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UNITED STATES DEPARTMENT OF EDUCATION

WASHINGTON, D.C. 20202-_____

AUGUST 1991

GEN-91-27

Summary: This letter provides information concerning Pub. L. 101-542, the Student Right-to-Know and Campus Security Act, as amended by Pub. L. 102-26, the Higher Education Technical Amendments of 1991. This letter is being mailed to the Chief Executive Officer/President, Registrar, and Financial Aid Administrator at each institution.

FEDERAL STUDENT FINANCIAL AID HANDBOOK REFERENCE: Please refer to Chapter 3 of the 1991-92 Handbook for further reference.

Dear Colleague:

In March, 1991 you received our "Dear Colleague Letter" (DCL) GEN-91-14 concerning Pub. L. 101-542, the Student Right-to-Know and Campus Security Act. This letter provides additional guidance for compliance with this Act's provisions and updates concerning legislative changes made since DCL GEN-91-14.

A notice of proposed rulemaking is expected to be published in the Fall, 1991 with final regulations published in the Spring, 1992. The Student Right-to-Know and Campus Security Act as amended by the Higher Education Technical Amendments of 1991 (Pub. L. 102-26) (the Act) requires institutions to commence collecting certain information in July and August, 1991. This letter is being provided to assist institutions in the implementation of the Act until the publication of the final regulations. The Secretary strongly recommends that institutions use the guidelines presented in this letter. Moreover, the Secretary assures institutions that if they follow these recommended policies until publication of final regulations, they will be in compliance with the Act.

Overview of Legislative Changes

Since the publication of DCL GEN-91-14, the President signed into law Pub. L. 102-26, the Higher Education Technical Amendments of 1991. We provide the following guidance concerning the Student Right-to-Know and Campus Security Act:

- o The disclosure of a completion or graduation rate under Section 103 of the Act must now be made for certificate or degree-seeking, full-time undergraduate (previously graduate and undergraduate) students entering the institution. Pub. L. 102-26 also clarifies that beginning July 1, 1993, this disclosure is to be made annually for the one-year period ending on June 30 of the preceding year.

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- o The Department has interpreted certain changes made by Pub. L. 102-26 to Section 103 of the Act to also apply to Section 104 of the Act. The annual disclosures to a potential student athlete, his or her parents, guidance counselor and coach (et al), are also the rates of undergraduates only (previously graduates and undergraduates); are reported as of June 30 of the preceding year; and are reported annually to the Secretary under Section 104 of the Act, with the first report to the Secretary and disclosures to potential student athletes et al due on July 1, 1993.
- o If granted a waiver by the Secretary, an institution that is a member of an athletic association or athletic conference that has voluntarily published completion or graduation rate data or has agreed to publish data that, in the opinion of the Secretary, is substantially comparable to the information required to be disclosed under Section 103 of the Act, may use such data to satisfy the disclosure requirements of Section 103 of the Act.
- o The date was changed from September 1 to August 1, for an institution to begin to collect information with respect to campus crime and security policies under Title II of the Act. Disclosures of crime statistics and campus security policies are still to be made beginning September 1, 1992 and each year thereafter on September 1. Information is to be collected for the period from August 1 through July 31, with the first year being August 1, 1991 through July 31, 1992.
- o The description of "years" for which the crime statistics under Section 485(f)(1)(F) of the Higher Education Act of 1965, as amended are to be provided was changed from "school" year to "calendar" year. Thus, instead of "the most recent school year, and during the two preceding school years for which data are available," the law now states "the most recent calendar year, and during the two preceding calendar years for which data are available." Further information about these years is provided later in this letter.

Title I of the Act: Section 103 Requirements

Section 103 of Title I of the Act requires institutions to produce and make readily available to current students, and to each prospective student enrolling or entering into any financial obligation, the completion or graduation rate of certificate or degree-seeking, full-time undergraduate students entering that institution. The institution must make this information available beginning July 1, 1993 and annually thereafter on July 1. The period of time covered by each report is the one-year period ending on June 30 of the preceding year. Thus, for the first report, which is due July 1, 1993, the institution will report the completion or graduation rate for the period July 1, 1991 through June 30, 1992. As discussed later in this letter, the time when an institution is capable of disclosing the completion or graduation rate specified by the Act depends upon the length of the institution's program(s).

