

HIGHER EDUCATION

(110 ILCS 155/) Preventing Sexual Violence in Higher Education Act.

(110 ILCS 155/1)

Sec. 1. Short title. This Act may be cited as the Preventing Sexual Violence in Higher Education Act.
(Source: P.A. 99-426, eff. 8-21-15.)

(110 ILCS 155/5)

Sec. 5. Definitions. In this Act:

"Awareness programming" means institutional action designed to communicate the prevalence of sexual violence, including without limitation training, poster and flyer campaigns, electronic communications, films, guest speakers, symposia, conferences, seminars, or panel discussions.

"Bystander intervention" includes without limitation the act of challenging the social norms that support, condone, or permit sexual violence.

"Complainant" means a student who files a complaint alleging violation of the comprehensive policy through the higher education institution's complaint resolution procedure.

"Comprehensive policy" means a policy created and implemented by a higher education institution to address student allegations of sexual violence, domestic violence, dating violence, and stalking.

"Confidential advisor" means a person who is employed or contracted by a higher education institution to provide emergency and ongoing support to student survivors of sexual violence with the training, duties, and responsibilities described in Section 20 of this Act.

"Higher education institution" means a public university, a public community college, or an independent, not-for-profit or for-profit higher education institution located in this State.

"Primary prevention programming" means institutional action and strategies intended to prevent sexual violence before it occurs by means of changing social norms and other approaches, including without limitation training, poster and flyer campaigns, electronic communications, films, guest speakers, symposia, conferences, seminars, or panel discussions.

"Respondent" means a student involved in the complaint resolution procedure who has been accused of violating a higher education institution's comprehensive policy.

"Sexual violence" means physical sexual acts attempted or perpetrated against a person's will or when a person is incapable of giving consent, including without limitation rape, sexual assault, sexual battery, sexual abuse, and sexual coercion.

"Survivor" means a student who has experienced sexual violence, domestic violence, dating violence, or stalking while enrolled at a higher education institution.

"Survivor-centered" means a systematic focus on the needs and concerns of a survivor of sexual violence, domestic violence, dating violence, or stalking that (i) ensures the compassionate and sensitive delivery of services in a

nonjudgmental manner; (ii) ensures an understanding of how trauma affects survivor behavior; (iii) maintains survivor safety, privacy, and, if possible, confidentiality; and (iv) recognizes that a survivor is not responsible for the sexual violence, domestic violence, dating violence, or stalking.

"Trauma-informed response" means a response involving an understanding of the complexities of sexual violence, domestic violence, dating violence, or stalking through training centered on the neurobiological impact of trauma, the influence of societal myths and stereotypes surrounding sexual violence, domestic violence, dating violence, or stalking, and understanding the behavior of perpetrators.

(Source: P.A. 99-426, eff. 8-21-15.)

(110 ILCS 155/10)

Sec. 10. Comprehensive policy. On or before August 1, 2016, all higher education institutions shall adopt a comprehensive policy concerning sexual violence, domestic violence, dating violence, and stalking consistent with governing federal and State law. The higher education institution's comprehensive policy shall include, at a minimum, all of the following components:

(1) A definition of consent that, at a minimum, recognizes that (i) consent is a freely given agreement to sexual activity, (ii) a person's lack of verbal or physical resistance or submission resulting from the use or threat of force does not constitute consent, (iii) a person's manner of dress does not constitute consent, (iv) a person's consent to past sexual activity does not constitute consent to future sexual activity, (v) a person's consent to engage in sexual activity with one person does not constitute consent to engage in sexual activity with another, (vi) a person can withdraw consent at any time, and (vii) a person cannot consent to sexual activity if that person is unable to understand the nature of the activity or give knowing consent due to circumstances, including without limitation the following:

(A) the person is incapacitated due to the use or influence of alcohol or drugs;

(B) the person is asleep or unconscious;

(C) the person is under age; or

(D) the person is incapacitated due to a mental disability.

