



Sen. Graciela Guzmán

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10400HB4990sam001

LRB104 18294 AAS 37351 a

1 AMENDMENT TO HOUSE BILL 4990

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 4990 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Preventing Sexual Violence in Higher  
5 Education Act is amended by changing Sections 5, 10, 15, 20,  
6 25, and 30 as follows:

7 (110 ILCS 155/5)

8 Sec. 5. Definitions. In this Act:

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

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

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

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

8 "Complaint advisor" means a person chosen by a complainant  
9 or respondent to advise the complainant or respondent  
10 regarding the complaint resolution procedure, who may  
11 accompany the complainant or respondent to any meeting,  
12 interview, or hearing with the individual or individuals who  
13 will resolve a complaint related to an alleged violation of  
14 the comprehensive policy and who may be appointed by a higher  
15 education institution for a party at the request of that  
16 party. "Complaint advisor" includes, but is not limited to, an  
17 attorney. "Complaint advisor" does not include a complainant's  
18 confidential advisor, unless the complainant requests that the  
19 confidential advisor serve as the complainant's complaint  
20 advisor and the confidential advisor agrees to serve as such.

21 "Confidential advisor" means a person who is employed or  
22 contracted by a higher education institution to provide  
23 emergency and ongoing support to student survivors of sexual  
24 violence, domestic violence, dating violence, stalking, and  
25 sexual harassment, with the training, duties, and  
26 responsibilities described in Section 20 of this Act.

1 "Confidential advisor" does not include a complainant's  
2 complaint advisor, unless the complainant requests that the  
3 confidential advisor serve as the complainant's complaint  
4 advisor and the confidential advisor agrees to serve as such.

5 "Dating violence" means any act of abuse committed by a  
6 person who is or has been in a romantic or intimate  
7 relationship with a survivor.

8 "Digital sexual harassment" means technology-facilitated  
9 abusive acts, including, but not limited to, repeated,  
10 unwelcome electronic communications based on sex or containing  
11 sexually-explicit material, and actual or threatened  
12 dissemination of a private or digitally altered sexual image  
13 without the depicted individual's consent, as defined in  
14 Section 5 of the Civil Remedies for Nonconsensual  
15 Dissemination of Private Sexual Images Act.

16 "Domestic violence" means any act of abuse as defined in  
17 the Illinois Domestic Violence Act of 1986.

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

22 "Lack of capacity" means an inability to give knowing and  
23 affirming consent.

24 "Primary prevention programming" means institutional  
25 action and strategies intended to prevent sexual violence  
26 before it occurs by means of changing social norms and other

1 approaches, including without limitation training, poster and  
2 flyer campaigns, electronic communications, films, guest  
3 speakers, symposia, conferences, seminars, or panel  
4 discussions.

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

8 "Retaliation" means any action taken against a person,  
9 including, but not limited to, intimidation, threats,  
10 coercion, or discrimination, to purposefully or knowingly  
11 interfere with any right or privilege secured by this Act or  
12 Title IX of the federal Education Amendments of 1972 because  
13 that person reported information, made a complaint, testified,  
14 assisted, or participated or refused to participate in any  
15 manner in an investigation, proceeding, or hearing, including  
16 in an informal resolution process. "Retaliation" includes  
17 actions by a student, a higher education institution, an  
18 employee or other individual authorized by a higher education  
19 institution to provide aid, a benefit, or a service under an  
20 education program or activity of the higher education  
21 institution, or a third party acting on behalf of a higher  
22 education institution or a respondent.

23 "Sexual harassment" means unwelcome sex-based conduct,  
24 including, but not limited to, unwanted sexual advances,  
25 unwanted requests for sexual favors, or any unwanted verbal,  
26 nonverbal, or physical conduct that is sex-based or that is

1 related to a person's sex, sexual orientation, or gender  
2 identity, toward a student that (i) a reasonable person would  
3 view as substantially interfering with the student's  
4 educational performance or participation in a program or  
5 activity of a higher education institution, including, but not  
6 limited to, any mental or physical health impacts, any new or  
7 increased challenges with focusing on academics or activities,  
8 any fear or anxiety about attending class or activities, or  
9 the need to alter routines or class or activity schedules to  
10 avoid another student, or (ii) creates an environment that a  
11 reasonable person would consider to be intimidating, hostile,  
12 or offensive. "Sexual harassment" includes digital sexual  
13 harassment.

