

## **White Paper: Mass Notification Requirements for Our Children's Schools**

**Regulatory requirements and penalties / liability for noncompliance.**

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## **Introduction**

Over the past several years, violence has continued to erupt on school and college campuses throughout the US and around the world. For more than 20 years, numerous regulations and regulating bodies have attempted to address these issues here in the U.S. through guidelines, recommendations and requirements. Recently, "Mass Notification" has become a common topic of discussion for many of our clients.

This white paper summarizes our research and experience regarding Mass Notification as it pertains to educational facilities including K-12 and Higher Education institutions.

## **Notifying the Masses**

For many years, the activity of Mass Notification was an on-premise action that could simply involve the PA system and/or fire alarm and notice was limited to evacuation of an area or facility. Recently with advances in technology, Mass Notification has evolved to include information posted on websites, updates through email, on Social Media, automated phone message dialers, mobile phone text messaging, digital signage, and other overlapping information technologies.

Today, we can identify over 120 manufacturers who support some aspects of various methods of Mass Notification with a host of services, component products, and targeted mass notification systems.

## **Recent Regulatory Activities**

### **1990 Clery Act**

At present specific regulatory reporting actions are required by The Clery Act established in 1990 for all schools (K-12 and Higher Education). The Clery Act was originally known as the Crime Awareness and Campus Security Act.

The law is named for Jeanne Clery, a 19-year-old Lehigh University freshman who was raped and murdered in her campus residence hall in 1986. The backlash against unreported crimes on numerous campuses across the country led to the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act.<sup>1</sup>

### **2008-09 DOE Higher Ed Opportunity Act**

In October 2009, the Department of Education finalized the rules to the Higher Education Opportunity Act amendment that Congress originally passed in 2008. The changes affected many parts of the original act, but significant changes were put in place that affects emergency management and reporting.

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<sup>1</sup> *Clery Act - Wikipedia, the free encyclopedia.* (n.d.). Retrieved from [http://en.wikipedia.org/wiki/Clery\\_Act](http://en.wikipedia.org/wiki/Clery_Act)

### **Annual Security Report - Reporting**

The Annual Security Report required by the DOE is a comprehensive account of virtually everything pertaining to campus safety. This is a clearly defined requirement for transparency of Higher Educational institutions, but does not apply to K-12 facilities or Higher Educational facilities not accepting federal funding.

Some of the key elements required by the DOE are crime statistics and reporting, emergency notification policies and procedures, missing student notification policies and more. Three main groups must receive either a copy of the Annual Security Report or notice of the report's availability by October 1<sup>st</sup> of each year. The reporting requirements began in October of 2010.

These groups include:

1. Secretary of the Department of Education
2. All enrolled students and current employees
3. All prospective students and prospective employees

### **Policy of Emergency Notification**

Institutions of Higher Education are required to have a policy for emergency notification of 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." These timely warnings must be issued when reported to campus security or local police agencies events are considered a threat to students and employees.

- Institutions must provide descriptions of the process the institution will use to:
  - Confirm there is an emergency/dangerous situation
  - Determine appropriate segments of the campus to notify
  - Determine content of the message
  - Initiate the notification system

To avoid flooding campus recipients with messages, an institutional emergency notification procedure is not required to issue a timely warning based on the same circumstance repeatedly, but must adequately follow-up on information provided to the community as needed. In other words, both a warning message and an emergency notification message do not need to be issued.

The new DOE regulations also include a provision that ensures sufficient information is disseminated to the campus in situations where the emergency or investigation is still developing. The new requirement states that an institution uses its emergency notification system to provide follow-up information to the community as needed and that it should not interfere with emergency operations.

### **Policy of Emergency Response and Evacuation**

A statement of policy regarding emergency response and evacuation procedures is the primary element of the Annual Security Report. This statement describes how the institution will immediately notify the campus community upon confirmation of a significant emergency or dangerous situation (unless notification will compromise efforts to contain the emergency).

