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Mount Mt. San Antonio College

CLERY ACT COMPLIANCE ASSESSMENT

DRAFT REPORT

March 2016

Margolis Healy & Associates, LLC

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STATEMENT OF NEED

~~Mount-Mt.~~ San Antonio College, founded 70 years ago is located in Walnut, California and serves over 52,000 commuter students on a suburban campus of over 400 acres that includes a nature reserve and a farm. In addition to several academic programs of note, “Mt. SAC” has a robust athletics program and the College has an international reputation in the sports world for hosting the ~~Mount-Mt.~~ SAC Relays and the Cross Country Invitational.

~~Mount-Mt.~~ San Antonio College (Mt. SAC) retained Margolis Healy & Associates, LLC, to conduct on- and off-site reviews of the College’s Clery Act compliance program. The overall goal of this assessment was to identify opportunities for enhancing policies, procedures, practices, culture, and infrastructure for the College’s Clery Act program.

ORGANIZATION OF THIS REPORT

We present this report in a chapter format with four major parts. Section I contains preface information related to scope and methodology for this assessment. Section II includes general observations and major themes. Section III includes requirements/standards, observations and recommendations related to the Clery Act program, and best practices for enhancing programmatic elements. The recommendations in this section address the areas where we believe Mt. SAC should make improvements to meet prevailing guidance, and best and promising practices. Finally, Section IV includes attachments and reference materials.

ACKNOWLEDGMENTS

Margolis Healy & Associates (MHA) acknowledges the assistance and guidance of Chief David Wilson, who served as our primary liaison for this project and ensured exceptional support of the MHA team, and Deputy Chief Robert Wren whose insight and

time were instrumental to our success. We also thank Vice President Gregoryk for his support while we were on campus, and his active support of the Department of Police/Public Safety ([DSPDPS](#)) in seeking to enhance Mt. SAC's compliance with the Clery Act.

We thank all the members of the Mt. SAC community who participated in our review. Without exception, everyone was welcoming, forthcoming, and honest in her or his opinions and thoughts.

DISCLAIMER AND DISCLOSURE

Margolis Healy & Associates conducted this review and prepared this report at the request of David Wilson, Chief of Police and Public Safety. Margolis Healy's opinions, findings, conclusions, and recommendations are provided solely for Mt. SAC's use and benefit. In presenting our findings, we assume that all policies, policy statements, etc. under review in Margolis Healy's scope of work were implemented in full accordance with Mt. SAC's internal policymaking procedures. Any warranties (expressed and/or implied) are specifically disclaimed. Any statements, allegations, and recommendations in this report should not be construed as a governing policy, or decision, unless so designated by other documentation. The report is based on the most accurate data gathered and available to Margolis Healy & Associates at the time of the assessment and presentation. Our recommendations might be subject to change in light of changes in such data.

SECTION I – METHODOLOGY

In accordance with Mt. SAC's wishes, Margolis Healy assessed the College's compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) against acceptable, promising, and reasonable practices. We also examined the institution's infrastructure to support the various programmatic requirements of the Clery Act. The team conducted on and off-site reviews of the College's most recent annual security report, reviewed data and records, and interviewed key stakeholders during an initial site visit, December 15-17, 2015. The team consisted of Margolis Healy Director for Regulatory Compliance Michael Webster, Senior Associate Aaron Graves, and Associate Eric Chin.

We requested and reviewed several documents, including:

- Last three reportable years of Annual Security Reports (ASRs);
- A list of all Campus Security Authorities (CSA) by position for Clery Act purposes;
- Any policy or procedure that describes how CSAs (other than campus public safety agency) forward incidents to the campus public safety agency. If no policy or procedure exists, we requested a description of this process;
- A copy of the institution's catalog and student handbook for each separate school, division, or location within the institution for the past three academic years;
- A copy of the organizational chart for the institution, and for the Department of Police/Public Safety (DPS) functions of the institution, and for all separate schools, divisions, etc. within the institution;

- The DPS policy manual and policies related to the following functions (dispatch, response to calls for service, report writing, arrests including issuance of citations, and protocols for responding to and/or investigating arson, sexual assault, and high threat/low likelihood events like active shooter or large loss fire);
- Complete list of all call/dispatch codes and codes used in DPS incident reports;
- Complete list of all codes used in the student conduct reporting system;
- The relevant portion of any applications, brochures, disclosures, forms, and other publications related to the Clery Act that is normally distributed to 1) prospective students; 2) prospective employees; 3) first-time students; and, 4) new hires of the College and all separate schools, divisions, etc. within the institution that address campus crime and campus security;
- Copies of all agreements and/or contracts with any agencies or organizations that provide any protective service, security, counseling, or other service related to the institution's security and safety programs;
- Copies of all campus, patrol, and/or sector maps (with legends) utilized by DPS;
- A comprehensive list of all buildings and property owned or controlled by the institution, including leased property (the list should include the address, the building code, and category of the property as defined by the Clery Act: on-campus, residence halls, non-campus property, and public property, etc.);
- Any map used by the office that oversees the assignment of institution's property to educational uses;
- Any prior reports or documentation of reviews of Clery Act compliance, for example, US Department of Education correspondences or consultant reports;

- A chronological list of all timely warning reports for the review period. The listing should include the date and time of the incident, the nature of the incident, and the method(s) of distribution;
- A chronological list of all emergency notifications for the review period that should include the date and time of the incident, the nature of the incident, and the method(s) of distribution;
- The College's "notice of rights and options", the form that informs victims of gender violence of resources and procedural rights; and,
- The most recent 60 days of the Daily Crime Log.

In addition to reviewing the provided documents, the MHA team met with several individuals who have a role in Clery Act compliance representing the following functions:

- Vice President of Administration;
- Mt. SAC Police/Public Safety;
- Los Angeles County Sheriff's Department;
- Dean of Student Services;
- Student Health Services;
- Environmental Safety and Emergency Services;
- Event Services;
- Human Resources;
- Athletics; and
- Title IX Investigations.

SECTION II – GENERAL OBSERVATIONS and MAJOR THEMES

The Clery Act is an institutional responsibility that intends to provide the public, as potential consumers of higher education services, with accurate, complete, and timely information about safety on campus. Compliance with the Clery Act provides students and families with the information that may prove helpful in making informed decisions about the relative safety on specific campuses.

The Clery Act requires institutions of higher education to publish information about their campus security policies and to give timely warnings of crimes that represent a threat to the safety of students or employees. It also requires the institution to collect crime data, report those data to the campus community and to submit the statistics to the Department of Education (ED).

To comply with the Clery Act regulations, Mt. SAC has several obligations falling into three main categories: 1) policy disclosure; 2) records collection and retention; and 3) information dissemination.

1. Policy disclosure: Mt. SAC must provide the campus community with accurate statements of current security policies and practices regarding a wide range of issues, including its policies and programming related to sexual assault, dating and domestic violence, and stalking.
2. Records collection and retention: Mt. SAC must collect and maintain certain records and request crime statistics from the applicable local law enforcement agencies.
3. Information dissemination: Mt. SAC must also provide campus community members with information about their safety and disseminate that information in several ways.

The Violence Against Women Reauthorization Act of 2013 amended the Clery Act in several significant ways. The VAWA Amendments require institutions to undertake robust and proactive measures to prevent and respond to reports of sexual violence, stalking, and intimate partner violence. ED expects full compliance with the final regulations (<https://www.federalregister.gov/articles/2014/10/20/2014-24284/violence-against-women-act>) after July 1, 2015. Compliance with the final regulations requires coordination and collaboration across the campus, from many offices and departments that have not, heretofore, had a significant stake in Clery Act compliance.

Compliance with the Clery Act is not simply a matter of entering statistics into a website or publishing a brochure once a year. Institutions achieve compliance through collaboration – this coordination ensures Mt. SAC develops the appropriate policies, gathers accurate information from all the required sources, and translates it into the appropriate categories. Finally, a campus-wide approach ensures Mt. SAC is disseminating the right information, at the right time, and maintaining the appropriate records. Many people at Mt. SAC, from the President to individuals charged with day-to-day compliance to designated campus security authorities, should be involved in compliance activities.

Mt. SAC has several challenges regarding Clery Act compliance, and should aggressively implement the recommendations in this report to address these challenges, and enhance its overall compliance. We have identified several areas that require attention and, in some cases, may require Mt. SAC to commit additional resources. We noted Deputy Chief Wren's leadership of the compliance effort but feel the breadth of compliance challenges may require more attention than he can provide given his other duties. It is clear Mt. SAC's leadership is committed to Clery Act compliance; however, a lack of proper training regarding Clery Act institutional obligations and responsibilities currently hampers this effort. We reiterate that the Clery Act is an institutional

responsibility and that compliance relies on coordination and collaboration across several areas of the College. This concept underpins the need for a Clery Coordinating Committee, along with the appropriate capacity to manage the Clery Act program.

Below, we highlight the major themes arising from this assessment.

1. Campus Security Authorities (CSAs)

CSAs serve a vital role on campus. Management of this role is critical to compliance. The regulations outline four groups of officials that are CSAs; law enforcement or security departments, individuals who have responsibilities for campus security but are not considered a campus police or security department, an individual or organization that has been designated by policy for crimes to be reported to, and an official of the institution who has significant responsibility for student and campus activities. {Note: “An official is defined as any person who has the authority and the duty to take action or respond to particular issues on behalf of the institution.” [Handbook for Campus Safety and Security Reporting (Handbook), ED 2011, p. 74]}.

Campus community members disclose crimes to many different people and offices. For example, a student may tell an advisor or coach about victimization, and an employee often reports incidents to supervisors. For this reason, the Clery Act requires all institutions to collect crime reports from a variety of officials on campus. These identified officials are required to report to the official or office designated by the institution to collect crime report information, such as DPS. It is important to note that the Clery Act defines a crime as being “reported” when it is brought to the attention of a campus security authority or local law enforcement personnel by a victim, witness, other third party or even the offender.

The Handbook recommends that institutions identify their CSAs; ensure these

CSAs know they are CSAs; and provide training to all CSAs to ensure they understand their roles and responsibilities.

We commend current efforts to identify CSAs throughout the Athletic Department. However, this group represents a small portion of CSAs at Mt. SAC. The College does not have a system in place to identify, notify, or certify (train) CSAs. In addition to staff in Athletics, CSAs are department heads, deans, coaches, faculty who are leading study trips beyond normal classroom duties (ex. a study trip abroad) and the advisors of over sixty recognized student organizations.

In our experience, an institution can expect between ten and twenty percent of its full time employee count will be CSAs. CSAs generally fall into two categories...

- those relatively less likely to receive a report of a crime, for example the advisor to the chess club; and,
- those more likely to receive such a report, for example; a Director of Student Life; or those who supervise relatively large numbers of CSAs, for instance, the Athletics Director.