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

19 "Stalking" has the meaning given to that term in the  
20 Stalking No Contact Order Act.

21 "Survivor" means a student enrolled at a higher education  
22 institution who has self-identified as having experienced  
23 sexual violence, domestic violence, dating violence, ~~or~~  
24 stalking, or sexual harassment ~~while enrolled at a higher~~  
25 ~~education institution.~~

26 "Survivor-centered" means a systematic focus on the needs

1 and concerns of a survivor of sexual violence, domestic  
2 violence, dating violence, ~~or~~ stalking, or sexual harassment  
3 that (i) ensures the compassionate and sensitive delivery of  
4 services in a nonjudgmental manner; (ii) ensures an  
5 understanding of how trauma affects survivor behavior; (iii)  
6 maintains survivor safety, privacy, and, if possible,  
7 confidentiality; and (iv) recognizes that a survivor is not  
8 responsible for the sexual violence, domestic violence, dating  
9 violence, ~~or~~ stalking, or sexual harassment.

10 "Trauma-informed response" means a response involving an  
11 understanding of the complexities of sexual violence, domestic  
12 violence, dating violence, ~~or~~ stalking, or sexual harassment  
13 through training centered on the neurobiological impact of  
14 trauma, the influence of societal myths and stereotypes  
15 surrounding sexual violence, domestic violence, dating  
16 violence, ~~or~~ stalking, or sexual harassment, and understanding  
17 the behavior of perpetrators. "Trauma-informed response"  
18 includes empowering survivors to make their own decisions  
19 regarding care, healing, supportive measures, and whether to  
20 report or engage with systems and then supporting those  
21 decisions.

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

23 (110 ILCS 155/10)

24 Sec. 10. Comprehensive policy.

25 (a) All ~~On or before August 1, 2016,~~ all higher education

1 institutions shall adopt a comprehensive policy concerning  
2 sexual violence, domestic violence, dating violence, ~~and~~  
3 stalking, and sexual harassment consistent with governing  
4 federal and State law. The higher education institution's  
5 comprehensive policy shall include, at a minimum, all of the  
6 following components:

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

22 (A) the person has a lack of capacity ~~is~~  
23 ~~incapacitated~~ due to the use or influence of alcohol  
24 or drugs;

25 (B) the person is asleep or unconscious;

26 (C) the person is under age; or

1 (D) the person has a lack of capacity ~~is~~  
2 ~~incapacitated~~ due to a mental disability.

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

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

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

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

20 (C) Information regarding the various individuals,  
21 departments, or organizations to whom a student may  
22 report a violation of the comprehensive policy,  
23 specifying for each individual and entity (i) the  
24 extent of the individual's or entity's reporting  
25 obligation, (ii) the extent of the individual's or  
26 entity's ability to protect the student's privacy, and

1 (iii) the extent of the individual's or entity's  
2 ability to have confidential communications with the  
3 student.

4 (D) An option for students to electronically  
5 report.

6 (E) An option for students to anonymously report.

7 (F) An option for students to confidentially  
8 report.

9 (G) An option for reports by third parties and  
10 bystanders. However, while third parties and  
11 bystanders may report, the higher education  
12 institution may not compel a survivor's participation  
13 in a complaint resolution procedure.

14 (H) Information about how the higher education  
15 institution prohibits and responds to retaliation and  
16 the process for reporting retaliation under the  
17 comprehensive policy.

18 (3) The higher education institution's procedure for  
19 responding to a report of an alleged incident of sexual  
20 violence, domestic violence, dating violence, ~~or~~ stalking,  
21 or sexual harassment, including without limitation (i)  
22 assisting and interviewing the survivor, (ii) identifying  
23 and locating witnesses, (iii) contacting and interviewing  
24 the respondent, (iv) contacting and cooperating with law  
25 enforcement, when applicable, ~~and~~ (v) providing  
26 information regarding the importance of preserving

1 physical evidence of the sexual violence and the  
2 availability of a medical forensic examination at no  
3 charge to the survivor, and (vi) providing information  
4 about how the higher education institution prohibits and  
5 responds to retaliation and the process for reporting  
6 retaliation under the comprehensive policy.

