

Executive Board

(Systemwide Senate Review) Proposed Presidential Policy – Clery Act Policy

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May 15, 2023

Susan Cochran
Chair, UC Academic Senate

Re: (Systemwide Senate Review) Proposed Presidential Policy – Clery Act Policy

Dear Chair Cochran,

The divisional Executive Board appreciated the opportunity to review the Proposed Presidential Policy – Clery Act Policy. The Executive Board (EB) reviewed the proposal and divisional committee and council responses at its meeting on May 11, 2023.

EB members voted unanimously to approve a motion to express appreciation for the clarity provided by the proposed policy and to urge the university to respectfully reconsider the removal of the Ombuds office from the Campus Security Authority reporting exemption, while adhering to applicable legal constraints.

Sincerely,



Jessica Cattelino
Chair
UCLA Academic Senate

Encl.

Cc: April de Stefano, Executive Director, UCLA Academic Senate
Andrea Kasko, Vice Chair/Chair Elect, UCLA Academic Senate
Shane White, Immediate Past Chair, UCLA Academic Senate

To: Jessica Cattelino, Chair, Academic Senate

From: Sandra Graham, Chair, Committee on Privilege and Tenure

CC: Andrea M. Kasko, Vice Chair/Chair-Elect, Academic Senate
Shane White, Immediate Past Chair, Academic Senate
April de Stefano, Executive Director, Academic Senate
Marian M. Olivas, Principal Policy Analyst, Academic Senate
Members of the Committee on Privilege and Tenure

Date: May 4, 2023

Re: Clery Act Policy – Campus Safety and Security Reporting

As part of an informational/asynchronous review, the Committee on Privilege and Tenure reviewed the recommendation to make permanent the UCOP Policy “Interim Clery Act Policy – Campus Safety and Security Reporting.” The changes appear to be required by law and do not seem to have encountered any concerns during the months it was in place. Clarity about what resources are confidential appears to support the rights of faculty and other community members.

Thank you for the opportunity to review and comment. If you have any questions, please do not hesitate to contact me at graham@gseis.ucla.edu or via the Committee’s analyst, Marian Olivas, at molivas@senate.ucla.edu.

May 4, 2023

To: Jessica Cattelino, Chair
Academic Senate

From: Norweeta Milburn, Chair
Committee on Charges

Re: Clery Act Policy – Campus Safety and Security Reporting

An Interim “Clery Act Policy” was issued in July, 2022 to “address immediate Department of Education compliance concerns.” The interim revisions expanded who should be considered a confidential resource and therefore not considered a Campus Security Authority (CSA). Under Clery policy anyone who is a Campus Security Authority (CSA) is obligated to report to the campus police department “Clery crimes” that they witness or are reported to them.

Specifically, the interim changes in UCOP policy exempt any “CARE advocate” employee whose “official responsibilities include providing professional or pastoral counseling to members of the UC community and who is functioning within the scope of their license or certification.” These individuals are not CSA for the purposed of Clery Policy.

The Charges Committee had an opportunity to review this policy at their May 4, 2023 meeting. The cover letter suggests that the Ombuds Office also falls under the same exemption as CARE advocates. However, the policy does not specifically name the Ombuds as exempt from CSA reporting. It seems like that office should be specifically cited as exempt.

The Committee has no other comments.

cc: April de Stefano, Academic Senate Executive Director
/mmo



Michael V. Drake, MD
President

Office of the President
1111 Franklin St.
Oakland, CA 94607

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DIVISION OF AGRICULTURE AND
NATURAL RESOURCES

March 10, 2023

CHANCELLORS
ACADEMIC COUNCIL CHAIR COCHRAN
LABORATORY DIRECTOR WITHERELL
ANR VICE PRESIDENT HUMISTON

Re: Systemwide Review of Proposed Presidential Policy – Clery Act Policy

Dear Colleagues:

Enclosed for systemwide review prior to finalization and issuance is the interim Clery Act Policy – Campus Safety and Security Reporting.

In July 2022, the interim Clery Act Policy was issued to address immediate Department of Education compliance concerns regarding the exemption of certain offices from Clery Act reporting requirements. Following the interim issuance, a Systemwide Clery Policy Working Group was formed that included representation from campus Chief Compliance & Ethics Officers, Clery Coordinators, CARE Offices, Ombuds, Title IX, Community Safety, and UC Legal. The working group conducted workshops with key stakeholder groups to gather feedback on the interim policy, compile additional feedback on the policy, and begin the development of implementation guidance.

