



The following is the draft language that was proposed to the Department of Education (ED) to be published in the Federal Register regarding the requirements for reporting fire safety on campuses. This language was developed during several meetings of a team of negotiators representing many campus interests and its campus safety subcommittee. In the final meeting on May 13, 2009, consensus was not reached on two of the other 31 non fire or safety related issues, which meant that there was no consensus on all 31 issues. NOTE: There WAS a tentative agreement on Issue Paper #11 Campus Fire Safety Right-to-Know as it appears below. However, the lack of consensus on the other two other, non-fire, issues results in causing the Department of Education to now publish the proposed regulations in the Federal Register using what they believe to be the most appropriate language. While it is hoped that they will use what was recommended for Issue Paper #11, this will not be known until the proposed regulations are published sometime this summer. Therefore, the following proposed regulation may change when it is published in the Federal Register.

**Please note this language is tentative.**

**Issue:** Disclosure of Fire Safety Standards and Measures

**Summary of issue:** The HEOA requires that all Title IV eligible institutions that participate in any Title IV program and that maintain on-campus student housing facilities publish an annual fire safety report, maintain a fire log, and report fire statistics to the Secretary.

**Regulatory language:**

§668.41 Reporting and disclosure of information.

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(e) Annual security report and annual fire safety report -

(1) *Enrolled students and current employees - annual security report and annual fire safety report.* 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), and, if the institution maintains an on-campus student housing facility, its

annual fire safety report described in §668.49(b), through appropriate publications and mailings, including--

(2) Enrolled students - annual security report and annual fire safety report. If an institution chooses to distribute either its annual security report or annual fire safety report to enrolled students by posting the disclosure or disclosures on an Internet Web site or an Intranet Web site, the institution must comply with the requirements of paragraph (c)(2) of this section.

(3) Current employees - annual security report and annual fire safety report. If an institution chooses to distribute either its annual security report or annual fire safety report to current employees by posting the disclosure or disclosures on an Internet Web site or an Intranet Web site, the institution must, by October 1 of each year, distribute to all current employees a notice that includes a statement of the report's availability, the exact electronic address at which the report is posted, a brief description of the report's contents, and a statement that the institution will provide a paper copy of the report upon request.

(4) *Prospective students and prospective employees - annual security report and annual fire safety report.* For each of the reports, 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 and annual fire safety report, upon request, to a prospective student or prospective employee. If the institution chooses to provide either its annual security report or annual fire safety report to prospective students and prospective employees by posting the disclosure on an Internet Web site, 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.

(5) *Submission to the Secretary - annual security report and annual fire safety report.* Each year, by the date and in a form specified by the Secretary, an institution must submit the statistics required by §668.46(c) and §668.49(c) to the Secretary.

(6) *Publication of the annual fire safety report.* An institution may publish its annual fire safety report concurrently with its annual security report only if the title of the report clearly states that the report contains both the annual security report and the annual fire safety report. If an institution chooses to publish the annual fire safety report separately from the annual security report, it must include information in each of the two reports about how to directly access the other report.

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**§668.49 Institutional fire safety policies and fire statistics.**

(a) Additional definitions that apply to this section.

*Cause of fire:* The factor or factors that give rise to a fire. The causal factor may be, but is not limited to, the result of an intentional or unintentional action, mechanical failure, or act of nature.

*Fire:* Any instance of open flame or other burning in a place not intended to contain the burning or in an uncontrolled manner.

*Fire drill:* A supervised practice of a mandatory evacuation of a building for a fire.

*Fire-related injury:* Any instance in which a person is injured as a result of a fire, including an injury sustained from a natural or accidental cause while involved in fire control, attempting rescue, or escaping from the dangers of the fire. The term person may include students, faculty, staff, visitors, firefighters, or any other individuals.

*Fire-related death:* Any instance in which a person

(1) Is killed as a result of a fire, including death resulting from a natural or accidental cause while involved in fire control, attempting rescue, or escaping from the dangers of a fire; or

(2) Dies within one year of injuries sustained as a result of the fire.

*Fire safety system:* Any mechanism or system related to the detection of a fire, the warning resulting from a fire, or the control of a fire. This system may include sprinkler systems or other fire extinguishing systems, fire detection devices, stand-alone smoke alarms, devices that alert one to the presence of a fire, such as horns, bells, or strobe lights; smoke-control and reduction mechanisms; and fire doors and walls that reduce the spread of a fire.