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

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

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

22 (7) A statement notifying survivors of the ~~interim~~  
23 protective and supportive measures ~~and accommodations~~  
24 reasonably available from the higher education institution  
25 that a survivor may request in response to an alleged  
26 violation of the comprehensive policy, including without

1 limitation changes to academic, living, dining,  
2 transportation, and working situations, obtaining and  
3 enforcing campus no contact orders, and how the higher  
4 education institution supports the honoring of an order of  
5 protection or no contact order entered by a State civil or  
6 criminal court.

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

12 (9) A statement of the range of sanctions the higher  
13 education institution may impose following the  
14 implementation of its complaint resolution procedures in  
15 response to an alleged violation of the comprehensive  
16 policy. Sanctions may include, but are not limited to,  
17 suspension, expulsion, or removal of the student found,  
18 after complaint resolution procedures, to be in violation  
19 of the comprehensive policy of the higher education  
20 institution.

21 (10) A statement of the higher education institution's  
22 obligation to include an amnesty provision that provides  
23 immunity to any student who reports, in good faith, an  
24 alleged violation of the higher education institution's  
25 comprehensive policy to a responsible employee, as defined  
26 by federal law, so that the reporting student will not

1 receive a disciplinary sanction by the institution for a  
2 student conduct violation, such as underage drinking or  
3 possession or use of a controlled substance, that is  
4 revealed in the course of such a report, unless the  
5 institution determines that the violation ~~was egregious,~~  
6 ~~including without limitation an action that~~ places the  
7 health or safety of any other person at significant or  
8 serious risk.

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

16 (b) On or before August 1, 2027, each higher education  
17 institution shall update its comprehensive policy to ensure  
18 compliance with this amendatory Act of the 104th General  
19 Assembly.

20 (c) Each higher education institution shall act in  
21 accordance with its comprehensive policy. Beginning August 1,  
22 2027, any party that is aggrieved by conduct of a higher  
23 education institution that violates this Section may bring a  
24 civil lawsuit. The lawsuit must be brought no later than 4  
25 years after the alleged violation of this Section or 4 years  
26 after the date the aggrieved party becomes aware of the

1 alleged violation, whichever is later. The court may not find  
2 that a higher education institution violated this Section if  
3 the higher education institution demonstrates substantial  
4 compliance in good faith with its comprehensive policy,  
5 adopted pursuant to this Section, and applicable law in effect  
6 at the time of the alleged violation. If the court finds that a  
7 higher education institution willfully violated this Section  
8 or willfully disregarded the safety of the aggrieved party,  
9 the court may award actual and punitive damages. The court, as  
10 it deems appropriate, may grant, as relief, a permanent or  
11 preliminary negative or mandatory injunction, temporary  
12 restraining order, or other order.

13 Upon a motion, a court shall award reasonable attorney's  
14 fees and costs, including expert witness fees and other  
15 litigation expenses, to a plaintiff who is a prevailing party  
16 in any action brought under this subsection (c). In awarding  
17 reasonable attorney's fees, the court shall consider the  
18 degree to which the relief obtained relates to the relief  
19 sought.

20 Nothing in this Section may be construed to require an  
21 exhaustion of the administrative complaint process before  
22 civil law remedies may be pursued.

23 (Source: P.A. 99-426, eff. 8-21-15; 99-741, eff. 8-5-16;  
24 100-1087, eff. 1-1-19.)

1           Sec. 15. Student notification of rights and options.

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

8           (1) the survivor's right to report or not report the  
9 alleged incident to the higher education institution, law  
10 enforcement, or both, including information about the  
11 survivor's right to privacy and which reporting methods  
12 are confidential, as well as the survivor's right to  
13 participate or not participate in any investigation into  
14 the alleged incident;

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

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

23           (4) the survivor's ability to request ~~interim~~  
24 protective and supportive measures ~~and accommodations for~~  
25 ~~survivors~~, including without limitation changes to  
26 academic, living, dining, working, and transportation

1 situations ~~and~~ obtaining and enforcing a campus-issued  
2 order of protection or no contact order, if such  
3 protective and supportive measures ~~and accommodations~~ are  
4 reasonably available, and an order of protection or no  
5 contact order in State court;

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

11 (6) a summary of the higher education institution's  
12 complaint resolution procedures, under Section 25 of this  
13 Act, if the survivor reports a violation of the  
14 comprehensive policy; ~~and~~

15 (7) information about how the higher education  
16 institution prohibits and responds to retaliation and the  
17 process for reporting retaliation under the comprehensive  
18 policy.