2. Training

The era when Clery Act compliance was something that DPS could solely provide disappeared when the Violence Against Women Act amended the Clery Act and the government published regulations in 2014. The Clery Act touches all the divisions of Mt. SAC. The Clery Act affects DPS in a number of ways. It also requires regular participation by many of the offices with whom we met while on campus and others with whom we did not meet. For example, trips by the College, such as recreational or study trips may create Clery Act geographies (i.e. noncampus properties) for which Mt. SAC has crime data collection obligations. We suggest three types of training are required to ensure Mt.

SAC has an appropriately well-developed Clery Act compliance effort:

- Executive level training – A brief overview allowing the leadership of the College to understand, at a high level, the requirements of the Act, the enforcement processes employed by ED, the compliance challenges faced by management and administration, the essential tasks, and the required compliance “outputs” such as the ASR, programming for sexual violence reduction, etc.
- Administrator and manager level training – An in-depth training program providing those overseeing CSAs or ensuring Mt. SAC is complying with the Clery Act requirements with understanding of the elements of the Clery Act, the enforcement methodologies of the Clery Compliance Team at ED, the importance of recordkeeping, etc. This program should also include a “train the trainer” program for CSA managers.
- CSA training in the near term providing them understanding in their responsibilities.

Several examples of non-compliance concerned us as we reviewed crime statistics and crime logs. We provide more detail on these issues later in this report, but they are illustrative of a lack of training in and understanding of the Clery Act and include inadequacies in the daily crime log, gathering crime data from local police, and inadequate data audit processes for campus crime classification. We example a real and recent consequence of failing to attend to Clery Act compliance in ED’s 2014 \$10,000 fine of the University of Nebraska – Kearney for a misclassified burglary.

3. Clery Coordinator and Clery Coordinating Committee

We acknowledge and applaud the work of Deputy Chief Wren in the area of Clery Act compliance. Indeed, Deputy Chief Wren has done much in a short time. Deputy Chief Wren has several important and large-scale projects, Clery compliance among them. While we appreciate his effort, we recognize that an institution the size and complexity of Mt. SAC will likely require 50% of a full time position devoted to Clery Act compliance. This position should be a management level position with an appropriate charge to ensure cooperation by members of the Mt. SAC community. Like the Title IX coordinator, we believe the Clery Coordinator is a critical position within the College's compliance effort. Further, we strongly believe the Clery Coordinator should chair an interdisciplinary standing committee of the College. That committee charge should derive from the President or the President's executive leadership body. Such a charge ensures Clery issues have appropriate gravitas to compel meaningful response.

4. Timely Warnings and Emergency Notifications

Mt. SAC has a practice that reflects its policy for issuing both timely warnings and emergency notifications. The issuance of a timely warning consists of multiple steps, including DPS initiating the process, and the Director of Marketing implementing the process. An emergency notification includes an extra step with the authorization of the Mt. SAC President. Even though both practices have worked effectively to date, there are multiple potential points of failure. The College depends primarily on cellular telephone for communications between DPS personnel, the Chief, and the Director of Marketing. The initiate of an emergency warning requires the additional step of approval by the President. In the event of a failure of the cellular network or related equipment failure, the process will fail. The layers of approval for emergency notifications add yet another potential point of failure. DPS must be able to send the notifications out on campus at

any time. Mt. SAC can develop template messages ~~can~~ to address the College's concerns. Mt. SAC should pare the message approval process with designees assigned if the primary approver is unavailable. ED strictly construes compliance by an institution with its own policy and views any deviation from it as a violation of the Clery Act.

SECTION III – SPECIFIC OBSERVATIONS

Policy & Program Development, Implementation & Disclosure

[668.46(b)] Annual Security Report

“An institution must prepare an annual security report reflecting its current policies that contains, at a minimum...”

Observations

We commend Mt. SAC for its attempt to deliver the content in sections that reflect the various elements of the Clery Act regulations. We suggest further alignment. We have provided a template ASR with a table of contents and suggested order. Headings within that document that correspond to the applicable section of the Regulations would aid in preparation and review. If Mt. SAC retains the existent format, we recommend maintaining an annotated copy that documents compliance with each element of the regulation for internal review. Another strategy is to use the key terms from each regulation in the text of the ASR to allow ease of compliance checks by internal reviewers. We note areas where required policies were missing, or where practice described during our visit disagreed with the required disclosures of policy, policy statements, procedures, etc. We address each of these in detail within this Report.

Recommendation

1. Reorganize the ASR to align sequentially with the Clery Act requirements as outlined in the regulations. We provided a template ASR with a table of contents as Attachment 1.

Title IX Notice of Non-Discrimination

U.S. Department of Education, Office for Civil Rights Fact Sheet, August 2010

“The Title IX regulation requires schools and colleges to implement specific and continuing steps to inform students and others of the protections against discrimination on the basis of sex. The notification must state that the requirement of non-discrimination in educational programs and activities extends to employment and admission. It also must say people may refer questions about Title IX to the employee designated to coordinate Title IX compliance or to the assistant secretary for civil rights. Schools are required to include the name, address, and telephone number of the designated coordinator in their notifications.”

“In accordance with the Title IX and Section 504 regulations, notification may include posting information notices, publishing in local newspapers, publishing in newspapers and magazines operated by the school or its students, publishing in alumnae or alumni newspapers or magazines, or distributing memoranda or other written communications to students and employees. In addition, recipients are required to include a statement of nondiscriminatory policy in any bulletins, announcements, publications, catalogs, application forms, or other recruitment materials that are made available to participants, students, applicants, or employees.”

The United States Department of Education (ED) Office of Civil Rights (OCR) provides additional guidance on this matter at <http://www2.ed.gov/about/offices/list/ocr/docs/nondisc.pdf>. Although not required by the regulation or the hyperlinked guidance OCR has repeatedly recommended Title IX coordinator’s email be included in the notice of non-discrimination.

Observations

As noted above, the regulations implementing Title IX include a requirement for institutions to issue a notice of non-discrimination. Institutions should include this notice

in all official publications, including the Clery Act-required ASR. Mt. SAC's current ASR does not include the required notice.

Recommendation

2. Include a Title IX compliant notice of non-discrimination in the ASR.

[668.46(b)(1)] Crime Statistics

"...The crime statistics described in paragraph c of this section." (Please see the section entitled "Section 668.46(c)" for complete information regarding Mt. SAC's compliance with crime statistical reporting obligations.)

[668.46(b)(2)]: Statement of Procedures for Students and Others to Report Criminal Actions and Other Emergencies Occurring on Campus

"A statement of current campus policies regarding procedures for students and others to report criminal actions or other emergencies occurring on campus. This statement must include the institution's policies concerning its response to these reports, including—"

Observation

The section Reporting to Public Safety on page 4, complies with this requirement.

Recommendation

None

[668.46(b)(2)(i)] "Timely Warnings Reports"

"Policies for making timely warning reports to members of the campus community regarding the occurrence of crimes described in paragraph (c)(1) of this section."

Please see Section 668.46(e) for Observations and Recommendations for Timely Warnings.

[668.46(b)(2)(ii)] “Policies for preparing the annual disclosure of crime statistics”

As stated in the Handbook on p. 122, this requirement refers to how the ASR is prepared, and includes a brief description explaining the purpose of the report, who prepares it and how and from what sources the crime statistics are collected.

Observation

Page 3, under the section Preparation of the Annual Security Report and Disclosures of Crime Statistics provides a compliant statement.

Recommendation

None

[668.46(b)(2)(iii)]: To Whom Students and Employees Should Report Criminal Offenses

“A list of the titles of each person or organization to whom students and employees should report the criminal offenses described in paragraph (c)(1) of this section for the purpose of making timely warning reports and the annual statistical disclosure. This statement must also disclose whether the institution has any policies or procedures that allow victims or witnesses to report crimes on a voluntary, confidential basis for inclusion in the annual disclosure of crime statistics, and, if so, a description of those policies and procedures. “

Observations

Although the ASR provides compliant language on pp. 4-5 we learned individuals listed in the ASR have not properly notified all of them of their responsibilities, nor trained to receive and take appropriate action on reports of crimes. We commend efforts by Mt. SAC's to develop knowledge of Clery Act requirements within DPS leadership. As described earlier, Clery Act compliance is an institutional responsibility and other key

institutional stakeholders were less informed of Clery Act required policies and procedures. Further, the pages noted do not contain any policy guidance on what action Mt. SAC expects of a CSA who receives a report of crime.

Recommendations

3. Identify, notify, and train (certify) CSAs to properly perform the functions required by federal regulation and Mt. SAC policy.
4. Develop policy guidance for actions expected of CSAs who receive crime reports.

[668.46(b)(2)(iv)]: Policies or procedures for victims or witnesses to report crimes on a voluntary, confidential basis for inclusion in the annual disclosure of crime statistics.

Observation

Page 5 under the section Voluntary, Confidential Reporting provides compliant language.

Recommendation

None

[668.46(b)(3)]: Current Policies Concerning Security of and Access to Campus Facilities

“A statement of current policies concerning security of and access to campus facilities, including campus residences, and security considerations used in the maintenance of campus facilities.”

Observations

The ASR appropriately addresses this requirement in the section Access & Security Issues on pp. 9-10. The practice at Mt. SAC echoes the ASR.

Recommendation

None

[668.46(b)(4)(i)) and (ii)(A)(B)]: Addresses the Enforcement Authority and Jurisdiction of Security Personnel

“...must address enforcement authority of security personnel including relationships with local and state police, whether security personnel have arrest authority and any agreements, such as written memoranda of understandings between the institution and such agencies, for the investigation of alleged criminal offenses.”

Observations

The Campus Law Enforcement Authority section on p. 3 provides partially compliant language. The section does not address the enforcement authority of security personnel who are non-sworn, contractually hired personnel who assist with security (both casually hired non-sworn security staff and law enforcement officers), etc.

Recommendation

5. Include a statement that specifically addresses arrest authority in the context of the Education Section 72330(a), or other arrest authority per the Clery Act regulation above.

[668.46(b)(4)(iii)]: Encourages Accurate & Prompt Reporting of All Crimes

“Encourages accurate and prompt reporting of all crime to the campus police and appropriate police agencies, when the victim of a crime elects to or is unable to make such a report; and”

Observation

The ASR generally, and specifically in the Reporting to Public Safety through the Blue Light Phones sections on pp. 4-6 fails to encourage accurate and prompt reporting of crimes to the appropriate authority.

Recommendation

6. Emphasize the need for accurate and prompt reporting when encouraging students and staff to report crimes, and incorporate this element into crime prevention and security awareness programming (for example, new student and employee orientations, ongoing crime prevention programs, etc.).