### **Testing of Emergency Response and Evacuation**

The Annual Security Report must contain a description of how the institution will test its emergency response and evacuation procedures at least annually:

- At least one test per calendar year, may be announced or unannounced
- Document a description of the exercise, date, time and whether it was announced or unannounced
- Procedures the institution will use to immediately notify the campus community upon confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees occurring on campus, unless notification will compromise efforts to contain the emergency
- Must provide follow-up information to the community as needed when emergency notification system is used

### **Notification Required – Unless it Compromises Efforts to Assist Victim**

The Annual Security Report must also contain a statement that the institution will, without delay, determine the content of the message and initiate the notification system unless notification will compromise efforts to assist a victim or mitigate the emergency. Other items the report must contain include:

1. List the titles of who is responsible for carrying out the actions
2. Procedures for disseminating emergency information to the larger community
3. A Statement of the policies regarding missing student notification procedures for the students who reside in “on-campus” (Institution provided student housing facilities).

In an excerpt from the DOE, they state:

“Institutions may and should have multiple methods of communication with the campus community...the Department encourages institutions to consider overlapping means of communication in case one method fails or malfunctions. Additionally, institutions have the flexibility to alert only the appropriate segment or segments of the population that they determine to be at risk.”

## **NFPA 72**

The National Fire Protection Association (NFPA) has set national standards to be followed when planning for fire safety. NFPA now has conformance guidelines, and requirements for Mass Notification systems and how they should interface and overlap other systems specific to Mass Notification. The NFPA 72 standards are intended to minimize the possibility and effects of fires, emergency events, and effect of events in virtually every building through a design, installation and monitoring process.

### **Planning & Implementing Mass Notification Systems**

When planning and implementing a mass notification system, institutions should also consider what role fire/life safety and fire/life safety/emergency notification alerts will play in emergency communications. Institutions must take into account the need for targeting specific areas of the campus and accommodating employees and students with disabilities. The most recent change to NFPA 72 allows the Mass Notification System to reside above and signal different devices attached to the Fire Alarm System as well as gather more information from outside systems that may provide advanced warning of a potential event.

### **Redundancy & Reliability**

Redundancy and reliability are two necessary attributes of a holistic approach to mass notification on campuses. Best practices indicate that a mixed media approach with multiple tiers of communication technologies are needed in an emergency. The visual alerts available with programmable digital notification such as smart LED solutions strategically placed in high traffic and gathering areas is a fundamental part of effectively communicating vital information instantly. With the right technology mix, emergency management personnel can save time and save lives while leveraging components of a solution for practical daily use and delivering return on investment.

## **National Standards**

### **NIMS, ICS, NRF**

National Incident Management System (NIMS), the Incident Command System (ICS), and the National Response Framework (NRF)

Started by presidential order in 2003 and originally intended to address “National Incidents” like the tragic events of 9/11 a series of standards and procedures have been developed to help the U.S. be better prepared during emergencies. These include the **National Incident Management System (NIMS)**, the **Incident Command System (ICS)**, and the **National Response Framework (NRF)**. These programs are very comprehensive and are administered by DHS under FEMA.

A few states have begun to use the NIMS and ICS structure to address school emergencies and establish programs and guidelines for response. While the interface to Federal, State and Local agencies is an important component of any response plan, a well-tailored and comprehensive plan that takes the details of the specific institution or schools needs into account is imperative.

### **Effective Planning Starts with the Risk Assessment**

Schools, Colleges, and Universities should begin with a full risk assessment and comprehensive development of an emergency plan. These actions are the first steps in determining the needs of your particular environment and the requirements of the location.

Following the Federal NIMS and the DOE guidelines only provides an outline of what is required. A full multi-disciplinary team of participants should be utilized. Once the plan is established with the policies for compliance and the emergency responses; only then can the supporting systems and equipment can be functionally addressed.

## **Compliance & Enforcement**

### **Clery Act / DOE**

As stated earlier, the Clery Act requires all colleges and universities that participate in federal financial aid programs to keep and disclose information about crime on and near their respective campuses. The U.S. Federal DOE requires College Campuses to submit yearly updated security & safety plans to address the newly established requirements if they wish to participate in federal financial aid programs.

