

California's Postsecondary Educational Institutions

More Complete Processes Are Needed to Comply With Clery Act Crime Disclosure Requirements

REPORT NUMBER 2009-032, JANUARY 2010

Responses from the California Postsecondary Educational Institutions and the California Community Colleges Chancellor's Office as of October 2010

Chapter 804, Statutes of 2002, which added Section 67382 to the California Education Code (statute), requires the Bureau of State Audits (bureau) to report to the Legislature every three years on the results of our audit of not fewer than six institutions that receive federal student aid. The statute requires us to evaluate the accuracy of the statistics and the procedures institutions use to identify, gather, and track data for reporting, publishing, and disseminating accurate crime statistics in compliance with the requirements of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act). We selected a sample of six institutions at which we would perform detailed audit work related to the accuracy of the crime statistics and the disclosure of campus security policies. The six institutions we visited and their locations were: California State University, Fresno (Fresno); Mt. San Antonio Community College in Walnut (Mt. San Antonio); Ohlone Community College in Fremont (Ohlone); University of California, Riverside (Riverside); Western Career College—Sacramento (Western Career-Sacramento); and Western University of Health Sciences in Pomona (Western Health). Additionally, we surveyed 10 institutions that reported no criminal offenses to determine whether their procedures for compiling and distributing crime statistics were sufficient. Six of the 10 institutions we surveyed were community colleges while four were private.

Finding #1: Educational institutions do not always comply with federal crime reporting requirements.

None of the institutions we visited fully complied with federal law or regulations related to campus crime reporting. The Clery Act requires eligible institutions to issue annual security reports that disclose campus security policies and campus crime statistics to all current students and employees. Institutions must also provide a notice to any prospective student or employee that includes a statement of the report's availability, a description of its contents, and an opportunity to request a copy. When institutions do not comply with the reporting requirements of the Clery Act, they inhibit the ability of students and others to make informed decisions about campus security. Further, not complying with Clery Act requirements can subject institutions to financial penalties from the federal government.

Audit Highlights . . .

Our review of a sample of postsecondary educational institutions' (institutions) compliance with the federal Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) revealed that:

- » *One of the six institutions we visited did not provide us with a copy of the required annual security report.*
- » *Three institutions did not properly notify students and staff of the availability of certain crime statistics or security policies.*
- » *Four institutions either did not disclose or had not addressed all 19 security policies required by the Clery Act.*
- » *All six institutions reported inaccurate crime statistics to varying degrees for 2007.*
- » *Most of the 10 institutions we surveyed, which reported no crimes for 2007, did not have sufficient processes in place to ensure that they report accurate crime statistics under the Clery Act.*
- » *The California Community Colleges Chancellor's Office could increase its role in helping community colleges improve their compliance with the Clery Act.*

Specific concerns we identified at the six institutions we visited include:

- One institution (Ohlone) did not issue an annual security report in 2008.
- Three institutions (Mt. San Antonio, Ohlone, and Western Health) did not properly notify students and staff of the availability of their crime statistics or security policies. Although Mt. San Antonio and Ohlone each provided crime statistics and policies on their Web sites, they did not distribute the information or notify students and employees of its availability using proper methods. Further, Western Health stated it provided the annual security report to incoming new students and new employees only; it therefore did not inform current students and employees of the report's availability.
- Four institutions (Mt. San Antonio, Ohlone, Western Career-Sacramento, and Western Health) did not disclose or had not addressed all 19 security policies required by the Clery Act. The number of missing or only partially disclosed policies ranged from one at Mt. San Antonio to 12 at Western Career-Sacramento.
- The crime statistics reported by all six institutions were inaccurate to varying degrees. For instance, four institutions (Fresno, Mt. San Antonio, Ohlone, and Western Health) either overreported or risked overreporting crimes because they obtained crime statistics from local law enforcement agencies for areas that are not required under the Clery Act. Further, differences in definitions of some types of crimes contributed to mistakes by two institutions (Mt. San Antonio and Riverside).