[668.46(b)(4)(iv)]: Encouraging Recognized Counselors to Inform Clients

“Describes procedures, if any, that encourage pastoral counselors and professional counselors, if, and when they deem appropriate, to inform the persons they are counseling of any procedures to report crimes on a voluntary, confidential basis for inclusion in the annual disclosure of crime statistics.”

Observation

Page 5, under the section, Pastoral and Professional Counselors, provides compliant language.

Recommendation

None

[668.46(b)(5)]: Programs for Campus Security Procedures, Practices & Safety Awareness

“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.”

Observations

The section Safety, Our Number One Priority on p. 4 encourages students, employees, and visitors to play a role in keeping the campus safe. While this is an

important campus value, it is not a “program.” On p. 23, the section Crime Prevention and Safety Awareness does not describe the type nor frequency of programs designed to inform students and employees about campus safety procedures and practices.

Recommendation

7. Describe Mt. SAC’s programs that address campus security procedures and practices and the frequency with which Mt. SAC offers such programs for students and employees including the elements of “...responsible for their own security and the security of others.” If Mt. SAC does not provide such program, The ASR should state this.

[668.46(b)(6)]: Programs to Inform Students & Employees re: Crime Prevention

“A description of programs designed to inform students and employees about the prevention of crimes.”

Observations

The ASR’s section Crime Prevention and Safety Awareness (p. 23) informs the community the institution provides a variety of services and crime prevention programming. It fails to specify and provide a description of programs offered.

Recommendation

8. Describe programs designed to inform students and employees about the prevention of crimes. If Mt. SAC does not provide such program, The ASR should state this.

[668.46(b)(7)]: Monitoring and Recording Criminal Activity at Off-Campus Locations of Student Organizations

“A statement of policy concerning the monitoring and recording through local police agencies of criminal activity in which students engaged at off-campus locations of student organizations officially recognized by the institution, including students

organizations with off-campus housing facilities.”

Observation

Mt. SAC reports no recognized student organizations at off campus locations.

Recommendation

None

[668.46(b)(8)]: Alcohol Policies and Enforcement of State Underage Drinking Laws

“A statement of policy regarding the possession, use and sale of alcoholic beverage and enforcement of State underage drinking laws.”

Observations

The section Policies Governing Alcohol and Other Drugs on pp. 23-27 of the ASR provides a statement of policy regarding the possession, use, and sale of alcoholic beverages and addresses consumption. The last sentence in paragraph two of the section states: *“The possession or consumption of alcoholic beverages or illegal drugs prior to, or during any College sponsored activity, on or off-campus, by any person attending, regardless of age is forbidden by State law.”* This statement reflects how Mt. SAC will address a policy violation and does not explain how Mt. SAC will enforce state laws.

Recommendations

9. Add to the statement of policy how Mt. SAC will enforce state underage drinking laws.
10. Amend the source policy.

[668.46(b)(9)]: Illegal Drug Policies & Enforcement of Applicable State, Federal Laws

“A statement of policy regarding the possession, use and sale of illegal drugs and enforcement of Federal and State laws.”

Observation

The section Policies Governing Alcohol and other Drugs on pp. 23-27 provides a statement of policy regarding the possession, use, and sale of illegal drugs but fails to include in the statement the enforcement of Federal and State laws.

Recommendations

11. Include in the statement of policy how Mt. SAC will enforce Federal and State drug laws.
12. Amend the source policy.

[668.46(b)(10)]: Drug or Alcohol Abuse Education Programs

“A description of any drug or alcohol abuse education programs, as required under 120 (a) through (d) of the HEA. For purposes of meeting this requirement, an institution may cross-reference the materials the institution uses to comply with section 120(a) through (d) of the HEA.” *(Note: We caution Mt. SAC that ED has assigned compliance with this section to Federal Student Aid and since 2012 has put institutions on notice that enforcement activity would be increased* (<http://www.higheredcompliance.org/resources/publications/DrugFreeSchools.pdf>).

Observations

The ASR fails to provide a description of any drug or alcohol abuse education programs. We provide guidance in compliance as attachment 7.

Recommendations

13. Provide a description of any drug or alcohol abuse education programs conducted by Mt. SAC. If Mt. SAC conducts those programs in compliance with the Drug Free Schools and Campuses Regulations they may be cross-referenced.

14. Ensure Mt. SAC complies with all the provisions of the Drug Free Schools and Campuses Regulations, of which the Clery Act only incorporates a portion.

[668.46(b)(11)]: VAWA Amendments to the Clery Act

The Violence Against Women Reauthorization Act of 2013 amended the Clery Act, and went into effect on March 7, 2014. The amendment requires institutions to conduct an in-depth assessment and probable revision of its policies, procedures, and practices related to sex offenses, domestic violence, dating violence, and stalking. On Monday, October 20, 2014, the U.S. Department of Education published the final revised Clery Act regulations amending the Student Assistance General Provisions regulations issued under the Higher Education Act of 1965, as amended (HEA), to implement the changes made to the Clery Act by VAWA).

In this section, we have combined all of the policies, policy statements, and procedural requirements for the VAWA covered offenses. This includes the regulation sections of 668.46(b)(11); 668.46(j); 668.46(k); and 668.46(m). We discuss changes affecting section 668.46(c) (Crime Statistics) in the section entitled 668.46(c).

[668.46(b)(11)]: Statement of Policy regarding Programs to Prevent Dating Violence, Domestic Violence, Sexual Assault and Stalking

“A statement of policy regarding the institution’s programs to prevent dating violence, domestic violence, sexual assault, and stalking, as defined in paragraph (a) of this section, and of procedures that the institution will follow when one of these crimes is reported. The statement must include...”

[668.46(b)(11)(i)]: Description of Educational Programs and Campaigns

“...A description of the institution’s educational programs and campaigns to promote the awareness of dating violence, domestic violence, sexual assault, and stalking, as required by paragraph (j) of this section;”

Observations

On pp. 20-21, the ASR states that Mt. SAC provides programming to promote the awareness and prevention of “rape, acquaintance rape, domestic violence, dating violence, sexual assault, and stalking” and includes the frequency of programs noting the College provides training annually, and at new student and employee orientations. Within these pages, the ASR describes other related education and prevention programs. In addition to the programming, at new student orientation Mt. SAC provides students with a sexual violence information card with messages pertaining to sexual violence and the definitions for stalking, dating violence, domestic violence and sexual harassment.

Health Services is the primary facilitator of prevention and awareness programs on campus. In discussions with Mt. SAC stakeholders, we noted a true passion for developing and providing prevention programming. The list of prevention programs is robust and the coordinators are knowledgeable and experienced. Not only do they provide various training courses, they are included in the drafting of the ASR. Currently, Health Services, along with other stakeholders are rewriting the Sexual Violence Policy.

We noted a lack of programming addressing stalking, dating violence, or domestic violence where males are victims as the “House of Ruth” provides services to “women who are dealing or recovering from domestic violence.” Further, there is a general lack

of attention to stalking in the programs. We caution Mt. SAC that stalking does not occur exclusively in the context of sexual harassment.

Recommendations

15. Describe prevention and educational programs for male victims of dating violence and domestic violence.
16. Describe or develop prevention and educational programming pertaining to or including stalking.

[668.46(b)(11)(ii)]: Procedures Victims Should Follow

“...Procedures victims should follow if a crime of dating violence, domestic violence, sexual assault, or stalking has occurred including written information about...”

Observations

Beginning on p. 15 the ASR lists procedures for victims to follow. This section emphasizes sexual violence, failing to include stalking. The ASR uses the term “sexual violence” although it is undefined, and it is unclear if it includes dating violence and domestic violence or refers exclusively to sexual assault. On p. 17, in the section titled Confidentially Reporting an Assault, students and employees are encouraged to contact the Title IX office to file complaints of sexual assault, dating violence, domestic violence and stalking. The procedures to contact law enforcement are limited to sexual assault, omitting direction for victims of dating violence, domestic violence and stalking.

Recommendations

17. Define the term “sexual violence” and modify the policy to ensure all the crimes listed in the regulation above are addressed, or (as we recommend) exclusively use the terms of the regulation.

18. Include procedures for victims of dating violence, domestic violence and stalking to follow in contacting law enforcement.

[668.46(b)(11)(ii)(A)]: The Importance of Preserving Evidence

“The importance of preserving evidence that may assist in proving that the alleged criminal offense occurred or may be helpful in obtaining a protection order;”

Observation

In the ASR, under the section titled What to do in an Event of an Assault, (p. 15), it guides victims of sexual assault in the preservation of evidence, but the ASR does not guide victims of dating violence, domestic violence, and stalking.

Recommendation

19. Advise victims how to preserve evidence for incidents of dating violence, domestic violence, and stalking.

[668.46(b)(11)(ii)(B)]: Reporting Incidents

“How and to whom the alleged offense should be reported;”

Observations

Throughout the ASR between pp. 15 and 18 there are several sentences that address reporting options, including law enforcement and the Title IX office. It appears Mt. SAC intended to address this requirement specifically by providing a section titled Sexual Assault, Domestic Violence, Dating Violence, and Stalking Reporting Options but provided text that appears to be a statement of non-discrimination and is likely a copy layout error.

Recommendation

20. Provide specific guidance on reporting options that a victim can easily find within the ASR. (The notice of non-discrimination is important to include and we addressed it earlier in this report.)

[668.46(b)(11)(ii)(C)]: Law Enforcement and Campus Officials Involvement

“...Options about the involvement of law enforcement and campus authorities, including notification of the victim’s option to...

[668.46(b)(11)(ii)(C)(1): “Notify proper law enforcement authorities, including on-campus and local police;”

[668.46(b)(11)(ii)(C)(2)]: Campus Authorities must Assist

“...Be assisted by campus authorities in notifying law enforcement authorities if the victim so chooses; and,”

[668.46(b)(11)(ii)(C)(3)]: “Decline to notify such authorities; and...”

Observations

Pages 16-17 of the ASR address the involvement of law enforcement and campus officials. Following that statement are directions for victims of sexual assault, dating violence, domestic violence, and stalking to contact the Title IX office. Continuing in the next paragraph is a statement that encourages victims of sexual assault to report their incident to law enforcement, and identified CSAs. This passage advises specifically on sexual assault, omitting dating violence, domestic violence, and stalking. The ASR refers victims to contact the LASD, the primary law enforcement agency in the area, to report incidents that occurred on or near campus.

The ASR advises Mt. SAC will assist victims of “sexual violence” in contacting law enforcement if they wished to do so. As noted earlier, this term is unclear and does not directly address victims of dating violence, domestic violence, and stalking.

In interviews with LASD, they acknowledged leadership of any criminal investigation on or within campus. The assigned LASD deputy investigating the reported incident on campus will work closely with DPS, but will do so with limitations. The amount of information released by LASD to Mt. SAC officials will be on the same level as what they would release to the public.