Nothing in this Section prevents a higher education institution from defining consent in a more demanding manner.

(2) Procedures that students of the higher education institution may follow if they choose to report an alleged violation of the comprehensive policy, regardless of where the incident of sexual violence, domestic violence, dating violence, or stalking occurred, including all of the following:

(A) Name and contact information for the Title IX coordinator, campus law enforcement or security, local law enforcement, and the community-based sexual assault crisis center.

(B) The name, title, and contact information for confidential advisors and other confidential resources and a description of what confidential reporting means.

(C) Information regarding the various individuals, departments, or organizations to whom a student may report a violation of the comprehensive policy, specifying for each individual and entity (i) the extent of the individual's or entity's reporting obligation, (ii) the extent of the individual's or entity's ability to protect the student's privacy, and (iii) the extent of the individual's or entity's ability to have confidential communications with the student.

(D) An option for students to electronically report.

(E) An option for students to anonymously report.

(F) An option for students to confidentially report.

(G) An option for reports by third parties and bystanders.

(3) The higher education institution's procedure for responding to a report of an alleged incident of sexual violence, domestic violence, dating violence, or stalking, including without limitation (i) assisting and interviewing the survivor, (ii) identifying and locating witnesses, (iii) contacting and interviewing the respondent, (iv) contacting and cooperating with law enforcement, when applicable, and (v) providing information regarding the importance of preserving physical evidence of the sexual violence and the availability of a medical forensic examination at no charge to the survivor.

(4) A statement of the higher education institution's obligation to provide survivors with concise information, written in plain language, concerning the survivor's rights and options, upon receiving a report of an alleged violation of the comprehensive policy, as described in Section 15 of this Act.

(5) The name, address, and telephone number of the medical facility nearest to each campus of the higher education institution where a survivor may have a medical forensic examination completed at no cost to the survivor, pursuant to the Sexual Assault Survivors Emergency Treatment Act.

(6) The name, telephone number, address, and website URL, if available, of community-based, State, and national sexual assault crisis centers.

(7) A statement notifying survivors of the interim protective measures and accommodations reasonably available from the higher education institution that a survivor may request in response to an alleged violation of the comprehensive policy, including without limitation changes to academic, living, dining, transportation, and working situations, obtaining and enforcing campus no contact orders, and honoring an order of protection or no

contact order entered by a State civil or criminal court.

(8) The higher education institution's complaint resolution procedures if a student alleges violation of the comprehensive violence policy, including, at a minimum, the guidelines set forth in Section 25 of this Act.

(9) A statement of the range of sanctions the higher education institution may impose following the implementation of its complaint resolution procedures in response to an alleged violation of the comprehensive policy.

(10) A statement of the higher education institution's obligation to include an amnesty provision that provides immunity to any student who reports, in good faith, an alleged violation of the higher education institution's comprehensive policy to a responsible employee, as defined by federal law, so that the reporting student will not receive a disciplinary sanction by the institution for a student conduct violation, such as underage drinking, that is revealed in the course of such a report, unless the institution determines that the violation was egregious, including without limitation an action that places the health or safety of any other person at risk.

(11) A statement of the higher education institution's prohibition on retaliation against those who, in good faith, report or disclose an alleged violation of the comprehensive policy, file a complaint, or otherwise participate in the complaint resolution procedure and available sanctions for individuals who engage in retaliatory conduct.

(Source: P.A. 99-426, eff. 8-21-15.)

(110 ILCS 155/15)

Sec. 15. Student notification of rights and options.

