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NEWS RELEASE: U.S. Department of Education Rescinds and Replaces 2016 Clery Act Handbook

October 9, 2020

This afternoon, the Department of Education released an [Electronic Announcement](#) detailing the rescission of the [2016 Handbook for Campus Safety and Security Reporting](#) and replacing it with a new [Appendix](#) to the [Federal Student Aid Handbook](#) ("FSA Handbook"). The rescission follows the Department's internal review of guidance documents under the auspices of [Executive Order 13891](#), "Promoting the Rule of Law Through Improved Agency Guidance Documents."

As the Department explained in the Electronic Announcement, "The Department has made the determination that the 2016 edition did not achieve the Department's goal of ensuring that adequate information is available to the public to foster improved campus safety and security." It further noted that "Despite the fact that the guidance found in the 2016 edition did not have the force of law or regulations, some institutions may have felt pressured to satisfy the non-regulatory or non-statutory based aspects of the guidance, calculating that the financial and reputational consequences of non-compliance were too great."

The new sub-regulatory guidance provisions contained in the FSA Handbook "...do not have the force and effect of law and are not meant to bind the public. The document is intended only to provide clarity to the public regarding existing requirements under the applicable statutory and regulatory provisions."

Notably, ED observed that "The Department recognizes that many Clery practitioners have become accustomed to the 2016 edition, as well as previous editions, and ***may continue to rely on it for direction***" [emphasis not in original]. Furthermore, "...the 2016 edition will be archived on the Department's website, but, where appropriately applied to prior calendar years, will continue to be referenced in program review reports, final program review determinations, and final audit determinations." Importantly, nothing about the new Electronic Announcement modifies the flexibility provided in the [July 10, 2020 Electronic Announcement](#) which extended the deadline to distribute this year's Annual Security and Fire Safety Reports to December 31, 2020. The July 10, 2020 announcement is summarized in a [NACCOP News Release](#).

NACCOP will spend the coming days and weeks analyzing the changes and providing deeper insights into the potential effect on Clery compliance moving forward. In the interim, we encourage NACCOP members interested in learning more about the rescission and replacement of the Handbook to [sign up to attend the free members-only webinar](#) with James Moore, Senior Advisor for Clery Act Compliance and Campus Safety, Clery Compliance Team, U.S. Department of Education, on **October 19, 2020 from 2:00 p.m. – 3:30 p.m. EDT**. Although this webinar has been scheduled since the beginning of 2020 and is designed to address general questions about Clery compliance, we anticipate many members will read the new Appendix with great interest and will have questions for Mr. Moore during this webinar. Please submit questions to be considered for this webinar by visiting <https://www.surveymonkey.com/r/NACCOPQANDA>.

NACCOP recommends that all institutions of higher education continue to operate in accordance with the guidance contained in the 2016 Handbook, especially as it relates to the statements of policy and crimes and fires that will be included in the 2020 Annual Security and Fire Safety Report. Given the pending Presidential election, the outcome of which could affect the shelf life of this Electronic Announcement, we encourage institutions to continue to heed relevant guidance in the 2016 Handbook until early 2021 when the potential effect of these changes comes into clearer focus for the regulated community.



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About NACCOP

The National Association of Clery Compliance Officers and Professionals (NACCOP) provides a professional association for Clery Compliance Officers and Professionals to collaborate with each other, share resources and best practices. Members are also offered opportunities to participate in professional development engagements which support colleges and universities in their efforts to comply with the Clery Act. NACCOP delivers members with resources to enhance their knowledge of the Clery Act by offering education and training opportunities for the employees who are acting as Clery Compliance Officers on college and university campuses as well as information about Clery related news and legislative updates. For more information, or to join NACCOP, visit www.naccop.org.