



Sen. Graciela Guzmán

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10400HB4990sam002

LRB104 18294 AAS 37775 a

1 AMENDMENT TO HOUSE BILL 4990

2 AMENDMENT NO. _____. Amend House Bill 4990, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Preventing Sexual Violence in Higher
6 Education Act is amended by changing Sections 5, 10, 15, 20,
7 25, and 30 as follows:

8 (110 ILCS 155/5)

9 Sec. 5. Definitions. In this Act:

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

15 "Bystander intervention" includes without limitation the
16 act of challenging the social norms that support, condone, or

1 permit sexual violence.

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

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

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

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

1 responsibilities described in Section 20 of this Act.
2 "Confidential advisor" does not include a complainant's
3 complaint advisor, unless the complainant requests that the
4 confidential advisor serve as the complainant's complaint
5 advisor and the confidential advisor agrees to serve as such.

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

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

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

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

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

25 "Primary prevention programming" means institutional
26 action and strategies intended to prevent sexual violence

1 before it occurs by means of changing social norms and other
2 approaches, including without limitation training, poster and
3 flyer campaigns, electronic communications, films, guest
4 speakers, symposia, conferences, seminars, or panel
5 discussions.

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

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

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

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

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

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

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

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

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

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

24 (110 ILCS 155/10)

25 Sec. 10. Comprehensive policy.

1 (a) All ~~On or before August 1, 2016, all~~ higher education
2 institutions shall adopt a comprehensive policy concerning
3 sexual violence, domestic violence, dating violence, ~~and~~
4 stalking, and sexual harassment consistent with governing
5 federal and State law. The higher education institution's
6 comprehensive policy shall include, at a minimum, all of the
7 following components:

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

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

26 (B) the person is asleep or unconscious;

1 (C) the person is under age; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (7) A statement notifying survivors of the ~~interim~~
24 protective and supportive measures ~~and accommodations~~
25 reasonably available from the higher education institution
26 that a survivor may request in response to an alleged

1 violation of the comprehensive policy, including without
2 limitation changes to academic, living, dining,
3 transportation, and working situations, obtaining and
4 enforcing campus no contact orders, and how the higher
5 education institution supports the honoring of an order of
6 protection or no contact order entered by a State civil or
7 criminal court.

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

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

22 (10) A statement of the higher education institution's
23 obligation to include an amnesty provision that provides
24 immunity to any student who reports, in good faith, an
25 alleged violation of the higher education institution's
26 comprehensive policy to a responsible employee, as defined

1 by federal law, so that the reporting student will not
2 receive a disciplinary sanction by the higher education
3 institution for a student conduct violation, such as
4 underage drinking or possession or use of a controlled
5 substance, that is revealed in the course of such a
6 report, unless the institution determines that the
7 violation ~~was egregious, including without limitation an~~
8 ~~action that~~ places the health or safety of any other
9 person at significant or serious risk.

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

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

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

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

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

22 (d) Except where emergency injunctive relief is sought, an
23 aggrieved party must provide written notice to the higher
24 education institution identifying the alleged violation and
25 allow the higher education institution 30 days to cure or
26 address the alleged noncompliance prior to filing a civil

1 action under subsection (c). Emergency injunctive relief shall
2 be limited to ongoing or imminent violations of this Section.

3 (e) Nothing in this Section may be construed to require an
4 exhaustion of any administrative complaint process, other than
5 as provided in subsection (d), before civil law remedies may
6 be pursued.

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

9 (110 ILCS 155/15)

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

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

17 (1) the survivor's right to report or not report the
18 alleged incident to the higher education institution, law
19 enforcement, or both, including information about the
20 survivor's right to privacy and which reporting methods
21 are confidential, as well as the survivor's right to
22 participate or not participate in any investigation into
23 the alleged incident;

24 (2) the contact information for the higher education
25 institution's Title IX coordinator or coordinators,

1 confidential advisors, a community-based sexual assault
2 crisis center, campus law enforcement, and local law
3 enforcement;

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

7 (4) the survivor's ability to request ~~interim~~
8 protective and supportive measures ~~and accommodations for~~
9 ~~survivors~~, including without limitation changes to
10 academic, living, dining, working, and transportation
11 situations and, obtaining and enforcing a campus-issued
12 order of protection or no contact order, if such
13 protective and supportive measures ~~and accommodations~~ are
14 reasonably available, and an order of protection or no
15 contact order in State court;

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

21 (6) a summary of the higher education institution's
22 complaint resolution procedures, under Section 25 of this
23 Act, if the survivor reports a violation of the
24 comprehensive policy; and-

25 (7) information about how the higher education
26 institution prohibits and responds to retaliation and the

1 process for reporting retaliation under the comprehensive
2 policy.