The ASR does not specifically address the victim’s right to decline to notify law enforcement.

Recommendations

21. Ensure the ASR provides law enforcement options and information to victims of dating violence, domestic violence, and stalking as well as sexual assault.
22. Provide victims the right to decline to notify law enforcement. *(Note: While we endorse encouraging reporting to law enforcement, it should be relatively equal in the context and weight to the right to decline so a victim does not infer an implicit requirement to report to law enforcement.)*

[668.46(b)(11)(ii)(D)]: Rights of victims and the institution’s responsibilities for orders of protection, "no contact" orders, restraining orders, or similar lawful orders

“Where applicable, the rights of victims and the institution’s responsibilities for orders of protection, "no contact" orders, restraining orders, or similar lawful orders issued by a criminal, civil, or tribal court or by the institution.”

Observation

On p. 17, the ASR describes the rights of victims and Mt. SAC’s responsibilities for orders of protection. Page 21, Restraining/Protective Orders, tells a victim where to obtain

an order of protection but fails to mention the institution's responsibilities for orders of protection.

Recommendation

23. Explain Mt. SAC's responsibilities in assisting a victim to obtain an order of protection or actions the College may initiate to issue a no contact order.

[668.46(b)(11)(iii)]: Protecting Confidentiality

"Information about how the institution will protect the confidentiality of victims and other necessary parties, including how the institution will..."

[668.46(b)(11)(iii)(A)]: Confidentiality of Publicly Available Records

"...Complete publicly available recordkeeping, including Clery Act reporting and disclosures, without the inclusion of personally identifying information about the victim, as defined in section 40002(a)(20) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a)(20)); and,"

Observations

Student Rights and Due Process, pp. 18-19 of the ASR advises students that Mt. SAC will tell parties to a student disciplinary process how the College will protect the confidentiality of victims, including how publicly available recordkeeping will be accomplished without the inclusion of identifying information about the victim to the extent permissible by law. This passage does not provide the required information. The regulation requires the College to disclose in its ASR how it will meet the confidentiality requirements for parties. Further, the ASR only addresses student disciplinary proceedings. Later in this Report, we note the need to provide descriptions of disciplinary processes for both students and employees.

Recommendation

24. Identify how the institution will protect the confidentiality of victims and other necessary parties in the ASR both for student and employee disciplinary systems.

[668.46(b)(11)(iii)(B)]: Confidentiality of Accommodations or Protective Measures

“Maintain as confidential any accommodations or protective measures provided to the victim, to the extent that maintaining such confidentiality would not impair the ability of the institution to provide the accommodations or protective measures;”

Observation

The College fails to specifically address the confidentiality of accommodations or protective measures provided to the victim.

Recommendation

25. Provide a statement in the ASR that the institution will maintain as confidential any accommodations or protective measures provided to the victim, to the extent that maintaining such confidentiality would not impair the ability of the institution to provide the accommodations or protective measures.

[668.46(b)(11)(iv)]: Written Notice of Rights and Options

“A statement that the institution will provide written notification to students and employees about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for victims, both within the institution and in the community.”

Observation

The ASR fails to specify Mt. SAC will provide written notification of counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, and other services available for victims, both within the institution and in the community.

Recommendation

26. Provide written notification to students and employees about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, and other services available for victims within the institution and community.

[668.46(b)(11)(v)]: Written Notice: Accommodations and Protective Measures

“A statement that the institution will provide written notification to victims about options for, available assistance in, and how to request changes to academic, living, transportation, and working situations or protective measures. The institution must make such accommodations or provide such protective measures if the victim requests them and if they are reasonably available, regardless of whether the victim chooses to report the crime to campus police or local law enforcement.”

Observations

On page 17 of the ASR, Mt. SAC provides a statement that they will arrange for changes to the victim's class schedule, work environment, arrange for alternate transportation, and even provide for safety escorts. We applaud this very inclusive list of services regarding protective measures for the victim. However, the ASR fails to address services for legal assistance, visa and immigration assistance, and student financial aid. We learned that Mt. SAC is in the process of updating these policies at the

time of our visit, and the new policies and procedures will address issuing a comprehensive Notice of Rights and Options.

Recommendation

27. Include a statement in the ASR (and the written notice itself) that the institution will provide written notification to victims and ensure it includes the types of assistance noted above as missing.
28. Ensure both the notice and the ASR provide access to these accommodations regardless of whether the victim chooses to report the crime to campus police or local law enforcement.

[668.46(b)(11)(VI)]: Institutional Disciplinary Action for VAWA Offenses (see Section 668.46(k), below, for specific guidance regarding disciplinary action.)

“An explanation of the procedures for institutional disciplinary action in cases of alleged dating violence, domestic violence, sexual assault, or stalking, as required by paragraph (k) of this section; and,”

Observations

Student Rights and Due Process, pp. 18-19 of the ASR provides information on the disciplinary process for students. There is no mention of a process for adjudicating offenses involving employees. Later in this report, we refer Mt. SAC to the University of California, Berkeley’s ASR as a model for this requirement.

Recommendation

29. Describe the institutional disciplinary process for employees.

[668.46(b)(11)(vii)]: Written Notice Required for On and Off Campus Incidents

“A statement that, when a student or employee reports to the institution that the student

or employee has been a victim of dating violence, domestic violence, sexual assault, or stalking, whether the offense occurred on or off campus, the institution will provide the student or employee a written explanation of the student's or employee's rights and options, as described in paragraphs (b)(11)(ii) through (vi) of this section."

Observation

The ASR fails to contain the required statement.

Recommendation

30. Include in the ASR a statement that Mt. SAC will provide a compliant notice regardless of the location of the offense.

[668.46(j)]: Programs to Prevent VAWA Covered Crimes

"As required by paragraph (b)(11) of this section, an institution must include in its annual security report a statement of policy that addresses the institution's programs to prevent dating violence, domestic violence, sexual assault, and stalking."

[668.46(j)(1)]: The statement must include...

[668.46(j)(1)(i)]: Description of Primary Prevention and Awareness Programs

"A description of the institution's primary prevention and awareness programs for all incoming students and new employees, which must include..."

[668.46(j)(1)(i)(A)]: Statement Prohibiting Dating Violence, Domestic Violence, Sexual Assault, and Stalking

"A statement that the institution prohibits the crimes of dating violence, domestic violence, sexual assault, and stalking, as those terms are defined in paragraph (a) of this section..."

[668.46(j)(1)(i)(B)]: “The definition of “dating violence,” “domestic violence,” “sexual assault,” and “stalking” in the applicable jurisdiction;”

[668.46(j)(1)(i)(C)]: “The definition of “consent,” in reference to sexual activity, in the applicable jurisdiction;”

[668.46(j)(1)(i)(D)]: “A description of safe and positive options for bystander intervention;”

[668.46(j)(1)(i)(F)]: “The information described in paragraphs (b)(11) and (k)(2) of this section; and...”

[668.46(j)(1)(ii): Description of Ongoing Prevention and Awareness Campaigns

“A description of the institution’s ongoing prevention and awareness campaigns for students and employees, including information described in paragraph (j)(1)(i)(A) through (F) of this section.”

[668.46(j)(2)(i)–(v): Definitions of Awareness Programs, Bystander Intervention, Ongoing Prevention, Primary Prevention, and Risk Reduction

While not required in the ASR programs must meet these definitions.

- *Awareness programs means community-wide or audience-specific programming, initiatives, and strategies that increase audience knowledge and share information and resources to prevent violence, promote safety, and reduce perpetration*
- *Bystander intervention means safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of dating violence, domestic violence, sexual assault, or stalking. Bystander intervention includes recognizing situations of potential harm, understanding institutional structures and cultural conditions that facilitate violence, overcoming barriers to intervening, identifying safe and effective intervention options, and taking action to intervene.*

- *Ongoing prevention and awareness campaigns means programming, initiatives, and strategies that are sustained over time and focus on increasing understanding of topics relevant to and skills for addressing dating violence, domestic violence, sexual assault, and stalking, using a range of strategies with audiences throughout the institution and including information described in paragraph (j)(1)(i)(A) through (F) of this section.*
- *Primary prevention programs means programming, initiatives, and strategies informed by research or assessed for value, effectiveness, or outcome that are intended to stop dating violence, domestic violence, sexual assault, and stalking before they occur through the promotion of positive and healthy behaviors that foster healthy, mutually respectful relationships and sexuality, encourage safe bystander intervention, and seek to change behavior and social norms in healthy and safe directions.*
- *Risk reduction means options designed to decrease perpetration and bystander inaction, and to increase empowerment for victims in order to promote safety and to help individuals and communities address conditions that facilitate violence.*

[668.46(j)(3)]: Prevention Programs: Mandatory Components

“An institution’s programs to prevent dating violence, domestic violence, sexual assault, and stalking must include, at a minimum, the information described in paragraph (j)(1) of this section.”

Observations

Mt. SAC displays initiative and a desire to excel by providing several prevention and awareness programs. While the descriptions suggest these are very good programs, we draw Mt. SAC’s attention to very specific elements these programs must meet.

Mt. SAC’s ASR omits dating violence and stalking programs although the introductory paragraph on p. 20 includes these topics. On p. 62784 of the Federal Register (10/20/14) the regulations, define programs as “...culturally relevant, inclusive

of diverse communities and identities...” We caution Mt. SAC to ensure its programs include these communities and their challenges. This requirement is most easily satisfied if the College has undertaken a climate assessment survey.

On p. 10 of the ASR, a statement clearly addresses the prohibition of sexual assault, dating violence, domestic violence, and stalking on campus.

Definitions on pp. 10-12 are compliant and understandable for 668.46(j)(1)(i)(B) and (C).

Mt. SAC provides a compliant description of safe and positive options for bystander intervention (p.21), and includes a list of risk reduction strategies that applies to incidents of sexual assault, dating violence, domestic violence, and stalking (pp. 13-15).

As we noted earlier, the ASR does not include a description of prevention and awareness programs specifically for incoming employees.

Recommendations

31. List and describe prevention and awareness programming on dating violence, stalking, and domestic violence that satisfies the definition’s requirement for “diverse communities and identities.”
32. Initiate a climate assessment survey. We provide resources in Attachment 9.
33. Describe programs for incoming employees on these topics.
34. Ensure programs are meeting the Clery Act definitions as provided above, bearing in mind this section lists the requirements of programs, not information required in the ASR.
35. Ensure the ASR contains a compliant definition of consent per the California “Yes means yes” statute (SB 967).