19 (b) Within 12 hours after receiving an electronic report  
20 or by the next business day for other reports, the higher  
21 education institution shall respond to the ~~electronic~~  
22 reporter. If the reporter is not the survivor, the higher  
23 education institution shall also contact the survivor, if  
24 known, by the next business day following receipt of the  
25 report. The separate responses to the reporter and the  
26 survivor must ~~and~~, at a minimum, provide the information

1 described in subdivisions (1) through (7) ~~(6)~~ of subsection  
2 (a) of this Section and a list of available resources. The  
3 higher education institution may choose the manner in which it  
4 responds including, but not limited to, through verbal or  
5 electronic communication. Nothing in this subsection (b)  
6 limits a higher education institution's obligations under  
7 subsection (a) of this Section.

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

9 (110 ILCS 155/20)

10 Sec. 20. Confidential advisor.

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

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

20 (b-5) A confidential advisor is separate from a complaint  
21 advisor, unless the complainant and confidential advisor agree  
22 to have the confidential advisor also serve as the complaint  
23 advisor. Unless prohibited by Title IX of the federal  
24 Education Amendments of 1972 or other federal law, a  
25 complainant has a right to have both a support person, which

1 may be the confidential advisor if the person so chooses, and a  
2 complaint advisor at any meeting or proceeding related to an  
3 alleged violation of the comprehensive policy or under Title  
4 IX of the federal Education Amendments of 1972. The higher  
5 education institution must not require or appoint a  
6 confidential advisor to serve as the complainant's complaint  
7 advisor.

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

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

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

1           (2) Notify the survivor of resources and services for  
2 survivors of sexual violence, including, but not limited  
3 to, student services available on campus and through  
4 community-based resources, including without limitation  
5 sexual assault crisis centers, medical treatment  
6 facilities, counseling services, legal resources, medical  
7 forensic services, and mental health services. A  
8 confidential advisor must inform the survivor if  
9 requesting or receiving certain resources or services may  
10 affect confidentiality.

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

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

20           (5) Upon the survivor's request and as appropriate,  
21 liaise with campus officials, community-based sexual  
22 assault crisis centers, or local law enforcement and, if  
23 requested, assist the survivor with contacting and  
24 reporting to campus officials, campus law enforcement, or  
25 local law enforcement. A confidential advisor must inform  
26 the survivor if requesting or receiving certain resources

1 or services may affect confidentiality.

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

6 (7) Upon the survivor's request, liaise with the  
7 necessary campus authorities to assist the survivor in  
8 responding to and advocating against any retaliation by  
9 the respondent or any other individual, including agents  
10 of the higher education institution.

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

12 (110 ILCS 155/25)

13 Sec. 25. Complaint resolution procedures.

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

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

22 (1) Complainants and respondents ~~alleging student~~  
23 ~~violation of the comprehensive policy~~ shall have the right  
24 to have opportunity to request that the complaint  
25 resolution procedure begin promptly and be completed

1       within 120 days after the complaint was received by the  
2       higher education institution. A reasonable extension of  
3       this timeframe is allowed on a case-by-case basis for good  
4       cause, with notice to the parties that includes the reason  
5       for the delay. Written notification must be provided to  
6       the complainant and the respondent if the complaint  
7       resolution procedure extends beyond 120 days. Both parties  
8       shall have the right to the consideration of any  
9       additional protective and supportive measures that may be  
10      necessary due to a delay in the complaint resolution  
11      procedure ~~proceed in a timely manner.~~

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

15           (3) All individuals whose duties include resolution of  
16      complaints of student violations of the comprehensive  
17      policy shall receive a minimum of 8 to 10 hours of annual  
18      training on issues related to sexual violence, domestic  
19      violence, dating violence, ~~and~~ stalking, and sexual  
20      harassment and how to conduct the higher education  
21      institution's complaint resolution procedures, in addition  
22      to the annual training required for employees as provided  
23      in subsection (c) of Section 30 of this Act. The initial  
24      training must be completed prior to such individuals  
25      participating in the investigation of or resolution of  
26      complaints.

