



International Association of Campus
Law Enforcement Administrators



September 25, 2008

Honorable Margaret Spellings
Secretary
United States Department of Education
Washington, DC 20202

Dear Secretary Spellings:

Thank you for the opportunity to provide comments on the proposed negotiated rulemaking process to implement the Higher Education Opportunity Act of 2008 (P.L. 110-315). We respectfully request that the Department develop regulations for the following “public safety emergency” provisions contained within Title IV, Part G, Section 488 of the HEOA through the negotiated rulemaking process, and that a separate negotiating committee be established for these complex and vital issues surrounding the campus environment.

Disclosure of Fire Safety Standards and Measures

Clarification will be needed for the annual fire safety report. For example, is the reporting of fire drills for the student housing only, or for the entire campus? Also, is the reporting of policies and rules for the housing or for all facilities at the institution? Similarly, is the reporting on future fire safety improvements limited to student housing? Certain terms will also need to be properly defined. In the example of a student who has a single sheet of paper taped to his dorm room door which is burned, is that considered “property damage”? What about a student newspaper that is given out for free, does it have a value if it is free? Should a base value be established?

Criminal Offenses Reported

Four new reporting crime categories have been added under the Clery Act in the section on hate crimes (larceny, simple assault, vandalism, and intimidation). These are a minor extension of the offenses already recorded and could be added to most campus public safety agencies’ record-keeping. However, it should be emphasized the current reporting criteria, deadlines, and other Clery Act provisions should be the guiding regulations for the new hate crimes categories. In addition, the term “intimidation” needs a clear definition since it is not listed in the Uniform Crime Reporting (UCR) standards for other events that are reported.

Emergency Notification

Of course, the terms used will need to be carefully defined. Using events of the past few years as examples, notification of an incident needs clear definition for the reporting of an event, after confirmation of that event, and an allowance for professional evaluation of that event prior to a campus wide alert. For example, what would be the protocol for a student with meningitis? Given earlier attempts to define issues in the Clery Act, a term as simple as “calendar” received much attention, and seeking clarity was far from easy. The definition of terms will be essential to useful compliance, and more importantly, the exercise of notification procedures to protect those on campus. Further, events off campus that may spread to campus need to be clearly defined. In all cases, the professional judgment of first responders, emergency managers, and other campus health and safety personnel must be balanced with the notification requirement to ensure that emergency situations are communicated to those on campus in ways that are timely, accurate, and useful. The term useful should be key to guidance for compliance.

Missing Person Procedures

The law requires the creation of a plan for dealing with reports of students missing for more than 24 hours. This could be an effective idea for any campus that does not have a protocol for missing persons, but regulations must ensure that the balance of student privacy and contact provisions are smoothly entwined. The regulations must also allow for protocols to recognize that most students are legally adults, and that campuses usually have little or no legal function of *in loco parentis*.

Memoranda of Understanding

The section requires the disclosure of any Memorandum of Understanding (MOU) with local law enforcement, if one exists. This may encourage MOUs, which, it should be stressed, are mutual by their nature and not imposed by one agency over another.

Emergency Response and Evacuation Procedures

Higher education institutions must provide the campus community with a statement of policies and procedures related to emergency response and evacuation, in essence requiring the establishment of an emergency operations/management plan. This will be the most complex issue for negotiated rulemaking; the many different missions, resources, programs, structures, and make-up of the country’s colleges and universities will necessitate a level of flexibility, understanding, and care to implement this provision. Even a summary discussion would make this letter a multi-page submission. We are keenly aware of the need to plan for emergencies and look forward to helping craft guidance on how best to help institutions develop and plan for them.

We appreciate your interest in the views of the higher education community and will be available for consultation and discussion at your convenience.

We also formally request appointment of our association members to the negotiated rulemaking panels involved with these issues. We would be happy to provide specific names, and the coordinators for our individual organizations for this process are Lisa Phillips (IACLEA), 304-702-1698 or lphillips@iaclea.org; and Martha Braddock (IAEM-USA), 703-644-7082 or braddock@iaem.com.

Sincerely,



Lisa Sprague
President
International Association of Campus Law
Enforcement Administrators (IACLEA)



Larry J. Gispert
President
International Association of Emergency
Managers – USA Council (IAEM-USA)