The interim Clery Act Policy is being submitted for Systemwide Review as currently publicly posted. The working group is considering stakeholder feedback that has been previously received in the following areas: State v. Federal provisions, definition consistency and utility, alignment to Federal policy, Clery Officer role clarity, and CARE Office role clarity. The feedback provided during Systemwide Review on the interim Policy will be compiled and considered along with the stakeholder feedback received by the working group.

Systemwide Review

Systemwide review is a public review distributed to the Chancellors, the Chair of the Academic Council, the Director of the Lawrence Berkeley National Laboratory, and the Vice President of Agriculture and Natural Resources requesting that they inform the general University community, especially affected employees, about policy proposals. Systemwide review also includes a mandatory, 90-day full Senate review.

Employees should be afforded the opportunity to review and comment on the draft policy. Attached is a Model Communication which may be used to inform non-exclusively represented employees about these proposals. The Labor Relations Office at

the Office of the President is responsible for informing the bargaining units representing union membership about policy proposals.

We would appreciate receiving your comments no later than **June 8, 2023**. Please submit your comments to policyoffice@ucop.edu. If you have any questions, please contact policyoffice@ucop.edu.

Sincerely,



Rachael Nava
Executive Vice President,
Chief Operating Officer

Enclosures:

- 1) Draft interim Clery Act Policy
- 2) Model Communication

cc: President Drake
Provost and Executive Vice President Newman
Executive Vice Chancellors/Provosts
Executive Vice President Byington
Senior Vice President Bustamante
Vice Provost Haynes
Vice President and Vice Provost Gullatt
Vice President Lloyd
Vice President Maldonado
Vice Provosts/Vice Chancellors of Academic Affairs/Personnel
Associate Vice Provost Lee
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Chief of Staff O'Sullivan
Chief Policy Advisor McAuliffe
Director Anders
Director Roller
Director Stiger
Director Sykes
Associate Director Dicaprio
Associate Director Nguyen
Associate Director Weston-Dawkes
Associate Director Woolston

Assistant Director LaBriola
Manager Crosson
Administrative Manager Garcia
Manager Garza
Analyst Durrin
Administrative Officer Babbitt
Policy Advisory Committee



Clery Act Policy – Campus Safety and Security Reporting

Responsible Officer:	Executive Vice President & Chief Operating Officer
Responsible Office:	Executive Vice President & Chief Operating Officer
Issuance Date:	7/14/2022
Effective Date:	7/14/2022
Last Review Date:	06/15/2022
Scope:	This Policy applies to all University of California staff, faculty, and students. It applies to all UC Campuses, Medical Centers, Agriculture and Natural Resources, Office of the President, and the Lawrence Berkeley National Laboratory (Campuses).

Contact:	Alexander Bustamante
Title:	Senior Vice President and Chief Compliance and Audit Officer
Email:	Alexander.Bustamante@ucop.edu
Phone:	(510) 987-9090

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I. POLICY SUMMARY

The Clery Act (otherwise officially known as the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, section 485 of the Higher Education

Act, codified at 20 U.S.C. 1092 (f)) is a federal law requiring colleges and universities across the United States that receive Title IV funding to disclose information about particular crimes on and around their campuses and safety related policies. It is the policy of the University to comply with its obligations under the Clery Act and California law.

The University of California is committed to providing a safe and secure learning and working environment for UC students and employees consistent with the Clery Act. In accordance with statutory requirements, the University strives to ensure students, faculty, other academic staff and staff employees (the “University Community”) have access to accurate information about crimes committed on and around the Campus; access to University wide security policies and related local campus procedures; and a confidential reporting process for victims and witnesses. This Policy describes roles and responsibilities for the University Community related to compliance with legal requirements regarding crime reporting, awareness, and prevention.

