

Drug-Free Schools and Colleges [EDGAR Part 86] Act

Additional Notes re: distribution of the “Annual Notification” and “Biennial Review”

Distribution of the “**Annual Notification**” as required by the DFSCA

- According to the most recent official guidance, the 2006 Handbook: The Department of Education has not developed official policy on allowing electronic dissemination in fulfillment of the requirement that IHEs must distribute their [alcohol and other drug] annual notification in writing. That is not to say that colleges and universities cannot use electronic dissemination, however; if they choose to do so, they must ensure they can provide reasonable assurance to the Department (*if audited*) that this method of dissemination ensures distribution to all students and employees.¹
- According to the *Green River College Campus Crime Final Program Review Determination*², the following is noted:
 - “Simple inclusion of drug and alcohol information in the institution’s publications does not qualify as an acceptable means of active distribution to students and employees.”
- According to the *South Carolina State University Campus Crime Final Program Review Determination*³, the following is noted:
 - The University must ensure that the Annual Notification is “distributed annually to every student who enrolls for any academic credit and to all employees.”
 - The process of providing the Annual Notification “must provide for active delivery to every member of the campus community regardless of when they enroll or are hired and irrespective of the duration of enrollment/employment.”
 - “Failure to comply with the DFSCA’S DAAPP requirements deprives students and employees of important information regarding the educational, disciplinary, health, and legal consequences of illegal drug use and alcohol abuse.”
 - ◆ “Such failures may contribute to increased drug and alcohol abuse as well as an increase in drug and alcohol-related violent crime.”
 - ◆ “There is no way to truly “correct” a violation of these important campus safety and substance abuse prevention laws once they occur.”
 - ◆ “... remedial measures cannot and do not diminish the seriousness of these violations...”
 - “Access to accurate, complete, and transparent disclosures of safety information helps students, employees, and other stakeholders to make well-informed decisions about where to study, work, and live. The transparency created by these disclosures also empowers campus community members to play a more active role in their own safety and security.”
- According to the *Amherst College Campus Crime Program Review Final Determination*⁴:
 - “Campus community members cannot be expected to conform their behavior to the College’s expectations and its codes of conduct unless and until those standards are clearly communicated to students and employees and are reinforced as part of an overall substance abuse prevention strategy.”

¹ See “Complying with the Drug-Free Schools and Campuses Regulations”: <https://safesupportivelearning.ed.gov/sites/default/files/hec/product/dfscr.pdf>

² See Green River College Campus Crime Final Program Review Determination, pg. 44: https://studentaid.gov/sites/default/files/Green_River_College_Redacted.pdf

³ See South Carolina State University Campus Crime Final Program Review Determination, pg. 35:

https://studentaid.gov/sites/default/files/fsawg/datacenter/cleryact/South_Carolina_State_University_7_6_17_FPRD_Redacted.pdf

⁴ See Amherst College Campus Crime Program Review Final Determination, pg. 22:

https://studentaid.gov/sites/default/files/Amherst%20College%20FPRD%209.20.17_Redacted.pdf

- According to the *Cottey College Final Program Review Determination*⁵:
 - “Failure to comply with the drug and alcohol abuse education and prevention program requirements deprives students and employees of important information regarding the detrimental health risks and legal and disciplinary consequences of illicit drug use and alcohol abuse. Such a failure may contribute to increased drug and alcohol abuse on-campus as well as an increase in drug and alcohol-related violent crime.”
- According to the University of Jamestown Campus Crime Final Program Review Determination⁶:
 - “While Jamestown chose to embed portions indicative of DAAPP disclosures in student and staff handbooks, this decision failed to meet the Federal requirement that mandates that institutions produce a **single, fully-compliant document**.”
 - ◆ “The annual distribution requirement under the DFSCA is stricter than the ASR distribution requirement...”
 - ◆ “... reliance on its student and staff handbooks as the sole means of distributing the annual disclosures was not adequate.”
- According to the *Occidental College Campus Crime Final Program Review Determination*⁷, the following is noted:
 - They failed to “actively deliver program information to all employees and students who are enrolled for any academic credit annually.”
 - The College “merely sent an e-mail message to students and employees that asked them to read the Handbook and to acknowledge that they have done so.” They stated this was considered a “passive approach.”
 - Should an institution want to distribute the Annual Notification via email they may do so, but “the method for such a distribution would require the institution to post program materials on its website and then send an email message to each mandatory recipient that includes a direct link to the document.”
 - ◆ If posting on your website, it is not necessary for the Annual Notification to be public-facing.

Distribution of the “**Biennial Review**” as required by the DFSCA

- According to the *Concordia University Campus Crime Final Program Review Determination*⁸, the following is noted:
 - “The school must prepare a report of findings and maintain its biennial review report and supporting materials and make them available to the Department and interested parties upon request.” (34 C.F.R. §§ 86.3 and 86.100)
- According to the *South Carolina State University Campus Crime Final Program Review Determination*⁹, the following is noted:
 - “The biennial review report must be approved by the University’s chief executive and/or its’ Board.”

⁵ See Cottey College Campus Crime Final Program Review Determination, pg. 13: <https://studentaid.gov/sites/default/files/cottey-fprd-redacted.pdf>

⁶ See University of Jamestown Campus Crime Final Program Review Determination, pg. 38:

https://studentaid.gov/sites/default/files/fsawg/datacenter/cleryact/University_of_Jamestown_FPRD_122016_Redacted.pdf

⁷ See Occidental College Campus Crime Final Program Review Determination, pg. 52:

https://studentaid.gov/sites/default/files/fsawg/datacenter/cleryact/Occidental_College_8_11_17_FPRD_Redacted.pdf

⁸ See Concordia University Campus Crime Final Program Review Determination, pg. 16:

https://studentaid.gov/sites/default/files/Concordia_University_WI_00384200_FPRD_Redacted.pdf

⁹ See South Carolina State University Campus Crime Final Program Review Determination, pg. 35:

https://studentaid.gov/sites/default/files/fsawg/datacenter/cleryact/South_Carolina_State_University_7_6_17_FPRD_Redacted.pdf