In order to calculate this rate, an institution must establish a "cohort" of students to follow. For the first disclosures on July 1, 1993, institutions should establish a cohort of certificate or degree-seeking, full-time undergraduate students entering that institution. For institutions that operate on a continuous enrollment basis, this cohort should include all full-time undergraduate students who enter the institution from July through September, 1991. For all other institutions, this cohort should be established using the Fall, 1991 enrollment, and any students enrolled between July 1, 1991 and the Fall, 1991 enrollment who continued into Fall enrollment.

The following students may be dropped from the cohort for calculating a completion or graduation rate:

- 1) students who leave school to serve in the Armed Services;
- 2) students who leave school to serve on official church missions; or
- 3) students who leave school to serve with a recognized foreign aid service of the Federal Government.

The Secretary recommends use of the following definitions (from existing regulations) to establish the cohort:

- o A certificate or degree-seeking student is a regular student as defined in Section 668.2 of the Student Assistance General Provisions Regulations (34 CFR Part 668), who is a person enrolled or accepted for enrollment at an institution for the purpose of obtaining a degree, certificate, or other recognized educational credential offered by that institution.
- o A full-time student is defined in Section 690.2 of the regulations governing the Pell Grant Program (34 CFR Part 690) and Sections 674.2, 675.2 and 676.2 of the regulations governing the campus-based programs (34 CFR Parts 674, 675, and 676), as an enrolled student who is carrying a full-time academic work load (other than by correspondence)--as determined by the institution--under a standard applicable to all students enrolled in a particular program. However, an institution's full-time standard must equal or exceed one of the following minimum requirements:
 - (1) 12 semester hours or 12 quarter hours per academic term in an institution using a semester, trimester, or quarter system;
 - (2) 24 semester hours or 36 quarter hours per academic year for an institution using credit hours but not using a semester, trimester, or quarter system, or the prorated equivalent for a program of less than one academic year;
 - (3) 24 clock hours per week for an institution using clock hours;

(4) In an institution using both credit and clock hours, any combination of credit and clock hours where the sum of the following fractions is equal to or greater than one:

Number of credit hours per term

12

+

Number of clock hours per week

24

(5) A series of courses or seminars which equals 12 semester hours or 12 quarter hours in a maximum of 18 weeks; or

(6) The work portion of a cooperative education program in which the amount of work performed is equivalent to the academic work-load of a full-time student.

- o An undergraduate student is defined in Section 690.2 of the Pell Grant regulations (34 CFR Part 690) and Sections 674.2, 675.2 and 676.2 of the regulations governing the campus-based programs (34 CFR Parts 674, 675, and 676), as a student enrolled in an undergraduate course of study at an institution of higher education who--
 - (1) Has not earned a baccalaureate or first professional degree; and
 - (2) Is in an undergraduate course of study which usually does not exceed 4 academic years, or is enrolled in a 4 to 5 academic year program designed to lead to a first degree. A student enrolled in a program of any other length is considered an undergraduate student for only the first 4 academic years of that program.
- o The term "entering the institution" means a student who is enrolled or accepted for enrollment for the first-time at any institution of higher education. The student may not enter with earned credits, except those earned while enrolled in high school through advanced placement in postsecondary education, or earned in that institution in the summer preceding the Fall enrollment.
- o The term "entering into any financial obligation" means the student's entering into any financial obligation at the institution related to the student's program of study, e.g., the obligation to pay tuition and fees, the execution of an enrollment contract, or the execution of a Title IV or institutional loan.
- o One hundred and fifty percent of normal time for completion or graduation is defined as follows:

For an institution whose programs are four years in length, 150% of normal time for completion or graduation is six years (72 months). For an institution whose programs are two years in length, 150% of normal time for completion or graduation is three years (36 months). For an institution whose programs are nine months in length, 150% of normal time for completion or graduation is 14 months (for 12-month programs, 18 months, etc.).

- o An educational program is defined in Section 600.2 of the regulations governing institutional eligibility (34 CFR Part 600), and is a legally authorized postsecondary program of organized instruction or study which leads to an academic or professional degree, vocational certificate, or other recognized educational credential. However, the Secretary does not consider that an institution provides an educational program if the institution does not provide instruction itself (including a course of independent study) but merely gives credit for one or more of the following: instruction provided by other institutions or schools, examinations provided by agencies or organizations, or other accomplishments such as "life experience."