II. DEFINITIONS

- A. Annual Fire Safety Report (AFSR)** – Each Campus that maintains an On-Campus student housing facility must publish and distribute annually by October 1 an Annual Fire Safety Report (AFSR). The AFSR includes the fire statistics and the fire safety policies and procedures for each On-Campus student housing facility for the three most recent calendar years. The AFSR may be filed separately or combined with the Annual Security Report (see below).
- B. Annual Security Report (ASR)** – The Clery Act requires those postsecondary institutions participating in the Higher Education Act’s Title IV student financial assistance programs and each of their separate campuses to annually publish by October 1 a report containing the campus safety policy statements¹ and Clery Crime statistics for the three most recent calendar years. This annual report is known as the Annual Security Report (ASR).
- C. Campus Security Authority (CSA)** – Individuals at the University who because of their functional role have an obligation to notify the University department responsible for collecting crime information (e.g., the campus police department) of alleged Clery Crimes that are reported to or witnessed by the CSA. CSAs include campus police employees and other persons who:
1. Have responsibility for campus security but who are not employees of a campus police department or a campus security department;
 2. Are specified in the campus ASR as an individual to whom students and employees should report criminal offenses; or
 3. Have significant responsibility for student and campus activities, including, but not limited to, student housing, student discipline and campus judicial proceedings.

¹ The policies and procedures required to be listed in the ASR can be found in the Code of Federal Regulations, Title 34, Section 668.46(b,c,g-k) and US Code Title 20, Section 1092(f)(1) and 1092(f)(8). These policies can also be found in the ED Handbook for Campus Safety and Security Reporting.

- D. CARE Advocate** – University staff employees who are professionally trained and certified to provide confidential support and/or counseling services to victims of sexual violence, sexual assault, domestic violence, dating violence or stalking. An employee whose official responsibilities include providing professional or pastoral counseling to members of the UC community and who is functioning within the scope of their license or certification is not a CSA for purposes of this Policy.²
- E. Clery Crimes** – The Clery Act requires that certain crimes occurring on campus Clery Geography (as defined below) be tracked and reported annually by the Campus each October to the U.S. Department of Education and shared with the University Community. The following offenses are Clery Crimes: criminal homicide (murder and non-negligent manslaughter and manslaughter by negligence), sex offenses (rape, fondling, incest and statutory rape), robbery, aggravated assault, arson, burglary, motor vehicle theft, domestic violence, dating violence, stalking, Hate Crimes (as defined below), and arrests or referrals for disciplinary action for drug abuse, liquor and/or weapons law violations. Willful homicide, forcible rape, robbery, or aggravated assaults are collectively referred to as “Part 1 Violent Crimes”.
- F. Clery Geography** – The campus geographic areas, as defined by the Clery Act, for which Clery Crimes are required to be reported. The geographic categories include the following:
- 1. On-Campus** – Any building or property (i) owned or controlled by the University within the same reasonably contiguous geographic area and used by the University in direct support of, or in a manner related to, the University’s educational purposes, including residence halls; (ii) that is within or reasonably contiguous to the campus that is owned by the University but controlled by another person, is frequently used by students, and supports institutional purposes (such as a food or other retail vendor).
 - 2. Public Property** – All public properties, including thoroughfares, streets, sidewalks, and parking facilities, that are within the campus, or immediately adjacent to and accessible from the campus.
 - 3. Non-Campus Property**
 - a. Buildings or property that are:
 1. owned or controlled by the University; and
 2. used in direct support of, or in relation to, the University’s educational purposes, and
 3. frequently used by students, and
 4. not within the same reasonably contiguous geographic area of the University campus; or
 - b. Any building or properties owned or controlled by a student organization that is officially recognized by the University, or

² 34 C.F.R. 668.46(a) [https://www.ecfr.gov/current/title-34/subtitle-B/chapter-VI/part-668/subpart-D/section-668.46#p-668.46\(a\)\(Campus%20security%20authority\)](https://www.ecfr.gov/current/title-34/subtitle-B/chapter-VI/part-668/subpart-D/section-668.46#p-668.46(a)(Campus%20security%20authority))