[668.46(k)]: Disciplinary Action for VAWA Covered Crimes

“As required by paragraph (b)(11)(vi) of this section, an institution must include in its annual security report a clear statement of policy that addresses the procedures for institutional disciplinary action in cases of alleged dating violence, domestic violence, sexual assault, or stalking and that...” *(Note: MHA reminds Mt. SAC that the statement of policy in the ASR must reflect a College policy.)*

[668.46(k)(1)(i)]: Description of Disciplinary Proceedings

“...Describes each type of disciplinary proceeding used by the institution; the steps, anticipated timelines, and decision-making process for each type of disciplinary proceeding; and how the institution determines which type of proceeding to use based on the circumstances of an allegation of dating violence, domestic violence, sexual assault, or stalking;”

Observations

On pp. 18-20, the ASR provides a description of the disciplinary procedures for these offenses for students only, omitting employees. We caution Mt. SAC to ensure that all employee disciplinary procedures are summarized, for instance if tenured faculty are different than unionized employees, and are different than administrative staff, each procedure must be described, including how Mt. SAC will determine which process to use. Mt. SAC must also address how it decides the type of disciplinary proceeding it will use. For an example of a well-developed table, we refer you to pp. 14-17 of the University of California, Berkeley Annual Security Report

<http://annualecurityreport.berkeley.edu/sites/default/files/UC-BERKELEY-2015-Annual-Security-Report.pdf>.

Student Rights and Due Process pp. 18-19, describes the disciplinary process for students. The section Consequences of Committing Acts of Sexual Violence on p. 20,

references Board Policy 3540 and 3500 that refer to employee disciplinary action and state consequences “can result in immediate administrative leave, suspension or termination.” but provide no further information.

Recommendations

36. Describe the disciplinary procedures for employee discipline systems including steps, anticipated timelines, and decision-making processes for each type of proceeding

37. Describe how Mt. SAC determines which disciplinary proceeding it will use.

[668.46(k)(1)(ii)]: Standard of Evidence during Disciplinary Proceedings

“...Describes the standard of evidence that will be used during any institutional disciplinary proceeding arising from an allegation of dating violence, domestic violence, sexual assault, or stalking;”

Observations

Page 19 reflects Mt. SAC has adopted the preponderance of the evidence standard for student proceedings. While the ASR does not address a standard of evidence for employee proceedings interviews with staff indicated that standard was in use.

Recommendation

38. Ensure the ASR provides that employee proceedings apply the preponderance of evidence standard.

[668.46(k)(1)(iii)]: Possible Sanctions

“...Lists all of the possible sanctions that the institution may impose following the results of any institutional disciplinary proceeding for an allegation of dating violence, domestic violence, sexual assault, or stalking; and,”

Observations

On p. 20 of the ASR, under the section titled, Consequences of Sexual Violence, it describes sanctions for students as immediate suspension and/or expulsion, and for employees; sanctions include immediate administrative leave, suspension, or termination. In discussion with Mt. SAC officials, we learned that the listed sanctions for students are not complete. The ASR statement omitted removal from class, as well as verbal and written reprimand as possible sanctions. The officials also indicated that the sanctions are for all VAWA crimes, not just sexual assault as stated in the ASR. They also commented that the listed sanctions for employees omitted demotion. The sanctions for employees, like the student process, are for all VAWA crimes, not just sexual assault. Therefore, this statement is non-compliant as it only addresses sexual violence and omits dating violence, domestic violence, and stalking.

Recommendation

39. Include a full list of sanctions resulting in disciplinary procedures for dating violence, domestic violence, and stalking.

[668.46(k)(1)(iv)]: Protective Measures

“...Describes the range of protective measures that the institution may offer following an allegation of dating violence, domestic violence, sexual assault, or stalking”;

Observations

The ASR (p. 17) provides a range of protective measures for victims who are students or employees. In the ASR, (p. 21) the institution provides information regarding the process for obtaining a protective order. It also lists a local advocacy center to help individuals with obtaining a protective order.

Recommendation

None

[668.46(k)(2)]: “Provides that the proceedings will...”

[668.46(k)(2)(i)]: Prompt, Fair, and Impartial Process

“...Include a prompt, fair, and impartial process from the initial investigation to the final result;”

Observations

The ASR describes Mt. SAC’s prompt, fair, and impartial process for students involved in disciplinary hearings. The College implements significant measures to ensure due process for the accused including clear notification of the allegations, an opportunity for the accused to refute the charges, a panel hearing and an appeal process. Panels for conduct hearings consist of three members, a college administrator, a faculty member, and a student. Mt. SAC also provides a statement that they will not be arbitrary in their actions. Mt. SAC’s ASR fails to address the adjudication process for employees, but interviews summarized the employee proceeding as beginning with the contracted Title IX investigator investigating, filing a report and disciplinary proceedings involving the respondent employee and the Title IX coordinator, who alone, determines the violation of policy without the use of a panel.

Recommendations

40. Include in the statement of policy a description of the disciplinary proceedings that describe how the process is “prompt, fair, and impartial” for employees in addition to students.

[668.46(k)(2)(ii): Annual Training for Involved Officials

“...Be conducted by officials who at a minimum receive annual training on the issues related to dating violence, domestic violence, sexual assault, and stalking and on how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability;”

Observations

Officials who conduct student disciplinary hearings receive training on an annual basis. The Dean of Students provides the required training, including issues relating to VAWA offenses, and how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability. The Dean of Students confirmed that training of the panel members was their responsibility and conducted it on an annual basis. In the ASR, p. 18 has a statement that outlines the training provided to the officials. This statement only addresses the training of officials involved in the student process and the ASR omits annual training for officials involved in the adjudication process for employees.

Recommendation

41. Outline the training provided to officials involved in adjudication of employee disciplinary processes for sexual assault, domestic violence, dating violence, and stalking.

[668.46(k)(2)(iii): Equitable Opportunities to have Others Present in Related Meetings

“...Provide the accuser and the accused with the same opportunities to have others present during any institutional disciplinary proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice”;

Observations

The College provides a compliant statement for the student adjudication process. On page 19 of the ASR, Mt. SAC provides that their process allows for the accused and accuser to have others, and any advisor of their choice, present in their disciplinary proceeding, including related meetings. The ASR does not address this requirement for employee proceedings however, interviews confirm that both the accuser and the accused are allowed to have an advisor of their choice.

Recommendations

42. Provide employee's a description of their rights related to "others" and advisors of choice in disciplinary proceedings for sexual assault, dating violence, domestic violence and stalking.
43. Consider establishing rules that govern the conduct of advisors and others.

[668.46(k)(2)(iv)]: No Limits on Choice of Advisor

"...Not limit the choice of advisor or presence for either the accuser or the accused in any meeting or institutional disciplinary proceeding; however, the institution may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties; and..."

Observations

Mt. SAC provides a compliant message as they address that in a student disciplinary hearing the accused and the accuser may have an advisor of their choice, without any set limits. Again, the ASR lacks a statement addressing disciplinary hearings involving employees, but in a conversation with officials, we learned Mt. SAC restricts both parties' ability to use an advisor who is listed as a witness.

Recommendation

See recommendations immediately above.

[668.46(k)(2)(v)]: Simultaneous Notification, in writing

“...Require simultaneous notification, in writing, to both the accuser and the accused, of...”

[668.46(k)(2)(v)(A)]: Notification Must Include Results of Disciplinary Proceeding

“...The result of any institutional disciplinary proceeding that arises from an allegation of dating violence, domestic violence, sexual assault, or stalking;”

Observations

Mt. SAC provides a clear statement regarding written notifications to the accuser and the accused of the results of a student disciplinary process. The ASR does not contain any compliant language related to notices of results for employees, but Mt. SAC staff explained they notify both parties in writing.

Recommendation

44. Ensure the ASR includes provision for simultaneous written notification of the results for both parties when an employee is one of them.

[668.46(k)(2)(v)(B)]: Procedures for Appeals

“The institution’s procedures for the accused and the victim to appeal the result of the institutional disciplinary proceeding, if such procedures are available;”

[668.46(k)(2)(v)(C)]: Must Notify Parties of Any Changes to the Results

“Any change to the result; and...”

Observation

While the College has omitted a compliant statement in response to this requirement for employees, the ASR provides an appropriate statement for student discipline on p. 19.

Recommendation

45. Ensure the ASR describes that Mt. SAC will provide simultaneous written notification of any available appeal procedures and any change in the result for employee disciplinary proceedings.

[668.46(k)(2)(v)(D)]: Must Notify Parties when Results become Final

“When such results become final.”

Observations

Page 19 of the ASR provides a statement advising that Mt. SAC will notify all parties to student proceedings in writing at the time results become final. The ASR does not provide similar notification to employees.

Recommendation

46. Ensure Mt. SAC provides employees who are parties to a proceeding for dating violence, domestic violence, stalking, or sexual assault simultaneous written notice when results become final.

[668.46(k)(3)(i)-(iv)]: Definitions Related to Disciplinary Proceedings

The above noted sections include definitions and explanations for various terms such as advisor, proceedings, result, etc. We encourage the institution to review these terms to ensure that their related policies and procedures comply with the definitions in the Clery Act regulations.

Observations

A statement needs to be included in the ASR that addresses the definitions related to disciplinary hearings for both students and employees. The College does a good job defining certain definitions in the ASR especially those related to associated VAWA crimes.

Recommendation

47. Although not required for the ASR Mt. SAC should consider which of the definitions should be included in the ASR and/or the College policy.

[668.46(m)]: Prohibition on Retaliation

“An institution, or an officer, employee, or agent of an institution, may not retaliate, intimidate, threaten, coerce, or otherwise discriminate against any individual for exercising their rights or responsibilities under any provision in this section.”

Observations

On page 18 of the ASR, there is a reference to retaliation, but does not apply to [668.46(m)]. The reference in the ASR addresses that; disciplinary procedures “... will be used in a fair and equitable manner and cannot be used as retaliation”. To incorporate a compliant statement, the college needs to include the language outlined in [668.46(m)]. Mt. SAC administrators described they advised parties in a disciplinary proceeding of the disciplinary ramifications of retaliation. As we spoke with both the independent Title IX investigator and the Dean of Student Services, they both advised us that they preface every investigation and hearing with an anti-retaliation clause. This is a verbal statement provided and is not a written form.

Recommendation

48. Include a compliant statement prohibiting retaliation. Consider adding it to the written notice of rights and options.

[668.46(b)(12)]: Campus Sex Crimes Prevention Act

“Beginning with the annual security report distributed by October 1, 2003, a statement advising the campus community where law enforcement agency information provided by a State under section 170101(j) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071(j)), concerning registered sex offenders may be obtained, such as the law enforcement office of the institution, a local law enforcement agency with jurisdiction for the campus, or a computer network address.”

Observations

There is a compliant statement in the section titled “Sex Offender Registration” on page 22 in the ASR. Mt. SAC directs those who wish to review registered sex offender information can review them via the Megan’s Law website or contacting the LASD.

