

Recommended Reading



This document explains the reasons the Drug-Free Schools and Communities Act must stay front of mind in the current environment.

The Resurgence of the Drug-Free Schools and Communities Act: A Call to Action

Missouri Partners in Prevention is proud to be Missouri's higher education substance abuse prevention and mental health consortium. In order to see measurable change in the health, safety, and well-being on campus, campus prevention practitioners must employ evidence-based strategies and models. This series provides a brief synopsis of the publications, articles, and resource documents available to campuses to assist in their substance abuse prevention and mental health intervention efforts. These documents provide a great deal of technical assistance and support. Browse our recommended reading synopsis to learn more about these publications.

Overview of Document

This whitepaper, issued in 2016, was prepared by Michael M. DeBowes, Ph.D., Director of Research and Strategic Initiatives, D. Stafford & Associates and the National Association of Clery-Compliance Officers and Professionals (NACCOP). It addresses the renewed efforts to ensure colleges and universities are in compliance with the Drug-Free Schools and Communities Act (DFSCA) after many years of lax oversight.

Introduction and Background

Originally codified in 1988 along with the Safe and Drug Free Workplace Act, the DFSCA fell under the oversight of the Office of Safe and Drug-Free Schools from 1989–2010. Although there was some monitoring of compliance from 1989–1998, it was determined that from 1998–June 2010 there was virtually no oversight of compliance with the DFSCA.

The whitepaper identifies that another name besides Jeanne Clery should be top of mind for many Clery Compliance Officers (CCO) and other prevention professionals: Kristine Guest. Following her untimely and alcohol-related death in February 2005, Guest's parents filed a civil suit against her college, Paul Smith's College of Arts and Sciences stating the school was negligent in its conduct. This suit was dismissed, but the Guests believed the College had failed to "adequately enforce its alcohol policies" and contacted Connecticut Senator Christopher Dodd for assistance. Senator Dodd subsequently wrote the Department of Education (ED) regarding the concerns, leading to an on-site review of the College's compliance with the Clery Act, to include the DFSCA in May 2007.

Paul Smith's College was found to be in compliance with the DFSCA requirements, but Senator Dodd, joined by Congressman John Larson, felt as though an additional review of ED's enforcement practices

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specific to DFSCA compliance was needed. Through this request, the Inspector General in the Department of Education ultimately determined that the Department “did not perform any oversight activities” from 1998 - June 2010. Subsequently, this led to the transfer of oversight to the Office of Federal Student Aid (FSA) and eventually a renewed emphasis on the DFSCA requirements.

Requirements of the Drug-Free Schools and Communities Act

This section provides a high-level review of the requirements of the DFSCA in order for an institution of higher education to receive Federal financial aid. Those requirements are as follows:

Certification they have “adopted and implemented a drug and alcohol abuse prevention program (DAAPP) to prevent the unlawful possession, use, or distribution of illicit drugs and alcohol by all students and employees on school premises or as part of any of its activities.”

Certification that the DAAPP has been communicated annually, in writing, to all students and employees. This communication must contain the following:

- **Standards of conduct** that clearly prohibit, at a minimum, the unlawful possession, use, or distribution of illicit drugs and alcohol by students and employees on its property or as part of any of its activities;
- **A description of the applicable legal sanctions** under Local, State, or Federal law for the unlawful possession or distribution of illicit drugs and alcohol;
- **A description of the health risks** associated with the use of illicit drugs and the abuse of alcohol;

- **A description of any drug or alcohol counseling, treatment, or rehabilitation or re-entry programs** that are available to employees or students; and
- **A clear statement that the institution will impose disciplinary sanctions** on students and employees, and a description of those sanctions.

Completion of a Biennial Review (further detail provided in the next section).

The whitepaper makes the important clarification that ED has indicated “[m]erely making the materials available to those who wish to take them does not satisfy the requirements” of the law and regulations, and that the information must be actively distributed.

Biennial Review

To be in compliance with the DFSCA, it is also necessary for institutions to conduct a biennial review of their DAAPP. At this time there is no specified date by which this review must be completed, but the whitepaper notes that good practice indicates the biennial review should be finalized by December 31 of each even-numbered year, and that the report should cover the previous two academic years. The biennial review is not submitted to any specific governmental agency but must be available upon request.

As noted in the whitepaper, the biennial review must contain the following components:

- **Description of the AOD (alcohol and other drug) program elements;**
- **Statement of AOD program goals** and a discussion of goal achievement;
- **Summaries of AOD program strengths and weaknesses;**

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- Procedures for distributing annual AOD notification to students and employees;
- Copies of the policies distributed to students and employees; and
- Recommendations for revising AOD programs.

Recommendations

Given the increase in governmental audits of The Clery Act and thus the DFSCA, it is recommended that attention be given to recently released program reviews as guidance can often be drawn from the findings of compliance and/or non-compliance discussed in the program reviews.

As this whitepaper was originally written with the CCO in mind, it is also recommended that the CCO ensure an adequate DAAPP is in place and that a substantive biennial review of the DAAPP is occurring as necessitated given the renewed emphasis on compliance.

Read 'The Resurgence of the Drug-Free Schools and Communities Act: A Call to Action' here: info.stanleycss.com/rs/692-VCY-483/images/Resurgence-of-the-Drug-Free-Schools.pdf

Citations

1. The College was determined to have several Clery Act violations, including but not limited to failing to report Kristine Guest's death correctly as a Negligent Manslaughter on campus.

2. See U.S. Department of Education, Office of the Inspector General, The Department of Education's Process for Ensuring Compliance by Institutions of Higher Education with the Drug and Alcohol Abuse Prevention Program Requirements (March 4, 2012). Available at: <https://www2.ed.gov/about/offices/list/oig/aireports/i1310002.pdf>.

3. See The Resurgence of the Drug-Free Schools and Communities Act: A Call to Action, D. Stafford and Associates and The National Association of Clery Compliance Officers and Professionals (NACCOP). (2016).
Written by Bethany Johnston, CHES. Published March 2020.

4. See 34 C.F.R. § 86.100(a)(5).

5. See 55 Fed. Reg. 33595.

6. See U.S. Department of Education, Higher Education Center for Alcohol and Other Drug Abuse and Violence Prevention, Complying with the Drug-Free Schools and Campuses Regulations: A Guide for University and College Administrators (2006), at pp. 15-17.

Written by Molly Lindner, Communications Assistant. Published July 2020.

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