- c. Any property outside of the United States if the property otherwise meets the definition of Non-Campus Property described above in subsections a. or b.
- G. Clery Coordinator/Officer** – The employee appointed by the Executive Officer, or designee, at each Campus to coordinate the gathering of all data and policies necessary for the timely filing and distribution of the Annual Security Report and Annual Fire Safety Report.
- H. Emergency Notification** – A notification issued by a designated Campus official promptly informing the University Community, upon confirmation, of a significant emergency or dangerous situation occurring on the campus involving an immediate threat to the health or safety of the University Community.
- I. Emergency Response and Evacuation Procedure Test** – Regularly scheduled drills, exercises, and appropriate follow-through activities, designed for assessment and evaluation of emergency plans and capabilities. The campuses' procedures to test the emergency response and evacuation procedures are on at least an annual basis and must include an Emergency Notification and an evacuation component for a significant portion of the campus.
- J. Executive Officer** – The University President, Chancellor, Lawrence Berkeley National Laboratory Director, or Vice President of Agricultural and Natural Resources.
- K. Hate Crime** – A crime reported to local police agencies or to a CSA that manifests evidence that the victim was intentionally selected because of the perpetrator's bias against the victim. For the purposes of this section, the categories of bias include the victim's actual or perceived race, religion, gender, gender identity, sexual orientation, ethnicity, national origin, and disability. For *Clery Act* purposes, Hate Crimes include any of the following offenses that are motivated by bias: murder and non-negligent manslaughter, manslaughter by negligence, sex offenses (rape, fondling, incest and statutory rape), robbery, aggravated assault, burglary, motor vehicle theft, arson, larceny-theft, simple assault, intimidation, or destruction/damage/vandalism of property.
- L. Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act)** – Also known as the Clery Act, this federal law requires colleges and universities that receive Title IV funding to disclose information about Clery Crimes occurring on Clery Geography and safety related policies.
- M. Missing Student Notification** – A notification issued to an emergency contact, and/or a parent/legal guardian and the local law enforcement agency by a designated UC official when a student who lives in On-Campus housing has been missing for 24 hours.
- N. Pastoral Counselors** – Individuals associated with and recognized by a religious order or denomination as someone who provides confidential counseling and is functioning within the scope of the recognition. Pastoral Counselors do not have CSA responsibilities.
- O. Professional Counselors** – Individuals whose official responsibilities include providing mental health counseling to members of the University Community and

who function within the scope of the counselor's license or certification. When acting within the scope of these responsibilities, Professional Counselors are not CSAs.

P. Timely Warning – A notification issued by the campus police department to alert the University Community about Clery Crimes occurring within the campus' Clery Geography, that are:

1. Reported to, or observed by a CSA; and
2. Considered by the campus to represent a serious or continuing threat to University Community.

III. POLICY TEXT

Each campus must comply with the requirements set forth in the Clery Act and California state laws³ in furtherance of providing a safe and secure learning and work environment for UC students and employees. Systemwide and local audit/compliance offices will conduct periodic audits to confirm compliance with this Policy and any related local procedures.

IV. COMPLIANCE/RESPONSIBILITIES

A. Local Implementation Responsibilities:

Each campus must:

1. Have procedures that allow for students and employees to voluntarily and anonymously notify the University of crimes on and around Campus.
2. Designate, notify and train a Clery Coordinator/Officer.
3. Identify, notify and train all Campus Security Authorities (CSAs).
4. Ensure that there are local implementing procedures in place to comply with the Clery Act.

B. Campus Clery Coordinator/Officer:

The Clery Coordinator/Officer, or designee, responsibilities must include, but are not limited to, the following:

1. Collaborating with the campus police department, collecting and reporting crime statistics for Clery Crimes on Clery Geography as defined in the Clery Act.
2. Publishing and distributing annual crime statistics through the ASR.
3. Collaborating with the campus police department, reviewing the statistics for accuracy prior to submission to the U.S. Department of Education.

³ California state laws include California Child Abuse and Neglect Reporting Act (CANRA), California Penal Code Section 11164-11174.3, Senate Bill 1729, School Safety (Kristen Smart Campus Safety Act), and Assembly Bill 1433, Student Safety (Gatto Bill) as codified in California Education Code Sections 67380 and 67383. Refer to Section VI for respective links to these laws.