(a) On or before August 1, 2016, upon being notified of an alleged violation of the comprehensive policy by or on behalf of a student, each higher education institution shall, at a minimum, provide the survivor, when identified, with a concise notification, written in plain language, of the survivor's rights and options, including without limitation:

(1) the survivor's right to report or not report the alleged incident to the higher education institution, law enforcement, or both, including information about the survivor's right to privacy and which reporting methods are confidential;

(2) the contact information for the higher education institution's Title IX coordinator or coordinators, confidential advisors, a community-based sexual assault crisis center, campus law enforcement, and local law enforcement;

(3) the survivor's right to request and receive assistance from campus authorities in notifying law enforcement;

(4) the survivor's ability to request interim protective measures and accommodations for survivors,

including without limitation changes to academic, living, dining, working, and transportation situations, obtaining and enforcing a campus-issued order of protection or no contact order, if such protective measures and accommodations are reasonably available, and an order of protection or no contact order in State court;

(5) the higher education institution's ability to provide assistance, upon the survivor's request, in accessing and navigating campus and local health and mental health services, counseling, and advocacy services; and

(6) a summary of the higher education institution's complaint resolution procedures, under Section 25 of this Act, if the survivor reports a violation of the comprehensive policy.

(b) Within 12 hours after receiving an electronic report, the higher education institution shall respond to the electronic reporter and, at a minimum, provide the information described in subdivisions (1) through (6) of subsection (a) of this Section and a list of available resources. The higher education institution may choose the manner in which it responds including, but not limited to, through verbal or electronic communication. Nothing in this subsection (b) limits a higher education institution's obligations under subsection (a) of this Section.

(Source: P.A. 99-426, eff. 8-21-15.)

(110 ILCS 155/20)

Sec. 20. Confidential advisor.

(a) Each higher education institution shall provide students with access to confidential advisors to provide emergency and ongoing support to survivors of sexual violence.

(b) The confidential advisors may not be individuals on campus who are designated as responsible employees under Title IX of the federal Education Amendments of 1972. Nothing in this Section precludes a higher education institution from partnering with a community-based sexual assault crisis center to provide confidential advisors.

(c) All confidential advisors shall receive 40 hours of training on sexual violence, if they have not already completed this 40-hour training, before being designated a confidential advisor and shall attend a minimum of 6 hours of ongoing education training annually on issues related to sexual violence to remain a confidential advisor. Confidential advisors shall also receive periodic training on the campus administrative processes, interim protective measures and accommodations, and complaint resolution procedures.

(d) In the course of working with a survivor, each confidential advisor shall, at a minimum, do all of the following:

(1) Inform the survivor of the survivor's choice of possible next steps regarding the survivor's reporting options and possible outcomes, including without limitation reporting pursuant to the higher education institution's comprehensive policy and notifying local law enforcement.

(2) Notify the survivor of resources and services for survivors of sexual violence, including, but not limited to, student services available on campus and through community-based resources, including without limitation sexual assault crisis centers, medical treatment facilities, counseling services, legal resources, medical forensic services, and mental health services.

(3) Inform the survivor of the survivor's rights and the higher education institution's responsibilities regarding orders of protection, no contact orders, or similar lawful orders issued by the higher education institution or a criminal or civil court.

(4) Provide confidential services to and have privileged, confidential communications with survivors of sexual violence in accordance with Section 8-804 of the Code of Civil Procedure.

(5) Upon the survivor's request and as appropriate, liaise with campus officials, community-based sexual assault crisis centers, or local law enforcement and, if requested, assist the survivor with contacting and reporting to campus officials, campus law enforcement, or local law enforcement.

(6) Upon the survivor's request, liaise with the necessary campus authorities to secure interim protective measures and accommodations for the survivor.

(Source: P.A. 99-426, eff. 8-21-15.)

(110 ILCS 155/25)

Sec. 25. Complaint resolution procedures.

(a) On or before August 1, 2016, each campus of a higher education institution shall adopt one procedure to resolve complaints of alleged student violations of the comprehensive policy.

(b) For each campus, a higher education institution's complaint resolution procedures for allegations of student violation of the comprehensive policy shall provide, at a minimum, all of the following:

(1) Complainants alleging student violation of the comprehensive policy shall have the opportunity to request that the complaint resolution procedure begin promptly and proceed in a timely manner.

(2) The higher education institution shall determine the individuals who will resolve complaints of alleged student violations of the comprehensive policy.

