



**Before the United States Department of Education**

**SUPPLEMENTAL PETITION FOR RULEMAKING OF:  
AMERICA FIRST LEGAL FOUNDATION**

**Submitted via Email**

**SUPPLEMENTAL PETITION FOR RULEMAKING  
TO AMEND CAMPUS CRIME REPORTING REQUIREMENTS UNDER THE  
JEANNE CLERY ACT**

Emily Percival  
AMERICA FIRST LEGAL FOUNDATION  
611 Pennsylvania Avenue #231  
Washington, DC 20003  
(202) 964-3721  
emily.percival@aflegal.org

*Counsel for Petitioner*

Submitted: April 2, 2026

## INTRODUCTION

1. On February 25, 2026, America First Legal Foundation (“AFL”) petitioned the U.S. Department of Education (the “Department”) to initiate negotiated rulemaking to amend 34 C.F.R. § 668.46, titled “Institutional security policies and crime statistics.”<sup>1</sup>
2. This Supplemental Petition provides additional recommendations and proposes a practical, administrable framework for implementing the requested amendments. This submission is intended to assist the Department in evaluating both the substance of the proposed changes and feasible mechanisms for their adoption.

## SUMMARY OF ORIGINAL PETITION

3. In its original petition, AFL requested that the Department amend 34 C.F.R. § 668.46 to require higher education institutions to track and report all instances of violent protest activity, politically motivated assaults or intimidation, and protest-related destruction of property, occurring on or near campus or in institution-controlled locations.
4. Specifically, AFL asked the Department to amend § 668.46(c) to require covered institutions to report and disclose in their annual security report statistics regarding the following crimes, when occurring in connection with protest activity, demonstrations, or riots:
  - a. Riot/inciting or promoting a riot.
  - b. Trespass.
  - c. False imprisonment.
  - d. Larceny-theft.
  - e. Simple assault.
  - f. Battery.
  - g. Intimidation.
  - h. Destruction/damage/vandalism of property.<sup>2</sup>
5. AFL also requested that institutions be required to publish, in a prominent location on their public websites, a Political & Religious Violence Transparency Report. This report would include: (1) all violent protests, demonstrations, and riots, occurring on campus, on public property immediately adjacent to

---

<sup>1</sup> *America First Legal Files Rulemaking Petition with Department of Education: Make Colleges Publicly Disclose Political Violence, Riots, and Assaults Under Clery Act*, AM. FIRST LEGAL: PRESS RELEASE (Feb. 26, 2026), <https://perma.cc/XU79-BK7M>.

<sup>2</sup> *Id.*

campus, or in non-campus buildings or property owned or controlled by the institution, involving force, threats of force, or the risk of injury to persons; (2) all assaults or intimidation, defined as acts of violence, credible threats of violence, or threatening harassment directed at individuals or groups based on political belief, religious belief, affiliation, or expressive activity; and (3) destruction of property, including arson, vandalism, or other deliberate damage, when occurring in connection with protest activity, demonstrations, or riots. AFL indicated that the report should include a narrative description of institutional and/or law enforcement responses and be updated at least twice annually.<sup>3</sup>

6. AFL further requested that the Department amend 34 C.F.R. § 668.46 to include a section outlining the monetary penalties for noncompliance, including civil penalties and fines up to \$71,545 per violation.<sup>4</sup>

#### SUPPLEMENTAL MATERIAL

7. As explained in the original petition, the Clery Act requires covered institutions that maintain a campus police or campus security department to maintain a daily crime log.<sup>5</sup> The Clery Act requires the daily crime log to capture a broad range of crimes, including murder, sexual assault, domestic violence, robbery, burglary, arson, hate crimes, and violations of drug, alcohol, and weapon laws.<sup>6</sup> The daily crime log must include the nature, date, time, and general location of each crime, as well as the disposition of the complaint, if known.<sup>7</sup>
8. Currently, daily crime logs are maintained by individual institutions, either on campus or online, and vary widely in accessibility, format, and usability.
9. To complement the amendments proposed in the original petition, AFL respectfully requests that the Department amend 34 C.F.R. § 668.46 to explicitly require covered institutions to report and disclose in their daily crime logs the following crimes, when occurring in connection with protest activity, demonstrations, or riots:
  - a. Riot/inciting or promoting a riot.
  - b. Trespass.
  - c. False imprisonment.
  - d. Larceny-theft.