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Clery Act Policy – Campus Safety and Security Reporting

4. Coordinating with campus real estate and/or other similar departments, developing and classifying local Clery Geography parameters.
5. Coordinating the distribution of this Policy, and related campus procedures, with appropriate campus offices.
6. Chairing local Clery Act compliance committee.
7. Serving as liaison with the U.S. Department of Education regarding Clery Act matters.
8. Coordinating with the campus fire marshal to ensure compliance/coordination of the AFSR.
9. Distribute the ASR and AFSR to current employees, enrolled students, prospective employees, and prospective students with a notice that includes a statement of the report's availability, the exact electronic address at which the report is posted, a brief description of the report's contents, and a statement that the campus will provide a paper copy of the report upon request.
10. Identifying all Campus Security Authorities (CSAs) and notifying them of their designation and responsibilities as a CSA.
11. Ensuring that all CSAs are trained upon their initial appointment and provided with ongoing training as appropriate.
12. Submitting the ASR to the Office of Ethics, Compliance & Audit Services, Office of the President for informational purposes.
13. Coordinating with appropriate campus units regarding emergency management items related to the Clery Act including a statement of policy regarding disclosure of emergency response and evacuation procedures, conducting and publicizing a Clery Act compliant Emergency Response & Evacuation Procedure Test at least once per year, and the maintaining appropriate documentation for each test.
14. Coordinate as appropriate with other campus units, such as the campus Title IX office, to ensure comprehensive response and prevention with respect to Clery crimes.

C. Campus Security Authority (CSA)

Using the functional duties of a position, rather than the job title, UC campuses must identify and inform students, faculty, other academic staff, staff employees, and volunteers (paid or unpaid, if deemed to be a CSA based on their function) of CSA reporting responsibilities and provide the CSAs with appropriate training.

The CSA, other than members of the campus police department, may not investigate any crime or seek to apprehend any perpetrator. Nothing contained herein is intended to preclude a CSA from conducting appropriate investigations pursuant to other University policies.

The CSAs' responsibilities include, but are not limited to, the following:

1. Reporting, immediately or as soon as reasonably practicable (to the campus police department and/or the Campus Clery Coordinator/Officer) any Clery Act

crimes or incidents which they have been made aware, or witnessed, including information regarding:

- a. When the crime or incident occurred,
 - b. When the crime or incident was reported,
 - c. Where the crime or incident occurred, and
 - d. The nature or description of the crime or incident.
2. The CSA is not a confidential resource. Therefore, the CSA is encouraged to inform victims of crimes of their confidential resources. These resources include employees whose official responsibilities include providing professional or pastoral counseling to members of the UC community and who are functioning within the scope of their license or certification.⁴ The CARE office also provides information about available campus/community resources and the rights and options regarding reporting the crime to the police.
 3. In accordance with California state law⁵, a CSA shall immediately, or as soon as practicably possible, notify local law enforcement of any report received by the CSA of a Part 1 Violent Crime, Hate Crime, or sexual assault (rape, forced sodomy, forced oral copulation, rape by a foreign object, sexual battery, or the threat of any of these), irrespective of where the crime occurred.

In accordance with California law⁵, the CSA shall **not** disclose to local law enforcement the identity of the victim or alleged perpetrator **unless** the victim consents to being identified after being informed of their right to remain anonymous unless the victim is a minor which may trigger separate mandated reporting obligations. If the victim does not consent to being identified, the CSA shall not identify the alleged perpetrator either.

For reports of crimes involving sexual assault, domestic violence, dating violence or stalking, and other instances of Prohibited Behavior as defined by *UC Policy on Sexual Violence and Sexual Harassment* a CSA who is designated as a Responsible Employee under the UC Policy on Sexual Violence and Sexual Harassment shall also notify the campus Title IX Office of such reports in accordance with that policy and local campus procedures.

Any CSA who knowingly fails to report a crime may be subject to disciplinary action.

D. University of California Campus Police Departments

1. Each campus police department will maintain a public crime log, recording criminal incidents within two business days in accordance with regulatory requirements.