Finally, for the 10 institutions we surveyed, we observed that most did not have sufficient processes in place to ensure that they reported accurate crime statistics, and several did not properly distribute an annual security report detailing these statistics. For instance, three institutions stated that they did not request information about off-campus crimes from local or state law enforcement agencies. Additionally, two institutions did not use or were unaware of written guidance available that should be followed when compiling and distributing annual crime statistics and four institutions stated that they have not been provided any formal training regarding Clery Act compliance.

To ensure that they provide students and others with a single source of information related to campus security policies and crime statistics, and to help avoid financial penalties, we recommended that institutions comply with the requirements of the federal Clery Act. Specifically, institutions should:

- Issue annual security reports.
- Properly notify all students and employees of the availability of their annual security reports.
- Include all required policy disclosures in their annual security reports.

To help ensure that they comply with the Clery Act's disclosure requirements, we recommended that institutions:

- Review and adhere to applicable guidance related to the Clery Act, including the handbook and tutorial issued by the U.S. Department of Education's Office of Postsecondary Education (OPE), as well as the Uniform Crime Reporting (UCR) Handbook issued by the Federal Bureau of Investigation.
- Identify and provide sufficient training to those employees responsible for compiling crime statistics and distributing annual security reports.

To ensure that they correctly report all applicable crimes in accordance with the Clery Act, we recommended that institutions request crime information from campus security authorities and local or state law enforcement agencies. Further, they should carefully review all information for errors. Additionally, institutions should develop a clear understanding of the definitions of Clery Act crimes. For example, they could create or obtain a conversion list for crimes with differing definitions under the state Penal Code and the Clery Act, such as battery and aggravated assault.

To ensure that they include only reportable crimes from reportable areas in their annual security reports, we recommended that institutions request specific information from local or state law enforcement agencies. Such information can include addresses and details of specific crimes. If institutions wish to disclose crime statistics for areas outside those required by federal law, they should clearly distinguish those statistics from the ones required under the Clery Act.

Fresno's Action: Corrective action taken.

Fresno stated that it reviewed the reportable areas per Figure 2 in our report and informed the Clovis Police Department of the necessary changes to ensure accurate reporting. Further, Fresno stated that it formed a Clery Review Team comprised of the public information officer, a crime analyst, and a lieutenant to review reported burglaries to help ensure accurate reporting.

Mt. San Antonio's Action: Corrective action taken.

A review of its current annual security report showed that Mt. San Antonio included all required policy disclosures in its report or links to where the information could be found. Also, Mt. San Antonio created a Notification of Availability Statement to comply with the notification requirement of the Clery Act. The campus stated that it provides the Notification of Availability Statement to all students or prospective students as well as employees or prospective employees using various methods such as a "portal system" and campus-wide email, and during Senior Day events. To ensure that crime statistics are reported accurately, Mt. San Antonio developed a conversion chart allowing comparison of Penal Code definitions to UCR handbook definitions of all Clery Act reportable crimes. In addition, Mt. San Antonio purchased Clery Act training reference guides and provided them to members of the Public Safety Department responsible for drafting and distributing the annual security report. Finally, Mt. San Antonio stated it has created a three member team made up of Public Safety Department management staff that will review all incident reports involving a crime.

Ohlone's Action: Partial corrective action taken.

Ohlone stated that it trained employees responsible for compiling the crime statistics to ensure that they properly record and report data. It also stated that it notified the U.S. Department of Education of its 2007 reporting errors and that it corrected those entries. However, although Ohlone included additional required policy disclosures on its Web site, it has yet to produce a single annual security report that includes all required policy disclosures and all required crime statistics. As noted in our report, the OPE's Handbook for Campus Crime Reporting states that the report must be contained within a single document and that if the report is posted on the institution's Web site, it must be clearly identified in a single, separate part of the site. Further, Ohlone did not separate the crime statistics in its recent annual security report by campus, non-campus, and public property as required.