The statute also directs that in calculating this rate, a student is counted as having completed or graduated (1) if the student completed or graduated within 150 percent of the normal time for completion of or graduation from the program, or (2) if within 150 percent of the normal time for completion or graduation, the student enrolled in any program at an eligible institution for which the prior program provided substantial preparation. A student who has completed or graduated is a student who (a) received a degree, certificate or other recognized educational credential from the institution, or (b) a student who transfers from that institution to a higher level program at another eligible institution for which the prior program provided substantial preparation.

With respect to changing programs (not transferring to a higher level program), if a full-time undergraduate student entered the institution under program A, but later transferred into program B at the same institution, for cohort purposes the student should be followed from entry into the cohort under program A to the receipt of a degree, certificate or other recognized educational credential under program B. The student would be considered to have completed or graduated since he or she received a degree or certificate, even though the educational credential was granted from a program different from that in which he or she originally enrolled; in other words, once in a cohort, the change of programs does not alter the student's presence in the cohort. Similarly, if the student receives a degree, certificate or other recognized educational credential from an institution and later receives another degree, certificate or other recognized educational credential from the same institution, for cohort purposes the student is counted as receiving a degree, certificate or educational credential the first time only. For example, if a student receives an associate degree and two years later receives a baccalaureate degree at the same institution, for cohort purposes the student would only be included in the completion or graduation rate for receipt of the associate degree.

Persistence Rate and Timetable for Completion or Graduation Rate

As previously indicated, the Act requires an institution to provide a completion or graduation rate on July 1 of each year (for the first year, July 1, 1993). Because the statute requires calculations for that rate to cover the one-year period ending June 30, 1992, an institution must begin to collect data on July 1, 1991. On July 1, 1993, all institutions must provide the completion or graduation rate as specified by the Act. The Department recognizes that the publication of a completion or graduation rate on July 1, 1993 (for the period July 1, 1991 through June 30, 1992) will not be possible for institutions for whom 150% of normal time for completion or graduation has not lapsed. In lieu of publishing a completion or graduation rate, these institutions will be permitted to publish a persistence rate to permit a gradual implementation of the Act. The persistence rate is the percentage of the students in the cohort who re-enrolled each successive year until completion or graduation. In order to be counted in the persistence rate, a member of the cohort must re-enroll for the period for which the following cohort will be established. The period for which a cohort is established depends upon whether or not an institution operates on a continuous enrollment basis. Page 3 of this letter discusses the appropriate time period. For each year thereafter, the institution should follow the 1991 cohort and be able to provide a persistence rate until such time that the institution is able to provide the rate as specified by the Act. The 1992 and successive cohorts would be tracked in a similar manner. The Secretary strongly recommends that institutions provide this persistence rate in order to comply with the Act.

An institution is considered by the Department as capable of providing the completion or graduation rate specified by the Act based upon the length of an institution's program(s). The Department considers institutions capable of providing the rate as specified by the Act as follows:

1. An institution whose programs are six months in length must provide the completion or graduation rate on July 1, 1993 for the cohort established for the period July 1, 1991 through June 30, 1992.
2. An institution whose programs are nine months or one year in length must provide the completion or graduation rate on July 1, 1994 for the cohort established for the period July 1, 1991 through June 30, 1992.
3. An institution whose programs are two years in length must provide the completion or graduation rate on July 1, 1995 for the cohort established for the period July 1, 1991 through June 30, 1992.
4. An institution whose programs are four years in length must provide the completion or graduation rate on July 1, 1998 for the cohort established for the period July 1, 1991 through June 30, 1992.
5. An institution whose programs are five years in length must provide the completion or graduation rate on July 1, 2000 for the cohort established for the period July 1, 1991 through June 30, 1992.

6. An institution whose programs vary in length must provide the completion or graduation rate at the time that 150% of the normal time for completion or graduation has lapsed for the program of greatest length. For example, if an institution's programs are four and five years in length, the institution must provide the completion or graduation rate at the time that 150% of the normal time for completion or graduation has lapsed for the five year programs, i.e., July 1, 2000 for the cohort established for the period July 1, 1991 through June 30, 1992.

