

GLENVILLE STATE UNIVERSITY POLICIES

POLICY 51

CLERY ACT CAMPUS SECURITY REPORTING, THE VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT AND SEXUAL VIOLENCE PREVENTION

51.1. GENERAL

1.1. Scope - This rule sets forth general Glensville State University Policy regarding Clery Act reporting, the Violence Against Women Act, campus security and sexual violence prevention.

1.2. Authority: WV Code §18B-1-6, §18B-2A-4; Discrimination and harassment of certain protected classes is prohibited by: (a) West Virginia Human Rights Act of 1967; (b) Title IX of the Civil Rights Act of 1972; (c) Equal Employment Opportunity Commission interpretative guidelines issued in March, 1980; (d) Titles VI and VII of the Civil Rights Act of 1964; (e) Vietnam Era Veterans Readjustment Act; (f) Sections 503 and 504 of the Rehabilitation Act; (g) Executive Order 11246; (h) Immigration Reform and Control Act of 1986; (i) Equal Pay Act; (j) Age Discrimination Act; (k) Americans with Disabilities Act; (l) Disabled Veterans Act; and (m) the Genetic Information Nondiscrimination Act of 2008; (n) Violence Against Women Reauthorization Act, Campus Sexual Violence Act ("SaVE Act") provision, Section 304.

1.3. Effective Date – June 10, 2020

1.4. Revision of Former Policy -Repeals and replaces Glensville State University Policy 51 – Clery Act Campus Security Reporting, the Violence against Women Reauthorization Act and Sexual Violence Prevention [2003] [2015].

51.2.POLICY

2.1.The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (20 USC § 1092(f))("Clery Act") is a federal law, originally known as the Campus Security Act, that requires Universities and universities across the United States to disclose information about crime on and around their campuses. The Higher Education Opportunity Act or HEOA (Public Law 110-315) reauthorized and expanded the Higher Education Act of 1965, as amended. HEOA amended the Clery Act and created additional safety- and security-related requirements for institutions.

2.2. Pursuant to the Clery Act as amended, Glensville State University ("University") is required to:

2.2.1. Collect, classify and count crimes that are reported and crime statistics.

2.2.2. Issue a timely warning for any Clery Act crime that represents an ongoing threat

to the safety of students or employees;

2.2.3. Issue an emergency notification 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.

2.2.4. Publish an annual security report containing safety- and security-related policy statements and crime statistics and distribute it to all current students and employees. Schools also must inform prospective students and employees about the availability of the report.

2.2.5. Submit crime statistics to United States Department of Education (ED).

2.2.6. Keep a daily crime log of alleged criminal incidents that is open to public inspection.

2.2.7. Disclose missing student notification procedures that pertain to students residing in University resident halls.

2.2.8. Disclose fire safety information related University resident halls.

2.2.9. Keep a fire log that is open to public inspection.

2.2.10. Publish an annual fire safety report containing policy statements as well as Fire statistics associated with each on-campus student housing facility, including number of fires, cause, injuries, deaths and property damage. Schools also must inform prospective students and employees about the availability of the report.

2.2.11. The University's annual campus crime statistics report, timely warning procedure, Fire safety report and missing person procedure for students living in University housing are available in the Department of Public Safety Office and will be

published online, in The Student Handbook, the Faculty Handbook and the Classified Staff Handbook. Online site addresses will be published in all of the aforementioned handbooks. The University's Clery Act log and fire log are available

in the Department of Public Safety office.

2.3. Under the Clery Act, a crime is "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. It doesn't matter whether or not the individuals involved in the crime, or reporting the crime, are associated with the institution. If a campus security authority receives the crime information and believes it was provided in good faith, he or she should document it as a crime report. In "good faith" means there is a reasonable basis for believing that the

information is not simply rumor or hearsay. That is, there is little or no reason to doubt the validity of the information. Disclosure of statistics for alleged criminal incidents include, calls for service, complaints and investigations. The crime does not have to be investigated and no determination on guilt or innocence has to be made as long as the reported crime is a Clery Act crime occurring on the University's Clery Act geography.