(3) All individuals whose duties include resolution of complaints of student violations of the comprehensive policy shall receive a minimum of 8 to 10 hours of annual training on issues related to sexual violence, domestic violence, dating violence, and stalking and how to conduct the higher education institution's complaint resolution procedures, in addition to the annual training required for employees as provided in subsection (c) of Section 30 of this Act.

(4) The higher education institution shall have a sufficient number of individuals trained to resolve complaints so that (i) a substitution can occur in the

case of a conflict of interest or recusal and (ii) an individual or individuals with no prior involvement in the initial determination or finding hear any appeal brought by a party.

(5) The individual or individuals resolving a complaint shall use a preponderance of the evidence standard to determine whether the alleged violation of the comprehensive policy occurred.

(6) The complainant and respondent shall (i) receive notice of the individual or individuals with authority to make a finding or impose a sanction in their proceeding before the individual or individuals initiate contact with either party and (ii) have the opportunity to request a substitution if the participation of an individual with authority to make a finding or impose a sanction poses a conflict of interest.

(7) The higher education institution shall have a procedure to determine interim protective measures and accommodations available pending the resolution of the complaint.

(8) Any proceeding, meeting, or hearing held to resolve complaints of alleged student violations of the comprehensive policy shall protect the privacy of the participating parties and witnesses.

(9) The complainant, regardless of this person's level of involvement in the complaint resolution procedure, and the respondent shall have the opportunity to provide or present evidence and witnesses on their behalf during the complaint resolution procedure.

(10) The complainant and the respondent may not directly cross examine one another, but may, at the discretion and direction of the individual or individuals resolving the complaint, suggest questions to be posed by the individual or individuals resolving the complaint and respond to the other party.

(11) Both parties may request and must be allowed to have an advisor of their choice accompany them to any meeting or proceeding related to an alleged violation of the comprehensive policy, provided that the involvement of the advisor does not result in undue delay of the meeting or proceeding. The advisor must comply with any rules in the higher education institution's complaint resolution procedure regarding the advisor's role. If the advisor violates the rules or engages in behavior or advocacy that harasses, abuses, or intimidates either party, a witness, or an individual resolving the complaint, that advisor may be prohibited from further participation.

(12) The complainant and the respondent may not be compelled to testify, if the complaint resolution procedure involves a hearing, in the presence of the other party. If a party invokes this right, the higher education institution shall provide a procedure by which each party can, at a minimum, hear the other party's testimony.

(13) The complainant and the respondent are entitled to simultaneous, written notification of the results of the complaint resolution procedure, including information regarding appeal rights, within 7 days of a

decision or sooner if required by State or federal law.

(14) The complainant and the respondent shall, at a minimum, have the right to timely appeal the complaint resolution procedure's findings or imposed sanctions if the party alleges (i) a procedural error occurred, (ii) new information exists that would substantially change the outcome of the finding, or (iii) the sanction is disproportionate with the violation. The individual or individuals reviewing the findings or imposed sanctions shall not have participated previously in the complaint resolution procedure and shall not have a conflict of interest with either party. The complainant and the respondent shall receive the appeal decision in writing within 7 days after the conclusion of the review of findings or sanctions or sooner if required by federal or State law.

(15) The higher education institution shall not disclose the identity of the survivor or the respondent, except as necessary to resolve the complaint or to implement interim protective measures and accommodations or when provided by State or federal law.

(Source: P.A. 99-426, eff. 8-21-15.)

(110 ILCS 155/30)

Sec. 30. Campus training, education, and awareness.

(a) On or before August 1, 2016, a higher education institution shall prominently publish, timely update, and have easily available on its Internet website all of the following information:

(1) The higher education institution's comprehensive policy, as well as options and resources available to survivors.

(2) The higher education institution's student notification of rights and options described in Section 15 of this Act.

(3) The name and contact information for all of the higher education institution's Title IX coordinators.