The methodology for addressing the systems in support of these DOE required plans is coming into shape in the requirement changes and additions within NFPA 72. Compliance is monitored by the United States Department of Education, which can impose civil penalties, up to \$27,500 per violation, against institutions for each infraction and can suspend institutions from participating in federal student financial aid programs.

### **Authority having Jurisdiction**

While there are ever tightening requirements for Higher Education and mandates associated with fines for non-compliance, the K-12 school environment is woefully behind.

In some cases, K-12 schools are required to meet State regulations for their individual state if they exist, yet even where there are statutes, there some districts and departments have not been funded enough to do so. A few states have begun to use NIMS to address school emergencies and establish programs and guidelines for response.

The Authority having Jurisdiction (AHJ) ultimately is responsible for compliance of State and Local code enforcement, but in many discussions, even the AHJ has not kept up with the requirements and recommendations associated with K-12 schools.

Following an incident, civil lawsuits for millions of dollars are prevalent. The basis of these lawsuits is the negligence for failing to provide a safe and secure environment. With direction and guidance provided by federal and state levels, individuals, institutions and municipalities have little defense.

*The following table shows the inconstancy and growing disparity of enforcement between K-12 institutions and Higher Education.*

	<b>K-12</b>	<b>Higher Ed</b>
1990 Clery Act – Disclose Crime Information	Does not apply to K-12	Enforced
2003-2008 Federal Guidelines	No Enforcement	Enforced
State Enforced Assessments	Only 20 States	N/A
NFPA 72 & 101	Inconsistently Applied & Enforced	

## Alarming Statistics for K-12

Considering the disparity of enforcement, the following statistics bear out the disparity and are especially alarming when we consider the ages of the affected students:

### 2010 Statistics

2010 US Dept. of Education Stats	K-12	Higher Ed
Schools / Institutions	132,183	6,742
Students	54,704,000	21,016,000

  

On Campus Crimes	K-12	Higher Ed
Homicides	32	16
Sex Offenses	4,200	2,967
Robbery	14,700	1,817
Assault/Physical Attack	739,600	2,531
Burglary/Theft	258,500	22,202
Threat of Physical Attack	425,100	Unavailable
Other (Harassment, Vandalism, Drugs, Weapons Possession, etc.)	434,800	Unavailable
<b>Total</b>	<b>1,876,932</b>	<b>29,533</b>

Source U.S. Department of Education

The following statistics below add concern and help to drive the need for completion and assessment of the individual schools in a “holistic” approach.

- In 2009, about 5% of K-12 students avoided a place in school, a school activity, or stayed home because of fear of attack or harm.
- 16% of public schools reported gang activity in 2009-10.
- K-12 Teachers are victims of over 400,000 violent crimes each year.

The assessments would produce not only Mass Notification requirements, but an entire security and safety plan with the current associated liability.

### **Mass Notification Role & Its Importance**

The role of a Mass Notification system should allow a layered communications strategy for your physical security plan needs. This will address how you alert your security staff, faculty, students, parents, and the public. A holistic approach to protection should be employed to address all possibilities and potential threats.

*“Mass Notification type events can vary from the severe “a bomb or terrorist attack”, to the informational such as closings due to weather “a snow day”. The intent of Mass Notification Systems is as the name would imply “to notify the masses” in the case of an event.*

*As authors in this subject matter, we would be remiss not to caution the reader that Clery Act considerations and changes within NFPA, set expectations and requirements regarding these systems. We advise that these items be given the consideration they deserve. Laws, regulations, and codes have begun to change regarding fire and notification systems. When designing these systems NFPA requirements and recommendations should be followed closely.*

*In some locales, requirements utilize NFPA as a guide and add requirements to make the requirements more stringent. As you consider these systems, please keep in mind that while State and ultimately local jurisdiction presides, any deviation that is less than the NFPA standard opens the school or institution to potential litigious pursuits.”*

*– (2012, A Primer on Electronic Security for Schools, Universities & Institutions)*

The principal directives and driving factors are described in brief above but should now be evident. The threat to life safety is the most important reason to deploy and utilize Mass Notification. The standpoint of business continuity and liability is arguably the second greatest reason to utilize a Mass Notification system.