Title I of the Act: Section 104 Requirements

Section 104 of the Act requires institutions that award athletically-related student aid to provide certain disclosures to a potential student athlete, his or her parents, guidance counselor, and coach and to report certain information to the Secretary. A potential student athlete is an individual who contacted the institution for the purpose of requesting information concerning participation in the institution's athletic programs and/or financial assistance available on the basis of participation in these programs, or whom the institution contacted for recruitment to the institution's athletic programs. The requirements for calculating a completion or graduation rate under Section 103 of the Act previously iterated in this letter are also strongly recommended for the calculation of a completion or graduation rate under Section 104 of the Act, where applicable. The statute allows the same exclusions under Section 104 that apply to Section 103. These are exclusions for students who leave school to serve: in the Armed Services, on official church missions, or with a recognized foreign aid service of the Federal Government. If granted a waiver by the Secretary, institutions which are members of an athletic association or athletic conference that has voluntarily published completion or graduation rate data or has agreed to publish data that, in the opinion of the Secretary, is substantially comparable to the information required under Section 103, may use these completion or graduation rate data to meet the completion or graduation rate requirements of Section 103 and 104 for the first year of implementation of the Act.

An institution may use the persistence rate method provided in this letter to meet the requirement of the statute to provide an average completion or graduation rate for the four most recent completing or graduating classes of students who received athletically related student aid. This persistence rate must be an average rate (except for the first year) and broken down by race and sex in the following sports: basketball, football, baseball, cross country/track, and all other sports combined. This persistence rate may only be provided until the completion or graduation rate required by the Act and described in this letter can be provided.

Requirements of Title II of the Act

Title II of the Act is the Crime Awareness and Campus Security Act of 1990. This Act requires an institution to begin to collect certain information described below, commencing August 1, 1991. It also requires that the

institution prepare, publish, and distribute this information to all current students and employees, and to any applicant for enrollment or employment, upon request, beginning September 1, 1992 and each year thereafter. This information is:

- (A) A statement of current campus policies regarding procedures and facilities for students and others to report criminal actions or other emergencies occurring on campus and policies concerning the institution's response to such reports.
- (B) A statement of current policies concerning security and access to campus facilities, including campus residences, and security considerations used in the maintenance of campus facilities.
- (C) A statement of current policies concerning campus law enforcement, including--
 - (i) the enforcement authority of security personnel, including their working relationship with State and local police agencies; and
 - (ii) policies which encourage accurate and prompt reporting of all crimes to the campus police and the appropriate police agencies.
- (D) A description of the type and frequency of programs designed to inform students and employees about campus security procedures and practices and to encourage students and employees to be responsible for their own security and the security of others.
- (E) A description of programs designed to inform students and employees about the prevention of crimes.
- (F) Statistics concerning the occurrence on campus, during the most recent calendar year, and during the two preceding calendar years for which data are available, of the following criminal offenses reported to campus security authorities or local police agencies--
 - (i) murder;
 - (ii) rape;
 - (iii) robbery;
 - (iv) aggravated assault;
 - (v) burglary; and
 - (vi) motor vehicle theft.
- (G) A statement of policy concerning the monitoring and recording through local police agencies of criminal activity at off-campus student organizations whose participants are students of the institution. The off-campus student organizations are those recognized by the institution, including student organizations with off-campus housing facilities.

- (H) Statistics concerning the number of arrests for the following crimes occurring on campus:
- (i) liquor law violations;
 - (ii) drug abuse violations; and
 - (iii) weapons possessions.
- (I) A statement of policy regarding the possession, use, and sale of alcoholic beverages and enforcement of State underage drinking laws and a statement of policy regarding the possession, use, and sale of illegal drugs and enforcement of Federal and State drug laws and a description of any drug or alcohol abuse education programs as required under section 1213 of the Higher Education Act of 1965, as amended. Section 1213 of this Higher Education Act of 1965, as amended, contains the drug free campuses requirements added by section 22 of the Drug Free Schools and Communities Amendments of 1989 (Public Law 101-226)).

As indicated above, Title II of the Act requires an institution to provide these disclosures to prospective and current students and employees. Examples of appropriate publications or mailings for the disclosure of the institution's crime security policies and statistics are the institution's catalog, a student handbook, a crime prevention manual or brochure, an information leaflet, etc.

