

TYPES NOT MAPPED YET May 11, 2020 | TTR not mapped yet | Katie E. Wendel, Aaron D. Lacey

Making Clery Act notifications during COVID-19

As postsecondary counsel and administrators continue to manage the many changes brought on by COVID-19, they also continue to work through a wide range of compliance issues. In a recent post, we discussed minding student privacy laws during this period of transition and disruption. In this post, we include a brief note regarding compliance with notification requirements under the Clery Act, a [consumer protection law](#) that, among other things, requires postsecondary institutions to disclose information about crime and emergencies occurring on or near campus.

In its [April 3, 2020 guidance](#), the U.S. Department of Education affirmed that institutions must continue to comply with the Clery Act throughout the pandemic. The Department then offered specific direction regarding compliance with the requirement that institutions notify the campus community upon confirmation of a significant emergency or dangerous situation that poses an immediate threat to the health or safety of the institution.

To satisfy this emergency notification requirement, the Department indicated that an institution should inform students and employees about COVID-19 and necessary health and safety precautions, as well as encouraging them to obtain information from health care providers, state health authorities, and the [CDC's COVID-19 website](#). The Department observed that this could be accomplished using a single notification through the regular means of communicating emergency notifications, such as email or text message. Alternatively, an institution can satisfy the notification obligation under the Clery Act by creating a banner at the top of the institution's homepage containing that same information, including a statement about the global pandemic and a link to the CDC's website.

If institutions have not already implemented this guidance, we recommend doing so as soon as possible. We also recommend using specific links to governmental resources, rather than making statements on the status of the pandemic, as it is rapidly changing every day.

The Department is clear in its guidance that compliance with the Clery Act does not require institutions to give regular, on-going updates on COVID-19 or to proactively identify positive COVID-19 cases within the campus community. We emphasize, however, that institutions without a confirmed case of COVID-19 on campus should still convey information about the pandemic and the school's response to students and employees, as outlined above.

The Department's specific guidance on compliance with the Clery Act requirements and the emergency flexibilities set forth in the guidance document remain effective until and through June 30, 2020. The Department has indicated that it will extend the effective period of its guidance if circumstances warrant an extension and will inform the public of such an extension at the appropriate time. Follow [this link](#) for the most recent guidance and updates from the Department.

Thompson Coburn continues to monitor the evolving COVID-19 situation and its implications for our clients. Should you have any questions, please do not hesitate to contact [Aaron Lacey](#), [Katie Wendel](#) or another member of the Higher Education Practice.

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Our goal is to serve as a practical, concise, and accessible resource for institutions confronting regulatory and policy issues. The blog focuses on the extraordinarily broad and sophisticated set of legal challenges faced by contemporary post-secondary institutions, including those involving real estate, construction, joint ventures,



litigation, intellectual property, immigration, taxation, financing, employees and benefits, and government relations, to name a few. We also cover the staggering collection of federal, state, and accrediting agency laws and standards specific to higher education.

If there are topics you would like us to cover, or questions you may have regarding a topic that already has been addressed, please do not hesitate to reach out. Finally, if you would like to contribute a guest article, we would love to hear from you.

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