2.4. Clery Act crime categories and reporting requirements:

2.4.1. Negligent manslaughter

2.4.2. Sex offenses— forcible (forcible rape; forcible sodomy, sexual assault with an object and forcible fondling)

2.4.3. Sex offenses— non-forcible (incest and statutory rape)

2.4.4. Robbery

2.4.5. Aggravated assault

2.4.6. Burglary

2.4.7. Motor vehicle theft

2.4.8. Arson

2.4.9. Destruction/damage/vandalism of property

2.4.10. Domestic violence

2.4.11. Dating violence

2.4.12. Stalking

2.4.13. Hate Crimes-A hate crime is a crime that manifests evidence that the victim was intentionally selected because of the perpetrator's bias. Bias is a preformed negative opinion or attitude toward a group of persons based upon their race, gender, gender identity, national origin/ethnicity, disability, religion or sexual orientation. The following crimes if motivated by bias must be disclosed as hate crimes.

2.4.13.1. Murder and Non-negligent manslaughter

2.4.13.2. Forcible sex offenses

2.4.13.3. Non-forcible sex offenses

2.4.13.4. Robbery

2.4.13.5. Aggravated assault

2.4.13.6. Burglary

2.4.13.7. Motor vehicle theft

2.4.13.8. Arson

2.4.13.9. Larceny-theft

2.1.13.10. Simple assault

2.1.13.11. Intimidation

2.1.13.12. Destruction/damage/vandalism of property

2.4.14. Arrests and Referrals for Disciplinary Action. The referral may, but doesn't have to, originate with the police. If the process involves the following three criteria, it's a disciplinary action under Clery:

(a) the official receiving the referral must initiate a disciplinary action;

(b) record of the action must be kept; and (c) the action may, but does not have to, result in a sanction. Arrests and Referrals for Disciplinary action that meet the three criteria and fall into the following categories:

2.4.14.1. Weapons: Carrying, Possessing, Etc. (formerly Illegal Weapons Possession)

2.4.14.2. Drug Abuse Violations (formerly Drug Law Violations)

2.4.14.3. Liquor Law Violations

2.5. Clery Act crimes are defined using the FBI's *Uniform Crime Reporting Handbook ("UCR")*, sex offenses are defined using the *NIBRS* edition of the *UCR* and hate crimes are defined using the *UCR Hate Crime Data Collection Guidelines*.

2.6. Campus Security Authorities. The function of a campus security authority is to report to the Department of Public Safety those allegations of Clery Act crimes that he or she concludes were made in good faith. A campus security authority that is not a law enforcement officer is

not responsible for determining authoritatively whether a crime took place—that is the function of law enforcement personnel. A campus security authority who is not a law enforcement officer should not try to apprehend the alleged perpetrator of the crime. That too is the responsibility of law enforcement. It’s also not the responsibility of a campus security authority that is not a member of law enforcement to try and convince a victim to contact law enforcement if the victim chooses not to do so. Categories of individuals who are considered campus security authorities for the purposes of the Clery Act are:

2.6.1. Members of the Department of Public Safety.

2.6.2. Any individual with security responsibilities but who is not a member of the campus police or security department such as an individual who provides security at a campus event, monitors access to a campus building or escorts students around campus after dark.

2.6.3. Any individual or organization to whom the University directs students and employees to report crimes.

2.6.4. Any University official, whether paid or unpaid, who has significant responsibility for student and campus activities, including, but not limited to, student housing, student discipline and campus judicial proceedings. 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. Campus security authority examples include but are not limited to resident assistants, the Vice President for Enrollment and Student Life, coaches and a faculty member who serves as the advisor of a student organization.