---

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> 20 U.S.C. § 1092(f)(4)(A).

<sup>6</sup> *Id.* § 1092(f)(1)(F)(i–iii).

<sup>7</sup> 34 C.F.R. § 668.46(f)(1)(i–ii).

- e. Simple assault.
  - f. Battery.
  - g. Intimidation.
  - h. Destruction/damage/vandalism of property.<sup>8</sup>
10. AFL also requests that the Department establish a centralized, publicly accessible online database that aggregates the daily crime logs.
  11. Under the current framework, information reported in daily crime logs is often difficult to locate, inconsistent in format across institutions, and not readily comparable. As a result, even when institutions comply with the preexisting disclosure requirements, interested persons face substantial practical barriers to understanding patterns and accessing the information.<sup>9</sup> A centralized database would significantly improve transparency and usability by making reported data searchable, standardized, and easily comparable across institutions.<sup>10</sup>
  12. The Department should therefore require covered institutions to submit their daily crime log data through a standardized electronic reporting system maintained by the Department. The Department should then publish the information through an online platform allowing users to search, filter, and analyze the reported data.
  13. At a minimum, the platform should allow users to search and sort data by institution, geographic location, incident type, and time period.
  14. Such a system would meaningfully advance the Clery Act's transparency objectives. Prospective students and parents would be better equipped to evaluate campus safety conditions, while researchers and policymakers could more effectively identify trends and assess institutional responses.
  15. A centralized database would also promote regulatory compliance. Because the information would be presented in a standardized format and made publicly accessible, institutions would have a strong incentive to ensure that their

---

<sup>8</sup> Cf. 34 C.F.R. § 668.46(e)(1)(iii)(B)(4) (using the same language in an almost identical regulatory context).

<sup>9</sup> See generally Dylan Tiger, *Campus Crime Reports Significantly Different; Some Call for Reform of Federal Clery Act*, CU-CITIZEN ACCESS (Oct. 11, 2020), <https://perma.cc/433B-YKDP> (explaining that “the Clery Act guidelines can be confusing and unclear for crime reporting” and describing other issues with using data from daily crime logs in practice).

<sup>10</sup> See Jerry Brito, *Hack, Mash, & Peer: Crowdsourcing Government Transparency*, 9 COLUM. SCI. & TECH. L. REV. 119, 157 (2008) (concluding that making data “available online in useful and flexible formats,” such as in centralized databases, helps “shed light on” inferences which can be drawn from and information which can be gained from the data).

reporting is accurate and complete. Public visibility would make it easier for the Department to identify inconsistencies, omissions, or potential violations.

16. The Department already maintains online systems that collect and publish institutional reporting data under other higher education disclosure regimes.<sup>11</sup> Expanding or adapting those existing systems to incorporate the additional reporting requested in AFL’s petition would provide a practical and administrable mechanism for implementing the proposed amendments.

### CONCLUSION

17. For the foregoing reasons, the Department should incorporate into the negotiated rulemaking process consideration of a centralized reporting database to ensure that information regarding protest-related violence, intimidation, and property destruction is not only disclosed, but meaningfully accessible and comparable nationwide.

Respectfully submitted,

*/s/ Emily Percival*  
Senior Counsel  
AMERICA FIRST LEGAL FOUNDATION  
611 Pennsylvania Avenue #231  
Washington, DC 20003  
(202) 964-3721  
emily.percival@aflegal.org

---

<sup>11</sup> 20 U.S.C. § 1094(a)(17) (requiring certain universities to “complete surveys conducted as a part of the Integrated Postsecondary Education Data System (IPEDS) or any other Federal postsecondary institution data collection effort, as designated by the Secretary [of Education], in a timely manner and to the satisfaction of the Secretary [of Education].”); *See* The Institute of Education Sciences, *Integrated Postsecondary Education Data System*, NATIONAL CENTER FOR EDUCATION STATISTICS, <https://perma.cc/9A87-Z3G5> (last visited Mar. 26, 2026).