Recommendation

None

[668.46(c)(1)]: Crimes That Must be Reported

“An institution must report to the Department and disclose in its annual security report statistics for the three most recent calendar years concerning the number of each of the following crimes that occurred on or within its Clery Geography and that are reported to local police agencies or to a campus security authority:

- Primary crimes, including:
 - Criminal Homicide

- ✓ Murder and non-negligent manslaughter
- ✓ Negligent manslaughter
- Sex Offenses
 - ✓ Rape
 - ✓ Fondling
 - ✓ Incest
 - ✓ Statutory rape
- Robbery
- Aggravated assault
- Burglary
- Motor vehicle theft
- Arson
- Arrest for liquor law violations, drug law violations, and illegal weapons possession
- Persons not included in paragraph (c)(1)(ii)(A) of this section who were referred for campus disciplinary action for liquor law violations, drug law violations, and illegal weapons possession.”

Observations

Our review of the ASR and the crime data submitted to ED (<http://ope.ed.gov/security/>) appear correct. We note that the tables contained in the 2015 ASR do not reflect VAWA offenses statistics for calendar year 2013. We have provided a sample crime disclosure table as attachment 8. We also note the ASR uses the term “Forcible Sex Offenses” which is no longer used in the Clery Act. We can assist Mt. SAC with the process of republishing the data once the College has correct statistics.

Recommendations

49. Provide statistical information for VAWA offenses for calendar year 2013.

50. Eliminate the term “Forcible Sex Offense” from use in the ASR and DPS recordkeeping systems.

[668.46(c)(1)(iii)] & [668.46(c)(4)]: Hate Crimes

“The number of each type of crime in paragraph (c)(1)(i) of this section that are determined to be hate crimes.”

(668.46(c)(1)(iii)(A)) “The number of each type of crime in paragraph (c)(1)(i) of this section that are determined to be hate crimes; and,

(668.46(c)(1)(iii)(B)) The number of the following crimes that are determined to be hate crimes:

(1) Larceny-theft.

(2) Simple assault.

(3) Intimidation.

(4) Destruction/damage/vandalism of property.”

(668.46(c)(4)) “Hate crimes must be recorded by category of bias. For each hate crime recorded under paragraph (c)(1)(iii) of this section, an institution must identify the category of bias that motivated the crime. For the purposes of this paragraph, the categories of bias include the victim’s actual or perceived —

- Race;
- Gender;
- Gender identity;
- Religion;
- Sexual orientation;
- Ethnicity;

- National origin, and
- Disability.”

Observations

The Mt. SAC 2015 ASR indicates no reported hate crimes for 2014. The document provides a table for the 2014 calendar year on p. 32 and fails to note or provide any information of reported Hate Crimes for 2012 or 2013. The ASR may disclose hate crimes in narrative format provided the ASR identifies the year of the crime, the type of crime, the Clery geography, and the category of bias. The table, provided as attachment 8, has an area for the narrative disclosure of hate crimes.

Recommendation

51. Revamp the current chart to indicate any reported Hate Crimes for 2012, and 2013.

[668.46(c)(1)(iv)]: Dating violence, Domestic violence, and Stalking

Observation

The offenses of dating violence, domestic violence, and stalking were not included in the crime statistics reported for calendar year 2013 as required.

Recommendation

52. Revamp the current chart to indicate any reported VAWA crimes for calendar year 2013.

[668.46(c)(2)(i) – (iii)]: Recording Crimes – All crimes must be recorded.

“An institution must include in its crime statistics all crimes listed in paragraph (c)(1) of this section occurring on or within its Clery geography that are reported to a campus security authority for purposes of Clery Act reporting. Clery Act reporting does not require initiating an investigation or disclosing personally identifying information about

the victim, as defined in section 40002(a)(20) of the Violence Against Women Act of 1994 [42 U.S.C. 13925(a)(20)].”

(668.46(c)(2)(ii)): “An institution may not withhold, or subsequently remove, a reported crime from its crime statistics based on a decision by a court, coroner, jury, prosecutor, or other similar noncampus official.”

(668.46(c)(2)(iii)): “An institution may withhold, or subsequently remove, a reported crime from its crime statistics in the rare situation where sworn or commissioned law enforcement personnel have fully investigated the reported crime and, based on the results of this full investigation and evidence, have made a formal determination that the crime report is false or baseless and therefore “unfounded.” Only sworn or commissioned law enforcement personnel may “unfound” a crime report for purposes of reporting under this section. The recovery of stolen property, the low value of stolen property, the refusal of the victim to cooperate with the prosecution, and the failure to make an arrest do not “unfound” a crime report.”

668.46(c)(2)(iii)(A): “An institution must report to the Department and disclose in its annual security report statistics the total number of crime reports listed in paragraph (c)(1) of this section that were “unfounded” and subsequently withheld from its crime statistics pursuant to paragraph (c)(2)(iii) of this section during each of the three most recent calendar years.”

Observations

Mt. SAC bases crime data exclusively upon reports provided by the LASD and reports made to DPS. DPS has no automated records management system and collection of reports from CSAs is insufficient as described earlier. Further, the assignment of crime reports to Clery geographies was imprecise preventing us (in the limited number of reports we reviewed) from having confidence in the accuracy of these classifications. An

audit of all crime reports would be required to determine the accuracy of crime data disclosed in the ASR.

Although Mt. SAC DPS employs sworn/commissioned officers, LASD investigates all reported crimes occurring on the campus. Presently, they make the determination a reported crime is “un-founded.” The ASR listed no unfounded crimes for the past three years.

Recommendation

53. Review at least 3 years of crime reports to ensure appropriate Clery geography determinations.

[668.46(c)(3)]: Crimes must be recorded by calendar year

(668.46(c)(3)(i)): “An institution must report and disclose a crime statistic for the calendar year in which the crime was reported to local police agencies or to a campus security authority.”

668.46(c)(3)(ii): “When recording crimes of stalking by calendar year, an institution must follow the requirements in paragraph (c)(6) of this section.”

Observation

Given our limited review of crime data, Mt. SAC is recording crimes correctly, but we remain concerned that those who are responsible for data collection have received very little formal Clery Act training.

Recommendation

None

[668.46(c)(5)]: Crimes by Location

“An institution must specify whether each of the crimes recorded under paragraph (c)(1) of this section occurred –

- On campus.
- Of the crime in paragraph c(4)(I) of this section, the number of crime that took place in dormitories or other residential facilities for students on campus.
- In or on a noncampus building or property.
- On public property”

Observation

Again, given our limited review, we found crimes appropriately disclosed by location in the ASR.

Recommendation

None

[668.46(c)(6)]: Recording reports of stalking

668.46(c)(6)(i): “When recording reports of stalking that include activities in more than one calendar year, an institution must record a crime statistic for each and every year in which the course of conduct is reported to a local police agency or to a campus security authority.”

668.46(c)(6)(ii): “An institution must record each report of stalking as occurring at only the first location within the institution’s Clery Geography in which:

668.46(c)(6)(ii)(A) A perpetrator engaged in the stalking course of conduct; or

668.46(c)(6)(ii)(B) A victim first became aware of the stalking.”

Observation

The ASR had no reports of stalking in 2014. There are no statistics provided for 2013.

Recommendations

54. Include stalking statistics for calendar year 2013.

55. Conduct a monthly audit of all covered statistics (*not required, but highly recommended*) to reconcile crime or discipline records from all sources like DPS, Human Resources, Athletics.

56. Ensure all Mt. SAC employees who are classifying reports of crime for Clery Act statistics remain appropriately trained on regulations and explanatory guidance.

[668.46(c)(7)]: Identification of the victim or the accused.

“The statistics required under paragraph (c) of this section do not include the identification of the victim or the person accused of committing the crime.”

Observation

The statistics do not include personally identifying information.

Recommendation

None

[668.46(c)(8)]: Pastoral and professional counselors.

“An institution is not required to report statistics under paragraphs (c) of this section for crime reported to a pastoral or professional counselor.”

Observation

Mt. SAC does not report statistics for crime reported to pastoral or professional counselors.

Recommendation

None

[668.46(c)(9)]: UCR definitions

668.46(c)(9)(i): "An institution must compile the crime statistics for murder and non-negligent manslaughter, negligent manslaughter, rape, robbery, aggravated assault, burglary, motor vehicle theft, arson, liquor law violations, drug law violations, and illegal weapons possession using the definitions of those crimes from the "Summary Reporting System (SRS) User Manual" from the FBI's UCR Program, as provided in Appendix A to this subpart."

668.46(c)(9)(ii): "An institution must compile the crime statistics for fondling, incest, and statutory rape using the definitions of those crimes from the "National Incident-Based Reporting System (NIBRS) User Manual" from the FBI's UCR Program, as provided in Appendix A to this subpart."

668.46(c)(9)(iii): "An institution must compile the crime statistics for the hate crimes of larceny-theft, simple assault, intimidation, and destruction/damage/vandalism of property using the definitions provided in the "Hate Crime Data Collection Guidelines and Training Manual" from the FBI's UCR Program, as provided in Appendix A to this subpart."

668.46(c)(9)(iv): "An institution must compile the crime statistics for dating violence, domestic violence, and stalking using the definitions provided in paragraph (a) of this section."

668.46(c)(9)(v): “In counting crimes when more than one offense was committed during a single incident, an institution must conform to the requirements of the Hierarchy Rule in the “Summary Reporting System (SRS) User Manual.”

668.46(c)(9)(vi): “If arson is committed, an institution must always record the arson in its statistics, regardless of whether or not it occurs in the same incident as another crime.”

668.46(c)(9)(vii): “If rape, fondling, incest, or statutory rape occurs in the same incident as a murder, an institution must record both the sex offense and the murder in its statistics.”

Observations

The crime statistics reflect the categories of crimes listed above, including dating violence, domestic violence and stalking. The definitions provided are incomplete (for example, the terms used in defining “forcible sex offenses” on p. 29 (rape, etc.) are not defined and the term “forcible sex offenses” is no longer a Clery category. We have provided a list of Clery Act crime definitions in the sample ASR provided as attachment 1.

Recommendation

57. Provide a current and complete list of definitions for Clery crimes in the ASR.

[668.46(c)(10)]: Use of a Map

“In complying with the statistical reporting requirement under paragraph (c) of this section, an institution may provide a map to current and prospective students and employees that depicts its campus, noncampus buildings or property, and public property areas if the map accurately depicts its campus, noncampus building or property, and public property areas.”

Observations

The ASR includes a map (p. 36) of the Mt. SAC Campus. The map reflects important information like the location of emergency phones, van access services, parking lots and other general campus information. It does not include a map depicting its campus, noncampus buildings or property, and public property areas.

Recommendation

58. Although not specifically required, we recommend Mt. SAC include a map that depicts the campus, non-campus, and public property areas for the campus, and the “patrol jurisdiction,” easily distinguishing between the geography types by, for example, color-coding.