*Value of Property Damage:* The estimated value of the loss of the structure and contents, in terms of the cost of replacement in like kind and quantity. This estimate should include contents damaged by fire, and related damages caused by smoke, water, and overhaul; however, it does not include indirect loss, such as business interruption.

(b) Annual fire safety report. Beginning by October 1, 2010, an institution that maintains any on-campus student housing facility must prepare an annual fire safety report that contains, at a minimum, the following information:

(1) The fire statistics described in paragraph (c) of this section.

(2) A description of each on-campus student housing facility fire safety system.

(3) The number of fire drills held during the previous calendar year.

(4) The institution's policies or rules on portable electrical appliances, smoking, and open flames in a student housing facility.

(5) The institution's procedures for student housing evacuation in the case of a fire.

(6) The policies regarding fire safety education and training programs provided to the students, faculty, and staff. In these policies, the institution must describe the procedures that students and employees should follow in the case of a fire.

(7) For purposes of including a fire in the statistics in the annual fire safety report, a list of the titles of each person or organization to which students and employees should report that a fire occurred.

(8) Plans for future improvements in fire safety, if determined necessary by the institution.

(c) Fire statistics. (1) An institution must report statistics for each on-campus student housing facility, for the three most recent calendar years for which data are available, concerning-

(i) The number of fires and the cause of each fire;

(ii) The number of injuries related to a fire that resulted in treatment at a medical facility, including at an on-campus health center;

(iii) The number of deaths related to a fire; and

(iv) The value of property damage caused by a fire.

(2) An institution is required to submit a copy of the fire statistics in paragraph (c)(1) of this section to the Secretary on an annual basis.

(d) Fire log. (1) An institution that maintains on-campus student housing facilities must maintain a written, easily understood fire log that records, by the date that the fire was reported, any fire that occurred in an on-campus student housing facility. This log must include the nature, date, time and general location of each fire.

(2) An institution must make an entry or an addition to an entry to the log within two business days, as defined under §668.46(a), of the receipt of the information.

(3) An institution must make the fire 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.

(4) An institution must make an annual report to the campus community on the fires recorded in the fire log. This requirement may be satisfied by the annual fire safety report described in paragraph (b) of this section.

**Issue:** Reporting Emergency Response and Evacuation Procedures

**Summary of issue:** The HEOA requires institutions to include a statement of emergency response and evacuation procedures in the annual security report that describes how the institution will 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 staff occurring on the campus, unless the notification will compromise efforts to contain the emergency.

**Regulatory language:**

§668.46 Institutional security policies and crime statistics

*(a) Additional definitions that apply to this section.*

\* \* \* \* \*

Test: Regularly scheduled drills, exercises, and appropriate follow-through activities, designed for assessment and evaluation of emergency plans and capabilities.

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(b) *Annual security report.* An institution must prepare an annual security report that contains, at a minimum, the following information:

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(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.

(14) Beginning with the annual security report distributed by October 1, 2010, a statement of policy regarding missing student notification procedures, as described in paragraph (h) of this section.

\* \* \*

(e) *Timely warning and emergency notification.* (1) An institution must, in a manner that is timely and will aid in the prevention of similar crimes, report to the campus community on crimes that are -

(i) Described in paragraph (c)(1) and (3) of this section;

(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

(iii) Considered by the institution to represent a threat to students and employees.

(2) An institution is not required to provide a timely warning with respect to crimes reported to a pastoral or professional counselor.

(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.

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(g) *Emergency Response and Evacuation Procedures.* An institution must include a statement of policy regarding its emergency response and evacuation procedures in the annual security report. This statement must include --

(1) Procedures 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.

(2) A description of the process the institution will use to:

(i) Confirm that there is a significant emergency or dangerous situation as described in paragraph (g)(1) of this section;

(ii) Determine the appropriate segment or segments of the campus community to receive a notification;

(iii) Determine the content of the notification; and

(iv) Initiate the notification system.

(3) 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.

(4) A list of the titles of the person(s) or organization(s) responsible for carrying out the actions described in paragraph (g)(2) of this section.

(5) Procedures for disseminating emergency information to the larger community.

(6) Procedures to test the emergency response and evacuation procedures on at least an annual basis.

(i) A test may be announced or unannounced.

(ii) The institution must publicize its emergency response and evacuation procedures in conjunction with at least one test per calendar year.

(iii) An institution must document each test, including a description of the exercise, the date, time, and whether it was announced or unannounced.