Riverside's Action: Corrective action taken.

Riverside stated that it will continue its process of evaluating the data per the Clery Act requirements, using the crime conversion list provided by the U.C. Office of the President as necessary, and reviewing the report for accuracy. Also, Riverside included definitions of Clery Act reportable crimes on its Web site.

Western Career–Sacramento’s Action: Corrective action taken.

A review of its current annual security report showed that Western Career–Sacramento included all required policy disclosures in its report. Also, Western Career–Sacramento stated that to ensure its crime statistics are correct, it is in regular contact with local law enforcement agencies and it is reviewing the crime statistics to be included in the annual security report.

Western Health’s Action: Partial corrective action taken.

Western Health stated that it notifies students of the annual security report through quarterly email notifications. It also stated that it notifies all students and employees of a link to the report on its Web site. However, Western Health did not mention how it notifies prospective students and employees of the annual security report as required. Further, Western Health stated that it updated its annual security report with the required policy disclosures. Western Health’s Web site, however, did not provide an updated annual security report. When reviewing its Web site in December 2010 we noticed the annual security report is dated fall 2009 and includes the crime statistics for 2008, 2007, and 2006. Western Health should be reporting crime statistics for 2009, 2008, and 2007. Finally, although Western Health stated that it makes a reasonable, good faith effort to obtain crime statistics from local enforcement agencies and is entitled to rely upon those statistics, it will reevaluate whether its current practice of including all the crime statistics provided by local law enforcement agencies is reasonable.

Finding #2: The California Community Colleges Chancellor’s Office (Chancellor’s Office) needs to provide guidance related to the Clery Act.

In light of the nature and extent of the exceptions we noted that relate to the two community colleges we visited and the six we surveyed, we believe that the Chancellor’s Office should take an increased role in helping community colleges improve their compliance with the Clery Act. The chancellor is the chief executive officer appointed by the Board of Governors of the California Community Colleges (board). The Education Code requires the board to advise and assist the governing boards of community college districts on the interpretation and implementation of state and federal laws affecting community colleges. We saw no evidence that the community colleges included in our review had received guidance from the Chancellor’s Office related to complying with the Clery Act. The Chancellor’s Office informed us that although it currently does not provide any guidance to its community colleges on the Clery Act, it would consider it reasonable to provide limited guidance in the future.

To improve compliance among California’s community colleges, we recommended that the Chancellor’s Office provide direction to the institutions regarding the provisions of the Clery Act. This direction should include a discussion of the need to review and adhere to currently available Clery Act guidance such as OPE’s handbook and tutorial, as well as the UCR handbook. The Chancellor’s Office should also inform institutions of training opportunities for those employees responsible for compiling Clery Act crime statistics and distributing annual security reports. Finally, the Chancellor’s Office should inform community colleges of the negative effects of not complying with the Clery Act.

Chancellor’s Office Action: Corrective action taken.

In its six-month response, the Chancellor’s Office stated that it manages a Web site with emergency management resources, where it included a “toolbox” with links to Clery Act guidance such as the OPE handbook and other resources. Further, the Chancellor’s Office stated that it created a peer support network by asking employees responsible for compiling Clery Act crime statistics to be available to each other to compare and suggest best practices. Contact information for the peer support network can be found on the emergency management resources Web site. In addition, the Chancellor’s Office stated that the Director of Emergency Planning and Preparedness (director) maintains a comprehensive email contact list of college employees involved in emergency management. The director used this list to notify the colleges of an upcoming Clery Act training

opportunity. Finally, the Chancellor's Office stated that it plans to offer Clery Act training specific to community colleges in early 2011. One resource available to colleges is the California Colleges and Universities Police Chief's Association, which includes Clery Act training and refresher courses at its annual conference.