The Act requires the collection and disclosure of crime statistics under section 485(f)(1)(F) of the HEA of 1965, as amended, (paragraph (F) above) for the period August 1 through July 31 for each of three years. Data to be disclosed on September 1, 1992 should be that collected for August 1, 1991 through July 31, 1992, and any two preceding years for which data are available. For the first year only (in other words, for the September 1, 1992 disclosures) the preceding year data may be for any time period, e.g. January through December, August through July, etc; these years, however, may not overlap one another. The Act further requires the collection and disclosure of statistics regarding arrests for certain crimes under section 485(f)(1)(H) of the HEA of 1965, as amended, (paragraph (H) above) for the period August 1, 1991 through July 31, 1992 for disclosure on September 1, 1992. Each year on September 1 when disclosure is required, three years of data will be given under Section 485(f)(1)(F) of the HEA of 1965, as amended, but only one year's data will be given under Section 485(f)(1)(H) of that Act.

Section 204 of the Act defines a campus as including:

- (1) any building or property owned or controlled by the institution of higher education within the same reasonably contiguous geographic area and used by the institution in direct support of, or related to its educational purposes; or
- (2) any building or property owned or controlled by student organizations recognized by the institution.

For example, if an institution rents space (e.g., the fourth floor of a building) to hold classes, and is responsible for a section of the parking lot for its students' use, the fourth floor of the building and the section of the parking lot provided to the institution's students should be considered part of the institution's campus because they are within the institution's control, as provided by the statute under paragraph (1) above. If, for example, in an urban university setting a student is murdered while walking from one building to another, and the street on which the crime took place is publically owned, the institution does not own or control that street, and therefore, is not required to disclose the crime. For institutions that have a wholly-owned campus outside of the United States, the statute provides that it be treated as a separate campus for Title II purposes.

Section 204 of the Act requires that an institution provide its students and employees a statement of policy regarding the possession, use, and sale of alcoholic beverages and enforcement of State underage drinking laws and a statement of policy regarding the possession, use, and sale of illegal drugs and enforcement of Federal and State drug laws and a description of any drug or alcohol abuse education programs as required under section 1213 of the Higher Education Act of 1965, as amended. (Section 1213 of the HEA of 1965, as amended, contains the drug free campuses requirements added by section 22 of the Drug Free Schools and Communities Amendments of 1989 (Public Law 101-226)). Institutions which currently describe their policies regarding drug and alcohol use in the materials they distribute annually to comply with regulations governing Drug-Free Schools and Campuses (34 CFR Part 86) do not have to repeat the information for Section 204 purposes, but a reference must be made to the materials containing those policies.

Section 204 of the Act also requires an institution to make timely reports to the campus community on the following crimes "reported to campus security authorities or local police agencies" that are considered to be a threat to other students and employees: murder, rape, robbery, aggravated assault, burglary and motor vehicle theft. Institutions should recognize that the term "campus security authorities" is broader than the term "campus police force." Specifically, the Department understands the term "campus security authorities" to include (1) any individual or entity specified in an institution's statement of campus security policy as the individual or entity to whom students and others should report criminal offenses, as well as (2) administration officials having primary responsibility for student and campus activities, such as student counselors, deans and campus residence directors. The institution must provide these reports in a manner that is timely and will aid in the prevention of similar crimes. The Secretary recommends that the institution meet with the institution's security personnel, and local and State law enforcement authorities to discuss what is reasonable in terms of the timely reporting of these crimes.

Attached are the following publications made available to you by the Federal Bureau of Investigation for complying with the statutory requirement to use the definitions found in those publications for the crime statistics

Page 11 - Dear Colleague

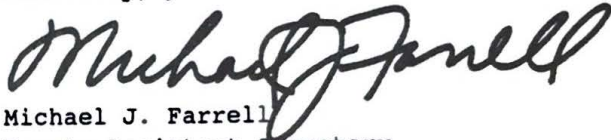
information the institution must disclose under paragraphs (F) and (H) on pages 8 and 9 of this letter: the Uniform Crime Reporting Handbook and the Hate Crime Data Collection Guidelines.

Title II of the Act requires the Secretary to amend the Program Participation Agreement (PPA) for the Title IV Programs to contain a new certification that the institution has established a campus security policy and disclosed certain statistical information concerning crimes on campus. Once an institution receives the PPA, the institution should promptly execute the agreement and return it to the Department.

Foreign institutions are exempt from compliance with these requirements as they are exempt from the requirements of the Student Assistance General Provisions Regulations.

If you have any other questions concerning the Act or this letter, please contact the Regional Office that serves your State.

Sincerely, .



Michael J. Farrell
Deputy Assistant Secretary
for Student Financial Assistance



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