Crime Statistics Gathering and Classification

[668.46(c)(11)]: Statistics from Police Agencies

(668.46(c)(11)(i): “In complying with the statistical reporting requirements under paragraph (c) of this section, an institution must make a reasonable, good-faith effort to obtain statistics for crimes that occurred on or within the institution’s Clery geography and may rely on the information supplied by a local or State police agency.”

(668.46(c)(11)(ii): “If the institution makes such a reasonable, good-faith effort, it is not responsible for the failure of the local or State police agency to supply the required statistics.”

Observations

DPS has an excellent working relationship with the LASD. This relationship has facilitated the institution’s ability to consistently receive the required crime statistics request. DPS fails to reach out to other local and state law enforcement agencies such as

the California Highway Patrol or California Department of Alcoholic Beverage Control to request any crime reports made on Mt. SAC's campus, noncampus buildings or property and public property areas.

We appreciate that LASD plays a critical role in the collection of crime data, and in our meetings with them, we found minimal familiarity with Clery Act reporting requirements. LASD has designated Mt. SAC as a separate reporting district for gathering crime statistics. DPS forwards crimes reported to them to the LASD. DPS reported that where there were statistical variances between DPS and LASD, DPS accepts the LASD statistics as accurate. Although they may prove to be accurate, a process to reconcile and document reconciliation efforts should be in place to support decisions by Mt. SAC officials after review of LASD reports ensure proper classification for Clery crimes. We strongly urge Mt. SAC to undertake an in-depth review of at least three years of crime reports to assure the accuracy of the crime data reported to ED and disclosed to the campus community in the ASR.

Recommendations

59. Submit a request to all state and local law enforcement agencies requesting any reports of reported crime within Mt. SAC's Clery geographies.
60. As a minimum audit crime reporting data for the previous three year period to ensure the accuracy of those statistics provided to ED and the Mt. SAC community in the ASR.

Gathering Crime Statistics from Non-Police/Security CSAs

Although every institution wants its campus community to report criminal incidents to law enforcement, we know that this does not always happen. Even at institutions with a police department on campus, a student who is the victim of a crime may be more inclined to report it to someone other than the campus police. For this reason,

the *Clery Act* requires all institutions to collect crime reports from a variety of individuals and organizations that the Clery Act considers “campus security authorities.” “Campus security authority” is a Clery-specific term that refers to four groups of individuals and organizations associated with an institution. CSAs are required to report all Clery Act crimes to the official designated by Mt. SAC.

The Handbook (p. 80) notes:

Encourage CSAs to immediately forward reports of crimes to your campus police or security department if you have one, or to an individual responsible for collecting the reports if you don’t. This is because a CSA crime report may be the basis for determining if there is a serious or continuing threat to the safety of the campus community that would require an alert (i.e., a timely warning).

Also, if your institution has a campus police or security department and a crime is reported to a non-police/security CSA, the report should be forwarded to your campus police or security department so that it will be entered in your institution’s daily crime log in a timely manner.

Keep hard copy or electronic documentation for all CSA-reported crimes and make sure that more than one person knows where it’s kept. If there is reason to believe that a crime report was not made in “good faith,” and your institution does not disclose a statistic for the reported incident, we strongly suggest that you document the justification for not disclosing the statistic.”

It is important to note that Clery defines a crime as being “reported” when it is brought to the attention of a CSA or **local law enforcement** personnel by a victim, witness, other third party or even the offender. If a CSA receives the crime information and believes it was provided in good faith, s/he should document it as a crime report.

Observations

We commend DPS efforts and attempts to identify and train other campus security authorities such as employees of Mt. SAC's Athletics Department and coordinate with the LASD in obtaining usable data for reporting and disclosure requirements. As we noted earlier, Mt. SAC has not maintained sufficient documentation to determine the accuracy of crime reporting. The causes include a lack of Clery training or knowledge by DPS staff, insufficient attention to records management, and long-term inadequate institutional support of Clery compliance. We have already discussed CSA identification, notification, and certification very early in this Report, but it bears repeating for emphasis that this effort is critical moving forward. Although everyone we spoke with understood the importance of notifying DPS when they became aware of a crime, they were not aware of the necessity for prompt reporting to facilitate the initiation of a Timely Warning Notification, nor were they aware they were CSAs and as such had important federal regulatory compliance obligations.

Recommendations

61. Train CSAs, as suggested earlier in this report, based on their roles and responsibilities in supporting institutional compliance requirements. We suggest a tiered approach to meeting the training objectives. A tier for key stakeholders, comprised of individuals responsible for policy development and review of institutional compliance or supervising CSAs, or those most likely to receive reports of crime (police, security, orientation leaders, peer mentors, etc.) and another tier for those individuals tasked with appropriately reporting crimes but less likely to receive reports (assistant coaches, etc.).
62. Establish a process to facilitate a CSA's prompt forwarding of a report of crime to DPS. See attachment 2.

[668.46(d)]: Disclosures for Separate Campuses

“An institution must comply separately with the requirements of this section for each separate campus.”

The Clery Act requires institutions of higher education, with multiple campuses, to comply independently for each for all Clery Act and the fire safety-related requirements. The Handbook (pp. 14-17) provides guidance very specific guidance in this area, noting that an institution of higher education should consider an additional location a separate campus if it meets all of the following criteria:

- The institution owns or controls the site;
- It is not reasonably geographically contiguous with the main campus;
- It has an organized program of study; and
- There is at least one person on site acting in an administrative capacity.

Separate campuses are different from noncampus property. The Clery definition of noncampus buildings or property is, “any building or property owned or controlled by officially recognized student organizations; or any building or property owned or controlled by an institution that is used in direct support of, or in relation to, the institution’s educational purposes, is frequently used by students, and is not within the same reasonably contiguous geographic area of the institution.”

Observations

We found that Mt. SAC does not have any separate campuses, and based upon our conversations, the Palm Desert location appears to be a non-campus property. We caution Mt. SAC to continue to verify the elements of Clery geography according to the Handbook as the use of this facility may change.

Recommendation

None

[668.46(e) - 668.46(e)(1)]: Timely Warning and Emergency Notification

“An institution must, in a manner that is timely and that withholds as confidential the names and other identifying information of victims, as defined in section 40002(a)(20) of the Violence Against Women Act of 1994 (42 U.S.C 13925(a)(20)), and that will aid in the prevention of similar crimes, report to the campus community on crimes that are—

668.46(e)(1)(i) – Described in paragraph (c)(1) of this section;

668.46(e)(1)(ii) – Reported to campus security authorities as identified under the institution's statement of current campus policies pursuant to paragraph (b)(2) of this section or local police agencies; and

668.46(e)(1)(iii) – Considered by the institution to represent a threat to students and employees.

668.46(e)(3) – If there is an immediate threat to the health or safety of students or employees occurring on campus, as described in paragraph (g)(1) of this section, an institution must follow its emergency notification procedures. An institution that follows its emergency notification procedures is not required to issue a timely warning based on the same circumstances; however, the institution must provide adequate follow-up information to the community as needed. (Please see Section 668.46(g) for our Observations and Recommendations regarding Emergency Notification.)

Observations

The College addresses their policies on Timely Warnings and Emergency Notifications on pp. 6-10 of the ASR. The section is confusing. Generally, we

recommend institutions refer to the Clery Act required notice of Clery Act defined crimes in Clery Act geographies as “Timely Warnings.” Where an institution is alerting the community to crimes not subject to a timely warning (for example, a series of minor thefts or a crime spree two blocks from campus) we would advise the College identify these as something else, typically a “Crime Alert.” Mt. SAC has established the term “Crime Alert” to describe “... an effort to provide timely notice to the campus community of a Clery Act crime that poses a serious or ongoing threat...” The methods used for community notification by this system are email, social media, and an opt-in text message notification system.

In a section titled Timely Warnings, the College addresses relatively the same information as the Crime Alert portion, but omits the mention of Clery crimes and Clery geographies and only refers to the issuance of a timely warning in instances where there is an immediate and continuing threat to campus. The methods of community notification of this system include social media, electronic boards, email, and posted flyers.

Mt. SAC has named the notices Campus Alerts that in fact are Timely Warnings and vice versa.

In the review of Mt. SAC’s ASR timely warning policy, we found it does not describe how reports are received, include the process for developing the content of their notification, nor declare that they will withhold and maintain the confidentiality of the victims, including any other identifying information. We refer Mt. SAC to Handbook Figure 14 (p. 121).

(Note: We will refer to the required alert messages by the correct regulatory language of “timely warnings” understanding that Mt. SAC uses other terms.) Our review of the timely warning practice of Mt. SAC DPS indicated several areas of potential concern. LASD advised there is no MOU in place regarding policing services to Mt. SAC, or for

information exchange with DPS, and described that when responding to Mt. SAC, they would routinely contact DPS to advise them of the situation as a courtesy.

- DPS would become aware of a crime through direct notice from the campus or LASD.
- DPS would notify senior departmental leadership (after hours by cell phone).
- The Chief would determine the proper issuance of a timely warning.
- The Chief would inform the Director of Marketing who would disseminate the timely warning via the Department of Marketing and Media.

DPS and the Director of Marketing differed in their understanding of redundant methods. DPS advised that their duties are to make the decisions to initiate the timely warnings, but lack the ability to send alert messages. Marketing advised that there were redundant plans in place and DPS administration and the Office of Risk Management were able to send out timely warnings.

Marketing informed us their office could send out emergency notification messages, which include, Blackboard, voicemail, text messages and homepage overrides, however, they would need approval from the President of Mt. SAC.

Leadership of Marketing and DPS will need to enhance their understanding of the processes required and collaborate on how best to distribute these distinct safety message requirements (i.e. timely warnings and emergency notifications).

It is the industry standard that both emergency notifications and timely warnings are developed in advance for the most common types of circumstances for each type of message. For examples, a series of auto thefts is a predictable circumstance for the issuance of a timely warning, and an earthquake is a predictable circumstance for the issuance of an emergency notification. Further, it is expected that institutions of higher education have redundant, easily deployed, and quickly activated systems in place for both these alerting requirements. A system should avoid single points of failure. For example, at Mt. SAC, the requirement that the President authorize an emergency

notification represents a single point of failure. If the Chief was unable to reach the President, and unilaterally determined to distribute the emergency notification, such action would violate the policy and thus be a Clery Act violation. In another example, DPS relies on cellular technology to contact their upper administration, and this technology is subject to failure, especially during a major disaster like an earthquake when cellular capacity is overwhelmed. The College must build into their process the ability for on duty staff to issue timely warnings and emergency notifications.