2.6.5. Exceptions-Pastoral and professional counselors acting in an official counseling capacity are not campus security authorities.

2.7. The Violence Against Women Reauthorization Act

2.7.1. The Violence Against Women Reauthorization Act (“VAWA”)¹ under its Campus Sexual Violence Act (“SaVE Act”) provision, Section 304 requires Universities and universities to:

2.7.1.1. Report domestic violence, dating violence, and stalking, beyond crime categories the Clery Act already mandates;

2.7.1.2. Adopt certain student discipline procedures, such as for notifying purported victims of their rights; and

¹ Information for sections 51.3 and 51.4 was taken from the American Council on Education’s *New Requirements Imposed by the Violence Against Women Reauthorization Act memorandum* prepared by the Washington, DC law firm Hogan Lovells US LLP.

2.7.1.3. Adopt certain institutional policies to address and prevent campus sexual violence, such as to train in particular respects pertinent institutional personnel.

2.7.2. Reporting Requirements. VAWA's SaVE Act provision imposes the following reporting requirements:

2.7.2.1. The Clery Act requires annual reporting of statistics for various criminal offenses, including forcible and non-forcible sex offenses and aggravated assault. VAWA's SaVE Act provision adds domestic violence, dating violence, and stalking to the categories that, if the incident was reported to a campus security authority or local police agency, must be reported under Clery.

2.7.2.1.1. "Domestic violence" includes asserted violent misdemeanor and felony offenses committed by the victim's current or former spouse, current or former cohabitant, person similarly situated under domestic or family violence law, or anyone else protected under domestic or family violence law.

2.7.2.1.2. "Dating violence" means violence by a person who has been in a romantic or intimate relationship with the victim. Whether there was such relationship will be gauged by its length, type, and frequency of interaction.

2.7.2.1.3. "Stalking" means a course of conduct directed at a specific person that would cause a reasonable person to fear for her, his, or others' safety, or to suffer substantial emotional distress.

2.7.2.2. "National origin" and "gender identity" are included in the hate crime categories, involving intentional selection of a victim based on actual or perceived characteristics that must be reported under the Clery Act.

2.7.2.3. With respect to the "timely reports" the Clery Act mandates that, for crimes considered a threat to other students and employees, the victims' names be withheld.

2.7.3. VAWA Student Discipline Requirements

2.7.3.1. Current requirements in the Clery Act are that institutions inform students of procedures victims should follow, such as preservation of evidence and to whom offenses should be reported. VAWA adds that institutional policy must also include information on:

2.7.3.1.1. Victims' option to, or not to, notify and seek assistance from law enforcement and campus authorities.

2.7.3.1.2. Victims' rights and institutional responsibilities regarding judicial no-contact, restraining, and protective orders.

2.7.3.2. VAWA prescribes standards for investigation and conduct of student discipline proceedings in domestic violence, dating violence, sexual assault, and stalking cases.

2.7.3.2.1. Institutional policy must include a “statement of the standard of evidence” used.

2.7.3.2.2. Institutional officials who conduct the proceeding must be trained on how to investigate and conduct hearings in a manner that “protects the safety of victims” and “promotes accountability.”

2.7.3.2.3. Institutional policy must identify “sanctions or protective measures” the institution may impose following a final determination of rape, acquaintance rape, domestic violence, dating violence, sexual assault or stalking.

2.7.3.2.4. “[T]he accuser and the accused are entitled to the same opportunities to have others present during an institutional disciplinary proceeding, including the opportunity to be accompanied to any related meeting or proceeding by an advisor of their choice....”

2.7.3.2.5. Accuser and accused must be notified “simultaneously” and “in writing” of: the outcome of the proceeding; appeal procedures; any change to the result before it becomes final; and when the result becomes final. The OCR Guidance Letter, at page 13, merely “recommends” that the parties be provided the determination “concurrently.” The OCR Guidance Letter may be accessed at

<http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.html>

2.7.3.2.6. Institutional policy must address how victims' confidentiality will be protected, including record-keeping that excludes personally-identifiable information on victims. OCR's Guidance Letter, at page 5, encourages institutions to be cognizant

of victims' confidentiality, but does not mandate that institutional policy address it.