1           (4) The higher education institution shall have a  
2 sufficient number of individuals trained to resolve  
3 complaints so that (i) a substitution can occur in the  
4 case of a conflict of interest or recusal and (ii) an  
5 individual or individuals with no prior involvement in the  
6 initial determination or finding hear any appeal brought  
7 by a party.

8           (4.5) The higher education institution may consolidate  
9 complaints by a complainant against more than one  
10 respondent or by more than one complainant against one or  
11 more respondents if the allegations arise out of the same  
12 facts or circumstances and if the higher education  
13 institution provides the complainant with a timely written  
14 notice of its intent to consolidate and offers the  
15 complainant a reasonable opportunity to respond. However,  
16 in a consolidated complaint resolution proceeding, the  
17 individual or individuals resolving the complaints must  
18 take reasonable measures to protect the privacy of each  
19 complainant and respondent.

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

24           (6) The complainant and respondent shall (i) receive  
25 notice of the individual or individuals with authority to  
26 make a finding or impose a sanction in their proceeding

1 before the individual or individuals initiate contact with  
2 either party and (ii) have the opportunity to request a  
3 substitution if the participation of an individual with  
4 authority to make a finding or impose a sanction poses a  
5 conflict of interest.

6 (7) The higher education institution shall have a  
7 procedure to determine ~~interim~~ protective and supportive  
8 ~~measures and accommodations available pending the~~  
9 ~~resolution of the complaint.~~ Such protective and  
10 supportive measures must not be overly burdensome to  
11 either party or result in excluding either party from  
12 participation in, denying either party the benefits of, or  
13 subjecting either party to discrimination under any  
14 education program or activity or otherwise interfere with  
15 any right or privilege secured by this Act or Title IX of  
16 the federal Education Amendments of 1972.

17 Nothing in this Section prohibits a higher education  
18 institution from following its emergency or regular  
19 removal or expulsion processes.

20 If the higher education institution determines that,  
21 to provide reasonable protective and supportive measures,  
22 it must burden either the complainant or the respondent,  
23 the higher education institution must minimize the burden  
24 on the complainant to the extent possible, unless the  
25 higher education institution is obligated to address the  
26 protective and supportive measures under Title IX of the

1 federal Education Amendments of 1972 and Title IX requires  
2 burdening the complainant instead of the respondent.

3 The higher education institution shall bear the cost  
4 of reasonable protective and supportive measures. The  
5 higher education institution shall have a procedure for  
6 providing reasonable protective and supportive measures to  
7 all students who report sexual violence, domestic  
8 violence, dating violence, stalking, and sexual  
9 harassment. Such protective and supportive measures shall  
10 be available even if a student does not file a formal  
11 complaint, the student's complaint is dismissed, or there  
12 is no finding of responsibility in the complaint  
13 resolution procedure.

14 Protective and supportive measures may include, but  
15 are not limited to, counseling; extensions of deadlines;  
16 granting requests to change enrollment options after  
17 deadlines and other course-related adjustments; campus  
18 escort services; increased security and monitoring of  
19 certain areas of the campus; campus no contact orders and  
20 honoring protective orders entered by a civil or criminal  
21 court; leaves of absence to seek medical care, legal  
22 assistance, counseling, safety planning, advocacy, or  
23 other assistance without penalty from the higher education  
24 institution; excused absences to attend, participate in,  
25 or prepare for a court, campus, administrative, or  
26 quasi-judicial proceeding; training and education programs

1 related to sexual violence, domestic violence, dating  
2 violence, stalking, or sexual harassment; and changes in a  
3 class schedule, a campus employment or work schedule,  
4 housing, or an extracurricular or other activity.

5 A higher education institution must make a good faith  
6 effort to accommodate requests for reasonable protective  
7 and supportive measures. Each request for protective and  
8 supportive measures must be evaluated on an individualized  
9 basis to determine the reasonableness of the request, and,  
10 if the original request is determined to be unreasonable,  
11 the higher education institution must consider alternative  
12 reasonable protective and supportive measures to address  
13 the party's needs. The major or course enrolled in by the  
14 party, on its own, is not a reason to deny protective and  
15 supportive measures. If the higher education institution  
16 cannot grant a survivor's request and a comparable  
17 alternative is not available, the higher education  
18 institution must consider whether there are any other  
19 reasonably available options that could support the  
20 survivor or meet the survivor's needs and offer those  
21 options to the survivor.