Recommendations

63. Redefine and delineate campus alerts, timely warnings, and emergency notifications, and modify policies to ensure they are satisfying the regulations.
64. Include a statement addressing the confidentiality of victims, including identifying information.
65. Address the involvement of CSAs and law enforcement in the reporting process.
66. Coordinate and discuss the roles and capabilities of DPS and Marketing in delivering these important emergency messages.
67. Consider developing a process where on duty DPS staff is capable of sending out a timely warning or emergency notification without needing the approval of upper DPS leadership or senior leadership of the College. Minimally ensure there are no single points of failure and that each decision-maker has alternates.

[668.46(f)]: Daily Crime Log

[668.46(f)(1)] “An institution that maintains a campus police or a campus security department must maintain a written, easily understood daily crime log that records, by the date the crime was reported, any crime that occurred on campus, on a noncampus building or property, or within the patrol jurisdiction of the campus police or the campus security department and is reported to the campus police or the campus security

department. This log must include --

- The nature, date, time, and general location of each crime; and
- The deposition of the complaint, if known.
- The institution must make an entry or an addition to an entry to the log within two business days, as defined under paragraph (a) of this section, of the report of the information to the campus police or the campus security department, unless that disclosure is prohibited by law or would jeopardize the confidentiality of the victim.
- An institution may withhold information required under paragraphs (f)(1) and (2) of this section if there is clear and convincing evidence that the release of the information would-
 - ✓ Jeopardize and ongoing criminal investigation or the safety of an individual;
 - ✓ Cause a suspect to flee or evade detection; or
 - ✓ Result in the destruction of evidence.
- The institution must disclose any information withheld under paragraph (f)(3)(I) of this section once the adverse effect described in that paragraph is no longer likely to occur.
- An institution may withhold under paragraphs (f)(2) and (3) of this section only that information that would cause the adverse effects described in those paragraphs.
- The institution must make the crime log for the most recent 60-day period open to public inspection during normal business hours. The institution must make any portion of the log older than 60 days available within two business days of a request for public inspection.”

Observations

We reviewed the provided daily crime log. It captures six elements; classification, DPS reports number, incident date, time, location, and disposition. The

format of the crime log is not consistent with Fig. 7 on p. 92 of the Handbook (with additional daily crime log guidance found on pp. 92-95). The Mt. SAC crime log is missing date/time reported, and a proper disposition. Mt. SAC uses “classification” in place of “nature” and uses “disposition” to provide a brief narrative. As an example, DPS logged a sexual battery on 9/24/15. In the disposition field, it states, “Victim reported unwanted sexual contact inside classroom.” This is not a disposition but a summary. For further guidance, we refer Mt. SAC to Handbook Chapter 3.

Recommendations

- 68. Review and refer to Handbook Figure 7, page 92.
- 69. Include the date/time reported in every crime log entry.
- 70. Provide a proper and compliant disposition, for each incident.

[668.46(g)]: Emergency Response & Evacuation Policies

[668.46(b)(13)] “Beginning with the annual security report distributed by October 1, 2010, a statement of policy regarding emergency response and evacuation procedures, as described in paragraph (g) of this section.”

[668.46(g)]: Emergency Notification

“An institution must include a statement of policy regarding its emergency response and evacuation procedures in the annual security report. This statement must include -

- The procedures the institution will use to immediately notify the campus community upon the confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees occurring on the campus;
- A description of the process the institution will use to --
 - Confirm that there is a significant emergency or dangerous situation as described

in paragraph (g)(1) of this section;

- Determine the appropriate segment or segments of the campus community to receive a notification;
 - Determine the content of the notification; and
 - Initiate the notification system.
- A statement that the institution will, without delay, and taking into account the safety of the community, determine the content of the notification and initiate the notification system, unless issuing a notification will, in the professional judgment of responsible authorities, compromise efforts to assist a victim or to contain, respond to, or otherwise mitigate the emergency;
 - A list of titles of the person or persons or organization or organizations responsible for carrying out the actions described in paragraph (g)(2) of this section
 - The institution's procedures for disseminating emergency information to the larger community; and
 - The institution's procedures to test the emergency response and evacuation procedures on at least an annual basis, including --
 - Tests that may be announced or unannounced;
 - Publicizing its emergency response and evacuation procedures in conjunction with at least one test per calendar year; and
 - Documenting, for each test, a description of the exercise, the date, time, and whether it was announced or unannounced.”

Observations

The Mt. SAC ASR lists the different delivery methods of its timely warning and emergency notification systems. The statement does not address independent use of these methods. It also omits notification of certain segments of campus. If Mt. SAC will

never notify a segment of the community, it should plainly state it will never “segment” notification.

The contents of the section labeled, “Drills, Exercise and Training” makes no mention whether the tests are announced or unannounced. The regulations require that annually, the College must publicize the emergency response and evacuation procedures in conjunction with at least one drill. Mt. SAC fails to document how they disseminate this message to the community. The section of the ASR titled Emergency Response and Evacuation Procedures pp. 7-9 provides Mt. SAC’s protocols. The section does not include all of the required statements. It omits those items listed below.

- Identifying the process for confirming a significant emergency or dangerous situation;
- The identification of the appropriate segment or segments of the campus to receive a notification;
- Procedures for testing the emergency system;
- A statement that the institution will without delay, and taking into account the safety of the community, determine the content of the notification and initiate the notification system, unless issuing a notification will, in the professional judgment of responsible authorities, comprise efforts to assist a victim or to contain, respond to or otherwise mitigate the emergency; and,
- The institution’s procedures for disseminating emergency information to the larger community. (Typically defined as both the greater Walnut area hosting the campus, and the larger campus community for example; parents and alumni.)

Recommendations

71. Disclose the independent use of different message delivery methods. The current statement implies the College will use them all at once.

72. Address how Mt. SAC will determine the appropriate segment or segments of the campus community to receive a notification or that it will notify the entire community every time a notification is distributed.
73. Include a statement advising that Mt. SAC will immediately, and taking into account the safety of the community, determine the content of the notification and initiate the notification system, unless issuing a notification will, in the professional judgment of responsible authorities, compromise efforts to assist a victim or to contain, respond to, or otherwise mitigate the emergency.
74. Publish in the ASR if the annual tests are announced or unannounced.
75. Disseminate and publicize to the community the emergency response procedures of the College at least once annually in conjunction with test of the emergency response and evacuation procedures.

[668.46(h)]: Missing Student Notification Policies and Procedures

Observation

Mt. SAC has no on-campus housing facilities, thus this regulation is not applicable to the College.

Recommendation

76. State in the ASR that Mt. SAC does not have on-campus housing facilities thus does not have a Missing Student Notification Policy.

[668.41(c)(1) & (e)(1)]: ASR Distribution to Current Students and Employees

Requirements and Applicable Guidance

“An institution annually must distribute to all enrolled students a notice of the availability of the information required to be disclosed pursuant to paragraphs (d), (e), and (g) of this section, and pursuant to 34 CFR 99.7 (99.7 sets forth the notification

requirements of the Family Education Rights and Privacy Act of 1974). The notice must list and briefly describe the information and tell the student how to obtain the information.

By October 1 of each year, an institution must distribute, to all enrolled students and current employees, its annual security report described in 668.46(b) through appropriate publications and mailings, including -

- Direct mailing to each individual through the U.S. Postal Service, campus mail, or electronic mail;
- A publication or publications provide directly to each individual; or
- Posting on an Internet website or an Intranet website, subject to paragraphs (e)(2) and (3) of this section.”

Observations

We learned that upon completion of the ASR, DPS provides a copy to Marketing who then places it on the Mt. SAC website and distributes a campus-wide email notifying all community members of the availability of the ASR. Each student and employee has a Mt. SAC email account.

Recommendation

77. Maintain a listing of all employees and students who receive the notice of availability for the most recent 7 years.

[668.41(e)(4)]: Notice of the Availability of the ASR for Prospective Students and Employees

“Prospective students and prospective employees-annual security report. The institution must provide a notice to prospective students and prospective employees that includes a statement of the report's availability, a description of its contents, and an opportunity to request a copy. An institution must provide its annual security report, upon request, to a

prospective student or prospective employee. If the institution chooses to provide its annual security report to prospective students and prospective employees by posting the disclosure on an Internet website, the notice described in this paragraph must include the exact electronic address at which the report is posted, a brief description of the report, and a statement that the institution will provide a paper copy of the report upon request.”

Observations

We visited the Admissions website (<http://www.mtsac.edu/admissions/steps-to-apply/apply-new-student.html>) and did not find any notice of availability of the ASR. We also used the Employment radio button from Mt. SAC’s homepage to visit the online application tracking system (<https://hrjobs.mtsac.edu>) and the open jobs page (<https://hrjobs.mtsac.edu/postings/search>). Neither page where prospective employees would visit contained a notice of availability. We suggest a model notice, “My Institution values the safety of our community members. My Institution provides an Annual Security Report published electronically at www.MyInstitution.edu/ASR. The report contains several important policies including information on safety, security, and sexual assault response; advice on safety topics; campus crime statistics; drug and alcohol resources; and other important safety information. You may request a paper copy, by mail to the Director of Campus Safety at My Institution’s postal address or by calling 123-456-7890 or email at DOCS@myinstitution.edu.

Recommendation

78. Place a notice of availability statement on the pages noted above. Ensure that **ALL** Admissions staff as well as all Mt. SAC offices that hire employees of any time refer requests to the electronic processes or prepare paper notices of availability to distribute when a prospective employee or student makes a request for information.

[668.41(e)(5)]: Annual Security Report Submission to the Secretary

“Each year, by the date and in a form specified by the Secretary, an institution must submit the statistics required b Sec 668.46c to the Secretary.”

Observation

Based on our review, Mt. SAC submitted the required statistics to ED in a timely manner.

[668.49(b)]: Annual Fire Safety Report

“Beginning October 1, 2010, an institution that maintains any on-campus student housing facility must prepare an annual fire safety report that contains, at minimum, the following information:

Observation

Mt. SAC has no on-campus student housing facilities thus this regulation does not apply.

Recommendation

79. State in the ASR that Mt. SAC has no on-campus student housing facilities thus the College does not have a Fire Safety Report.

SECTION IV – MASTER LIST OF RECOMMENDATIONS

SECTION IV – ATTACHMENTS

Attachment 1 – Sample ASR

Attachment 2 – Sample CSA reporting form with instructions

Attachment 3 – Sample Clery Act Annual Security Report Sexual Assault, Domestic Violence, Dating Violence, and Stalking Policy

Attachment 4 – Sample Written Notice of Rights and Options – Sexual Assault, Dating Violence, Domestic Violence, and Stalking

Attachment 5 – Sample Timely Warning Policy

Attachment 6 – Resources for MOUs.

Attachment 7 – Compliance Guide for Drug Free Schools and Campuses Regulations

Attachment 8 – Sample Crime Disclosure Table for 2015 ASR

Attachment 9 – Climate Assessment Survey Resources