclude all foreign locations as well as short stays in domestic hotels.

Regulations now require reporting of community crime near a facility where students may spend a short time on a field trip, including abroad. College and University Chiefs of Police and Directors of Public Safety must seek crime statistics for the area surrounding a hotel, school owned facility or foreign housing that are visited by students in areas as varied as Beijing, China and Madrid, Spain. This requirement is contained in sub-regulatory guidance – not in law – and is not grounded in the intent of the law.

Regulations Unrelated to Education, Safety, or Stewardship – The HEA's Clery and Title IX campus safety and gender violence provisions must be revised in the next reauthorization by simplifying needlessly complex provisions, and striking provisions that are unnecessary, duplicative, or unrelated to the roles and responsibilities of institutions of higher education.

CONTACT

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01/12/17