### **Authors' Conclusion – Addressing Gaps**

In order to address the gap and provide for one of the most vulnerable sectors of our population (our children) the K-12 schools should be accountable to the same regulatory standards as Higher Education.

The following points are evident to us as authors, subject matter experts, and parents of school age children:

- Crime statistics are markedly higher in K-12 compared to Universities
- This age group is more dependent on guidance in an emergency
- Standardized Assessment Criteria is needed
- Standardized Security Administrator Training is needed
- Many K-12 Schools already receive federal funds

Further development and enacting the requirements of NFPA 72 for Mass Notification at the K-12 level is required. The educational and awareness efforts for AHJ's and other responsible parties will begin the process of providing school assessments and further safety and security for our school age children. Though we do not encourage more federal involvement, it is our belief that earmarked DOE funds and grants with requirements for assessments and mass notification will improve the K-12 school environment rapidly.

As a final note, it is important to note that the roll of the schools in today's communities has increased to include many public functions, including being put into service during times of emergency. It is important to provide these institutions with the necessary tools to handle the emergencies when the demand arises.

## Appendices

### Appendix A - Resources

- NFPA [nfpa.org](http://nfpa.org)
- U.S. Department of Education [ed.gov](http://ed.gov)
- Department of Homeland Security [dhs.gov](http://dhs.gov)
- FEMA [fema.gov](http://fema.gov)

### Appendix B - References

#### **“A Primer on Electronic Security for Schools, Universities & Institutions”**

2012 - Frank J. Davies, Gregory Bernardo, Henry Homrighaus.

[schoolsecurityprimer.com](http://schoolsecurityprimer.com)

#### **The Campus Safety and Security Data Analysis Cutting Tool**

U.S. Department of Education, Office of PostSecondary Education

[ope.ed.gov/security](http://ope.ed.gov/security)

#### **Digest of Education Statistics**

U.S. Department of Education, National Center for Education Statistics

[nces.ed.gov](http://nces.ed.gov)

## **Appendix C – Authors**

### **Frank J. Davies**

Frank J. Davies is a veteran of 30 years in the physical and electronic security industry and is currently president and co-founder of Aella Consulting Group, Inc. Frank has specialized in the design development and implementation of sophisticated security integration projects for the Federal Government, Airports, Universities and Fortune 500 clientele.

Frank is a Certified in Homeland Security (CHS-III) by the American Board for Certification in Homeland Security, a Certified Infrastructure Professional with the Office of Infrastructure Preparedness, NFPA Member, Infragard Member (FBI Private/Business Organization), American Society for Industrial Security Member (Since 1984), and the International Association of Campus Law Enforcement Administrators (Since 1996) and remains active in all of these organizations.

As a U.S. PBA Agent (a support organization to Homeland Security and other US law enforcement and investigative agencies), Frank is recognized as an Electronic Surveillance Expert and Advisory Board Member.

Frank was educated at Syracuse University and The University of New Hampshire and holds a BA in Communications with a minor in Electrical Engineering and continued studies through The Whittemore School of Business and Economics in pursuit of his MBA.

### **Gregory Bernardo**

Greg Bernardo has held key positions for over 18 years in the physical and electronic security industry. His experience includes sales & marketing, technical support, applications design, product management, project management for various security industry leaders and is currently vice president and co-founder of Aella Consulting Group, Inc.

Greg has implemented sophisticated security integration projects for Healthcare facilities, K-12 Institutions of Education and Fortune 500 clientele. Greg has performed site surveys & security assessments, development of mitigation plans, systems design, bid project specification documentation, drafting, equipment and labor estimation and grant writing for some of the largest airports, seaports and school districts in the United States.

Greg is a Certified Documents Technologist (CDT) by The Construction Specifications Institute, Certified in Homeland Security (CHS-I) by the American Board for Certification in Homeland Security, and has been a supporting member of the American Society for Industrial Security (ASIS) since 2004.