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

26 (9) The complainant, regardless of this person's level

1 of involvement in the complaint resolution procedure, and  
2 the respondent shall have the opportunity to provide or  
3 present evidence and witnesses on their behalf during the  
4 complaint resolution procedure.

5 (9.5) The higher education institution may not  
6 distribute any evidence that includes a private or  
7 intentionally digitally altered sexual image by physical  
8 or electronic means, except as required by law, a  
9 subpoena, or a court order. The complainant, the  
10 respondent, and each party's complaint advisor shall have  
11 the opportunity to view physical or electronic copies of  
12 any private or intentionally digitally altered sexual  
13 image evidence in person in a higher education institution  
14 office and only in the presence of the individual  
15 resolving the complaint, a Title IX coordinator or a  
16 member of the Title IX coordinator's staff, or the legal  
17 counsel representing the higher education institution. If  
18 either party is unable to view this evidence in person,  
19 that party and the party's complainant advisor may view it  
20 temporarily via an electronic procedure established by the  
21 higher education institution that ensures confidentiality.  
22 Each party and each party's complaint advisor must not  
23 create physical or electronic copies of private or  
24 intentionally digitally altered sexual image evidence. All  
25 private or intentionally digitally altered sexual image  
26 evidence must be kept in the strictest of confidence by

1       the higher education institution and its employees during  
2       and after the completion of the complaint resolution  
3       procedure, and evidence shall be retained as required  
4       under the federal Family Educational Rights and Privacy  
5       Act of 1974.

6           (10) The complainant, ~~and~~ the respondent, and each  
7       party's complaint advisor may not directly question the  
8       other party ~~cross examine one another~~, but may, at the  
9       discretion and direction of the individual or individuals  
10      resolving the complaint, suggest questions to be posed to  
11      the other party by the individual or individuals resolving  
12      the complaint ~~and respond to the other party~~. This  
13      prohibition on direct questioning does not apply to any  
14      complaint resolution procedure that involves a complaint  
15      that the higher education institution is obligated to  
16      address under Title IX of the federal Education Amendments  
17      of 1972 if, at the time of the complaint resolution  
18      procedure, Title IX rules require allowing  
19      cross-examination by the parties' complaint advisors. If  
20      Title IX rules require allowing cross-examination by the  
21      parties' complaint advisors, the higher education  
22      institution must appoint a complaint advisor for any party  
23      that does not have one.

24           (11) Both parties may request and must be allowed to  
25      have a complaint ~~an~~ advisor of their choice accompany them  
26      to any meeting or proceeding related to an alleged

1 violation of the comprehensive policy, provided that the  
2 involvement of the complaint advisor does not result in  
3 undue delay of the meeting or proceeding. The complaint  
4 advisor must comply with any rules in the higher education  
5 institution's complaint resolution procedure regarding the  
6 advisor's role. If the complaint advisor violates the  
7 rules or engages in behavior or advocacy that harasses,  
8 abuses, or intimidates either party, a witness, or an  
9 individual resolving the complaint, that advisor may be  
10 prohibited from further participation.

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

17 (12.5) Survivors of sexual violence, domestic  
18 violence, dating violence, stalking, or sexual harassment  
19 have a right to have a support person of their choosing,  
20 including a confidential advisor, at any meeting or  
21 proceeding related to an alleged violation of the  
22 comprehensive policy or under Title IX of the federal  
23 Education Amendments of 1972. If a support person violates  
24 the rules or engages in behavior that harasses, abuses, or  
25 intimidates either party, a witness, or an individual  
26 resolving the complaint, that support person may be

1 prohibited from further participation. Nothing in this  
2 paragraph (12.5) prohibits a higher education institution  
3 from allowing respondents to have their own support  
4 person.

5 (13) The complainant and the respondent are entitled  
6 to simultaneous, written notification of the results of  
7 the complaint resolution procedure, including information  
8 regarding appeal rights, within 7 days of a decision or  
9 sooner if required by State or federal law.