2.7.3.2.7. Glenville State University's policies and complaint procedures are available in the Human Resources Office, in applicable student employee handbooks and online.

2.7.4. Requirements to Educate Students and Employees on Sexual Violence. Under VAWA, new students and new employees must be offered "primary prevention and awareness programs" that promote awareness of rape, acquaintance rape, domestic violence, dating violence, sexual assault, and stalking. The training programs must include:

2.7.4.1. A statement that the institution prohibits those offenses.

2.7.4.2. The definition of those offenses in the applicable jurisdiction.

2.7.4.3. The definition of consent, with reference to sexual offenses, in the applicable jurisdiction.

2.7.4.4. "Safe and positive" options for bystander intervention an individual may take to "prevent harm or intervene" in risky situations.

2.7.4.5. Recognition of signs of abusive behavior and how to avoid potential attacks.

2.7.4.6. Ongoing prevention and awareness campaigns for students and faculty on all of the above.

2.7.4.7. Glenville State University's Title IX Coordinator or the President's Designee is responsible for implementing the education requirements of the VAWA.

2.7.5. The University educates the student community about acts of sexual violence through mandatory freshman orientations each fall. The University educates employees through yearly training which may be conducted either online or in person. Literature on sexual violence including but not limited to acquaintance rape, risk reduction, and the University's response is available from the Title IX Coordinator's office and online.

This

policy will be published online in the Student Handbook, the Faculty Handbook, and the Classified Staff Handbook. Online addresses will be published in all of the aforementioned.

2.7.6. Victim Resources. If you are a victim of an act of sexual violence at this institution, your first priority should be to get to a place of safety. You should then obtain necessary medical treatment. The University Department of Public Safety strongly advocates that a victim of sexual assault report the incident in a timely manner. Time is a critical factor for evidence collection and preservation. An assault should be reported directly to a University officer and/or to a Resident Assistant. Filing a police report with a University Department of Public Safety officer will not obligate the victim to prosecute, nor will it subject the victim to scrutiny or judgmental opinions from officers. Filing a police report will; (a) ensure that a victim of sexual assault receives the necessary medical treatment and tests; (b) provide the opportunity for collection of evidence helpful in prosecution, which cannot be obtained later (ideally a victim of sexual assault should not wash, douche, use the toilet, or change clothing prior to a medical/legal exam); (c) assure the victim has access to confidential counseling from counselors specifically trained in the area of sexual assault crisis intervention.

51.3. CAMPUS SECURITY SEXUAL VIOLENCE CONTACT PROCEDURE AND VICTIM RESOURCES

3.1. When a sexual assault victim or victim of any other act of sexual violence contacts the University's Department of Public Safety, campus law enforcement will: (a) contact the Campus Counseling Center's licensed professional counselor at the University's Counseling Center (see section 3.4.1.1.1. of this policy); (b) provide the complainant/victim with information about the criminal complaint; and (c) provide the complainant/victim with information about any University administrative complaint procedures.

3.2. When contacted by campus law enforcement, the Campus Counseling Center's licensed professional counselor will go to the Department of Public Safety office, identify himself or herself to the victim, and offer assistance. If the victim agrees to accept assistance, the licensed professional counselor will explain to the victim the various assistance options the University provides, such as counseling services and academic support, and will notify the victim of the University's Title IX obligation to initiate an investigation whether or not the victim opts to file a complaint pursuant to University complaint procedures.

3.3. The licensed professional counselor will contact the Title IX/Equal Employment/Affirmative Action Coordinator so that the alleged perpetrator may immediately be removed from the victim's classes and housing, *as appropriate*, and to otherwise arrange for appropriate interim measures while the victim's complaint is investigated.

