



## Clery Act Sexual Violence Conduct Process Jurisdiction

### I. Question Presented

Under the Clery Act do the constraints of “Clery Geography” apply to sexual violence (domestic violence, dating violence, sexual assault, or stalking) institutional conduct proceeding requirements?

### II. Short Answer

No, the Clery Act rights for “the accuser and the accused” in institutional conduct proceedings, including a right to have “procedures”, apply “whether the offense occurred on or off campus”.

### III. Discussion

The Clery Act statute, at 20 USCS § 1092(f)(8)(C), provides that a student or employee who reports an incident of sexual violence to the institution is entitled to written notification of specific rights and options required by the Act “whether the offense occurred on or off campus”. This provision of the statute explicitly cross-references the provisions for “Procedures for institutional disciplinary action in cases of alleged domestic violence, dating violence, sexual assault, or stalking,” at 20 USCS § 1092(f)(8)(B)(iv), along with other disciplinary and accommodation requirements. There is no language limiting the geography or jurisdiction that would contradict the on or off campus requirement.

This has two effects. The most widely recognized is that Clery rights, as opposed to statistical reporting, apply irrespective of where an incident occurs. The second less widely recognized is that institutions are required to exercise disciplinary jurisdiction “whether the offense occurred on or off campus” just like they are required to afford victims with accommodations as they are a part of the same list of cross-referenced requirements, 20 USCS § 1092(f)(8)(B)(ii)-(vii).

The U.S. Department of Education recognizes this requirement, in *The Handbook for Campus Safety and Security Reporting, 2016 Edition* on pages 8-2 and 8-3, stating “your statement must address...the procedures your institution will follow when one of these crimes is reported to your institution, ***whether the offense occurred on or off campus.***” (Emphasis Added) They further state, on page 8-16, that this applies to incidents occurring “on or off your institution’s Clery Act geography”.

### IV. Conclusion

The provisions of the Clery Act are designed to ensure that sexual violence survivors are afforded a safe learning and or working environment, and that other campus community members can be protected therefore the provisions dedicated to this are not subject to the same limitations applied to statistical reporting. This recognizes that the “threat” nexus of an individual accused of one of these offenses creates applies to their presence on campus whether or not the underlying act occurred on Clery Geography or not.

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