10 (14) The complainant and the respondent shall, at a  
11 minimum, have the right to timely appeal the complaint  
12 resolution procedure's findings or imposed sanctions if  
13 the party alleges (i) a procedural error occurred, (ii)  
14 new information exists that would substantially change the  
15 outcome of the finding, or (iii) the sanction is  
16 disproportionate with the violation. The individual or  
17 individuals reviewing the findings or imposed sanctions  
18 shall not have participated previously in the complaint  
19 resolution procedure and shall not have a conflict of  
20 interest with either party. The complainant and the  
21 respondent shall receive written notice of an appeal and  
22 the alleged grounds for appeal within 7 days after the  
23 appeal was submitted to the higher education institution,  
24 and the nonappealing party shall be provided an  
25 opportunity to submit a response to the higher education  
26 institution. The complainant and the respondent shall

1        receive notice of the appeal decision in writing within 7  
2        days after the conclusion of the review of findings or  
3        sanctions or sooner if required by federal or State law.

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

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

11            (110 ILCS 155/30)

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

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

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

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

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

25            (4) An explanation of the role of (i) Title IX

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

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

17 (6) The telephone number and website URL for  
18 community-based, State, and national hotlines providing  
19 information to sexual violence survivors.

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

1 ongoing sexual violence primary prevention and awareness  
2 programming.

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

8 (1) the institution's definitions of consent,  
9 inability to consent, and retaliation as they relate to  
10 sexual violence;

11 (2) reporting to the higher education institution,  
12 campus law enforcement, and local law enforcement;

13 (3) reporting to the confidential advisor or other  
14 confidential resources;

15 (4) available survivor services; and

16 (5) strategies for bystander intervention and risk  
17 reduction.

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

22 (c) ~~A Beginning in the 2016-2017 academic year,~~ a higher  
23 education institution shall provide annual survivor-centered  
24 and trauma-informed response training to any employee of the  
25 higher education institution who is involved in (i) the  
26 receipt of a student report of an alleged incident of sexual

1 violence, domestic violence, dating violence, ~~or~~ stalking, or  
2 sexual harassment, (ii) the referral or provision of services  
3 to a survivor, or (iii) any campus complaint resolution  
4 procedure that results from an alleged incident of sexual  
5 violence, domestic violence, dating violence, ~~or~~ stalking, or  
6 sexual harassment. Employees falling under this description  
7 include without limitation the Title IX coordinator, members  
8 of the higher education institution's campus law enforcement,  
9 and campus security. An enrolled student at or a contracted  
10 service provider of the higher education institution with the  
11 employee responsibilities outlined in clauses (i) through  
12 (iii) of this paragraph shall also receive annual  
13 survivor-centered and trauma-informed response training.

14 The higher education institution shall design the training  
15 to improve the trainee's ability to understand (i) the higher  
16 education institution's comprehensive policy; (ii) the  
17 relevant federal and State law concerning survivors of sexual  
18 violence, domestic violence, dating violence, ~~and~~ stalking,  
19 and sexual harassment at higher education institutions; (iii)  
20 the roles of the higher education institution, medical  
21 providers, law enforcement, and community agencies in ensuring  
22 a coordinated response to a reported incident of sexual  
23 violence; (iv) the effects of trauma on a survivor; (v) the  
24 types of conduct that constitute sexual violence, domestic  
25 violence, dating violence, ~~and~~ stalking, and sexual  
26 harassment, including same-sex violence and digital sexual

1 harassment; and (vi) consent and the role drugs and alcohol  
2 use can have on the ability to consent. The training shall also  
3 seek to improve the trainee's ability to respond with cultural  
4 sensitivity; provide services to or assist in locating  
5 services for a survivor, as appropriate; and communicate  
6 sensitively and compassionately with a survivor of sexual  
7 violence, domestic violence, dating violence, ~~or~~ stalking, or  
8 sexual harassment.