3.4. Victims may file a criminal complaint with law enforcement agencies as well as may file an administrative complaint with the University in accordance with the procedures established pursuant to Glenville State University Board of Governors Policy 6A. Victims are not

required to pursue a law enforcement investigation prior to filing an administrative complaint with the University.

3.4.1. Victim Resources

3.4.1.1. The University offers the services of an on campus licensed professional counselor:

3.4.1.1.1. Counseling Center
Glennville State University
137 Mollohan Campus Community Center
200 High Street
Glennville, WV 26351
(304) 462-6432

3.4.1.2. Off campus counseling options and support are available twenty four hours a day through:

3.4.1.2.1. RAINN (Rape, Abuse and Incest National Network)
National Sexual Assault Hotline

24 Hour Hotline: 1-800-656-HOPE (4673)

2000 L Street NW
Suite 406
Washington, DC, 20036
Telephone: (202) 544-3064
Fax: (202) 544-3556
Email: info@rainn.org

<http://www.rainn.org/>

3.4.1.2.2. HOPE, Inc., (A private non-profit agency which offers shelter and confidential support services to victims of sexual assault or domestic violence and their families)

24 Hour Hotline: (304) 367-1100

P.O. Box 626
Fairmont, WV, 26555
Telephone: (304) 367-1100 (Fairmont)
Telephone: (304) 462-5352 (Glennville)
Facsimile: (304) 367-0362

<http://www.fris.org/CrisisCenters/Pages-CrisisCenters/Center-Hope.html>

3.4.1.2.3. Emergency medical assistance may be obtained by dialing 9-1-1. During normal business hours (M-F 8:00 a.m. to 4:30 p.m.), medical assistance may also be obtained from Student Health Services, 137 Mollohan Campus Community Center.

3.4.1.2.4. Off campus medical assistance is also available from hospital emergency departments twenty four hours a day and at local area clinics during their regular business hours:

Stonewall Jackson Memorial Hospital
230 Hospital Plaza
Weston, West Virginia 26452
Telephone: (304) 269-8000

Minnie Hamilton Health System Hospital
186 Hospital Drive
Grantsville, WV 26147
Telephone: (304) 354-9244

Braxton County Memorial Hospital
100 Hoylman Drive
Gassaway, WV 26624
(304) 364-5156

Minnie Hamilton Health System – Glenville Office
Waco Center
921 Mineral Road, Suite 101
Glenville, WV 26351
Clinic: (304) 462-7322

Monday-Friday 8:00 a.m. to 6:00 p.m.
Saturday 8:00 a.m. to 4:00 p.m.

Little Kanawha Family Medicine
604 W Main St.
Glenville, WV 26351
(304) 462-7460
Call for an appointment

3.5. For additional information about, what to do immediately following an act of sexual violence and the resources available at the University and in the local community, consult the Sexual Assault Victims Info website at:

https://www.glenville.edu/sites/default/files/2018-06/hr_assault_intervention.pdf

3.6. Contact information for campus and local law enforcement:

Glenville State University Department of Public Safety
320 Mollohan Campus Community Center
Telephone: (304) 462-4132 or (304) 904-2041

Nonemergency contact numbers for local law enforcement:

Glenville City Police
462-7411

Gilmer County Sheriff's Office
462-7441

West Virginia State Police
462-7101

51.4. AUTHORITY OF THE PRESIDENT TO ESTABLISH PROCEDURES, DISCIPLINARY ACTION

4.1. The President or President's designee (upon approval by the President) may establish administrative procedures to implement this policy.

4.2. Violators of this policy may be subject to disciplinary action up to and including employment termination and/or expulsion.

4.3. Portions of this policy were taken from The Handbook for Campus Safety and Security Reporting which can be found at: <https://www2.ed.gov/admins/lead/safety/campus.html>