⁴ 34 C.F.R. 668.46(a) [https://www.ecfr.gov/current/title-34/subtitle-B/chapter-VI/part-668/subpart-D/section-668.46#p-668.46\(a\)\(Campus%20security%20authority\)](https://www.ecfr.gov/current/title-34/subtitle-B/chapter-VI/part-668/subpart-D/section-668.46#p-668.46(a)(Campus%20security%20authority))

⁵ Assembly Bill 1433, Student Safety (Gatto Bill), as codified in California Education Code Sections 67380 and 67383

2. Any reports of a Part 1 Violent Crime, Hate Crime, or sexual assault received by campus police must be immediately, or as soon as practicably possible, disclosed to the local law enforcement agency with whom the campus has a written agreement pursuant to the Kristen Smart Campus Safety Act of 1998. The campus police may only disclose the identities of the victim and the alleged perpetrator to the local law enforcement agency(ies) if the victim consents to being identified.
3. The campus police department will coordinate with the Clery Coordinator/Officer who is responsible for filing the ASR.
4. The campus police department or other designated departments are responsible for providing Timely Warnings/Emergency Notifications and Missing Student Notifications in accordance with the Clery Act.

E. Confidential Resources

1. Disclosures made to Professional Counselors, licensed psychologists, and Pastoral Counselors, are privileged and confidential and are exempt from the CSA reporting requirements.
2. Disclosures about sexual violence incidents to CARE Advocates will not trigger a University investigation.

F. Annual Security Report (ASR) and Annual Fire Safety Report (AFSR)

By October 1 of each year, campuses will publish and disseminate the ASR and the AFSR that are compliant with the Clery Act (see Footnote #1 for guidance pertaining to required policies and procedures to be included). Each location will submit the web based crime statistics to the U.S. Department of Education by a date set annually by the Department of Education (typically mid-October).

Campuses are required to distribute the ASR and AFSR to current employees, enrolled students, prospective employees, and prospective students with a notice that includes a statement of the reports' availability, the exact electronic address at which the report is posted, a brief description of the reports' contents, and a statement that the campus will provide a paper copy of the report upon request.

ASRs, AFSRs and supporting documents will be retained for as long as designated in the [UC Records Retention Schedule](#). All records pertaining to pending, foreseeable or ongoing litigation; an investigation, an ongoing audit, or a request for records, cannot be destroyed until these actions have been completed or resolved. These records will be maintained according to the University's Records Management Program and instructions from legal counsel.

Data for Clery Crimes occurring on Non-Campus Property, operated by the UC Division of Agriculture and Natural Resources (ANR) programs, will be included in the ASR that is submitted on behalf of each campus that is associated with the particular ANR program. For the UC Education Abroad Program and other UC managed programs (e.g. Washington D.C. office), their Clery Crime data will be included with the data submitted by the UC Office of the President.

G. Retaliation

This Policy and 34 CFR 668.46(m) prohibit retaliation against a person who makes a Clery Act report. Retaliation includes, but is not limited to, threats, intimidation, coercion, reprisals, and/or harmful (adverse) actions related to employment or education.

Any member of the University Community who participates in retaliation may be subject to disciplinary action, including dismissal, according to the University disciplinary procedures.

H. Noncompliance with the Policy

Noncompliance with this Policy is handled in accordance with Faculty, Staff, and Student Policies pertaining to disciplinary matters.

V. PROCEDURES

The Executive Officer or designee at each campus is authorized and responsible for developing procedures or other supplementary information to support the implementation of this Policy. All local procedures must be consistent with this Policy.

VI. RELATED INFORMATION

- A. [The University of California Whistleblower Protection Policy](#)
- B. [The University of California Whistleblower Policy](#)
- C. [The University of California Sexual Violence and Sexual Harassment Policy](#)
- D. [The University of California Reporting Child Abuse and Neglect Policy](#)
- E. [Clery Act – US Department of Education](#)
- F. [Kristen Smart Campus Safety Act of 1998](#)
- G. [California Assembly Bill 1433, Student Safety \(Gatto Bill\)](#)
- H. [FBI Uniform Crime Reporting Program](#)
- I. [University Policy on Substance Abuse](#)
- J. [PACAOS 100.00 Policy on Student Conduct and Discipline](#)
- K. [Title IV funding reference](#)

VII. FREQUENTLY ASKED QUESTIONS

Not Applicable

VIII. REVISION HISTORY

7/14/2022: The interim policy is issued to remove the specific language identified by the Department of Education so that the CARE and Ombuds employees are no longer categorically exempt as a CSA.

5/31/2018 – Added footnotes to reference Federal Regulations and DOE Handbook for Campus Safety and Security Reporting, and California State Laws.

12/18/2017 - This is the initial issuance of this Policy. This Policy also meets the Web Content Accessibility Guidelines (WCAG) 2.0.