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

10 Section 10. The Code of Civil Procedure is amended by  
11 changing Section 8-804 as follows:

12 (735 ILCS 5/8-804)

13 Sec. 8-804. Confidential advisor.

14 (a) This Section is intended to protect students at higher  
15 education institutions in this State who are survivors of  
16 sexual violence, domestic violence, dating violence, stalking,  
17 or sexual harassment from public disclosure of communications  
18 they make in confidence to confidential advisors. Because of  
19 the fear, stigma, and trauma that often result from incidents  
20 of gender-based ~~sexual~~ violence, many survivors hesitate to  
21 report or seek help, even when it is available at no cost to  
22 them. As a result, they not only fail to receive needed medical  
23 care and emergency counseling, but may lack the psychological  
24 support necessary to report the incident ~~of sexual violence~~ to

1 the higher education institution or law enforcement.

2 (b) In this Section:

3 "Confidential advisor" means a person who is employed or  
4 contracted by a higher education institution to provide  
5 emergency and ongoing support to survivors ~~of sexual violence~~  
6 with the training, duties, and responsibilities described in  
7 Section 20 of the Preventing Sexual Violence in Higher  
8 Education Act.

9 "Dating violence" has the meaning given to that term in  
10 the Preventing Sexual Violence in Higher Education Act.

11 "Domestic violence" has the meaning given to that term in  
12 the Preventing Sexual Violence in Higher Education Act.

13 "Gender-based violence" means sexual violence, domestic  
14 violence, dating violence, stalking, or sexual harassment.

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

19 "Sexual harassment" has the meaning given to that term in  
20 the Preventing Sexual Violence in Higher Education Act.

21 "Sexual violence" has the meaning given to that term in  
22 the Preventing Sexual Violence in Higher Education Act ~~means~~  
23 ~~physical sexual acts attempted or perpetrated against a~~  
24 ~~person's will or when a person is incapable of giving consent,~~  
25 ~~including without limitation rape, sexual assault, sexual~~  
26 ~~battery, sexual abuse, and sexual coercion.~~

1       "Stalking" has the meaning given to that term in the  
2 Preventing Sexual Violence in Higher Education Act.

3       "Survivor" has the meaning given to that term in the  
4 Preventing Sexual Violence in Higher Education Act ~~means a~~  
5 ~~student who has experienced sexual violence while enrolled at~~  
6 ~~a higher education institution.~~

7       (c) All communications between a confidential advisor and  
8 a survivor ~~pertaining to an incident of sexual violence~~ shall  
9 remain confidential, unless the survivor consents to the  
10 disclosure of the communication in writing, the disclosure  
11 falls within one of the exceptions outlined in subsection (d)  
12 of this Section, or failure to disclose the communication  
13 would violate State or federal law. Communications include all  
14 records kept by the confidential advisor in the course of  
15 providing the survivor with services ~~related to the incident~~  
16 ~~of sexual violence.~~

17       (d) The confidential advisor may disclose confidential  
18 communications between the confidential advisor and the  
19 survivor if failure to disclose would result in a clear,  
20 imminent risk of serious physical injury to or death of the  
21 survivor or another person.

22       The confidential advisor shall have no obligation to  
23 report crimes to the higher education institution or law  
24 enforcement, except to report to the Title IX coordinator, as  
25 defined by Title IX of the federal Education Amendments of  
26 1972, on a monthly basis the number and type of incidents of

1 sexual violence, domestic violence, dating violence, stalking,  
2 and sexual harassment reported exclusively to the confidential  
3 advisor in accordance with the higher education institution's  
4 reporting requirements under subsection (b) of Section 9.21 of  
5 the Board of Higher Education Act and under federal law.

6 If, in any judicial proceeding, a party alleges that the  
7 communications are necessary to the determination of any issue  
8 before the court and written consent to disclosure has not  
9 been given, the party may ask the court to consider ordering  
10 the disclosure of the communications. In such a case,  
11 communications may be disclosed if the court finds, after in  
12 camera examination of the communication, that the  
13 communication is relevant, probative, and not unduly  
14 prejudicial or inflammatory or is otherwise clearly  
15 admissible; that other evidence is demonstrably unsatisfactory  
16 as evidence of the facts sought to be established by the  
17 communication or communications; and that disclosure is more  
18 important to the interests of substantial justice than  
19 protection from injury to the confidential advisor-survivor  
20 relationship, to the survivor, or to any other individual whom  
21 disclosure is likely to harm.

22 (e) This privilege shall not preclude an individual from  
23 asserting a greater privilege under federal or State law that  
24 applies.

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

1           Section 99. Effective date. This Act takes effect July 1,  
2   2027.".