(4) An explanation of the role of (i) Title IX coordinators, including deputy or assistant Title IX coordinators, under Title IX of the federal Education Amendments of 1972, (ii) responsible employees under Title IX of the federal Education Amendments of 1972, (iii) campus security authorities under the federal Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, and (iv) mandated reporters under the Abused and Neglected Child Reporting Act and the reporting obligations of each, as well as the level of confidentiality each is allowed to provide to reporting students under relevant federal and State law.

(5) The name, title, and contact information for all confidential advisors, counseling services, and confidential resources that can provide a confidential response to a report and a description of what confidential reporting means.

(6) The telephone number and website URL for community-based, State, and national hotlines providing

information to sexual violence survivors.

(b) Beginning with the 2016-2017 academic year, each higher education institution shall provide sexual violence primary prevention and awareness programming for all students who attend one or more classes on campus, which shall include, at a minimum, annual training as described in this subsection (b). Nothing in this Section shall be construed to limit the higher education institution's ability to conduct additional ongoing sexual violence primary prevention and awareness programming.

Each higher education institution's annual training shall, at a minimum, provide each student who attends one or more classes on campus information regarding the higher education institution's comprehensive policy, including without limitation the following:

- (1) the institution's definitions of consent, inability to consent, and retaliation as they relate to sexual violence;
- (2) reporting to the higher education institution, campus law enforcement, and local law enforcement;
- (3) reporting to the confidential advisor or other confidential resources;
- (4) available survivor services; and
- (5) strategies for bystander intervention and risk reduction.

At the beginning of each academic year, each higher education institution shall provide each student of the higher education institution with an electronic copy or hard copy of its comprehensive policy, procedures, and related protocols.

(c) Beginning in the 2016-2017 academic year, a higher education institution shall provide annual survivor-centered and trauma-informed response training to any employee of the higher education institution who is involved in (i) the receipt of a student report of an alleged incident of sexual violence, domestic violence, dating violence, or stalking, (ii) the referral or provision of services to a survivor, or (iii) any campus complaint resolution procedure that results from an alleged incident of sexual violence, domestic violence, dating violence, or stalking. Employees falling under this description include without limitation the Title IX coordinator, members of the higher education institution's campus law enforcement, and campus security. An enrolled student at or a contracted service provider of the higher education institution with the employee responsibilities outlined in clauses (i) through (iii) of this paragraph shall also receive annual survivor-centered and trauma-informed response training.

The higher education institution shall design the training to improve the trainee's ability to understand (i) the higher education institution's comprehensive policy; (ii) the relevant federal and State law concerning survivors of sexual violence, domestic violence, dating violence, and stalking at higher education institutions; (iii) the roles of the higher education institution, medical providers, law enforcement, and community agencies in ensuring a coordinated response to a reported incident of sexual violence; (iv) the effects of trauma on a survivor; (v) the types of conduct that constitute

sexual violence, domestic violence, dating violence, and stalking, including same-sex violence; and (vi) consent and the role drugs and alcohol use can have on the ability to consent. The training shall also seek to improve the trainee's ability to respond with cultural sensitivity; provide services to or assist in locating services for a survivor, as appropriate; and communicate sensitively and compassionately with a survivor of sexual violence, domestic violence, dating violence, or stalking.

(Source: P.A. 99-426, eff. 8-21-15.)

(110 ILCS 155/75)

Sec. 75. (Amendatory provisions; text omitted).

(Source: P.A. 99-426, eff. 8-21-15; text omitted.)

(110 ILCS 155/80)

Sec. 80. (Amendatory provisions; text omitted).

(Source: P.A. 99-426, eff. 8-21-15; text omitted.)

(110 ILCS 155/85)

Sec. 85. (Amendatory provisions; text omitted).

(Source: P.A. 99-426, eff. 8-21-15; text omitted.)

(110 ILCS 155/99)

Sec. 99. Effective date. This Act takes effect upon becoming law.

(Source: P.A. 99-426, eff. 8-21-15.)