3 (b) Within 12 hours after receiving an electronic report
4 or by the next business day for other reports, the higher
5 education institution shall respond to the ~~electronic~~
6 reporter. If the reporter is not the survivor, the higher
7 education institution shall also contact the survivor, if
8 known, by the next business day following receipt of the
9 report. The separate responses to the reporter and the
10 survivor must ~~and~~, at a minimum, provide the information
11 described in subdivisions (1) through (7) ~~(6)~~ of subsection
12 (a) of this Section and a list of available resources. The
13 higher education institution may choose the manner in which it
14 responds including, but not limited to, through verbal or
15 electronic communication. Nothing in this subsection (b)
16 limits a higher education institution's obligations under
17 subsection (a) of this Section.

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

19 (110 ILCS 155/20)

20 Sec. 20. Confidential advisor.

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

24 (b) The confidential advisors may not be individuals on
25 campus who are designated as responsible employees under Title

1 IX of the federal Education Amendments of 1972. Nothing in
2 this Section precludes a higher education institution from
3 partnering with a community-based sexual assault crisis center
4 to provide confidential advisors.

5 (b-5) A confidential advisor is separate from a complaint
6 advisor, unless the complainant and confidential advisor agree
7 to have the confidential advisor also serve as the complaint
8 advisor. Unless prohibited by Title IX of the federal
9 Education Amendments of 1972 or other federal law, a
10 complainant has a right to have both a support person, which
11 may be the confidential advisor if the person so chooses, and a
12 complaint advisor at any meeting or proceeding related to an
13 alleged violation of the comprehensive policy or under Title
14 IX of the federal Education Amendments of 1972. The higher
15 education institution must not require or appoint a
16 confidential advisor to serve as the complainant's complaint
17 advisor.

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

1 procedures.

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

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

11 (2) Notify the survivor of resources and services for
12 survivors of sexual violence, including, but not limited
13 to, student services available on campus and through
14 community-based resources, including without limitation
15 sexual assault crisis centers, medical treatment
16 facilities, counseling services, legal resources, medical
17 forensic services, and mental health services. A
18 confidential advisor must inform the survivor if
19 requesting or receiving certain resources or services may
20 affect confidentiality.

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

26 (4) Provide confidential services to and have

1 privileged, confidential communications with survivors of
2 sexual violence in accordance with Section 8-804 of the
3 Code of Civil Procedure.

4 (5) Upon the survivor's request and as appropriate,
5 liaise with campus officials, community-based sexual
6 assault crisis centers, or local law enforcement and, if
7 requested, assist the survivor with contacting and
8 reporting to campus officials, campus law enforcement, or
9 local law enforcement. A confidential advisor must inform
10 the survivor if requesting or receiving certain resources
11 or services may affect confidentiality.

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

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

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

22 (110 ILCS 155/25)

23 Sec. 25. Complaint resolution procedures.

24 (a) On or before August 1, 2016, each campus of a higher
25 education institution shall adopt one procedure to resolve

1 complaints of alleged student violations of the comprehensive
2 policy.

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

7 (1) Complainants and respondents ~~alleging student~~
8 ~~violation of the comprehensive policy~~ shall have the right
9 to have opportunity to request that the complaint
10 resolution procedure begin promptly and be completed
11 within 120 days after the complaint was received by the
12 higher education institution. A reasonable extension of
13 this timeframe is allowed on a case-by-case basis for good
14 cause, with notice to the parties that includes the reason
15 for the delay. Written notification must be provided to
16 the complainant and the respondent if the complaint
17 resolution procedure extends beyond 120 days. Both parties
18 shall have the right to the consideration of any
19 additional protective and supportive measures that may be
20 necessary due to a delay in the complaint resolution
21 procedure ~~proceed in a timely manner.~~

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

25 (3) All individuals whose duties include resolution of
26 complaints of student violations of the comprehensive

1 policy shall receive a minimum of 8 to 10 hours of annual
2 training on issues related to sexual violence, domestic
3 violence, dating violence, ~~and~~ stalking, and sexual
4 harassment and how to conduct the higher education
5 institution's complaint resolution procedures, in addition
6 to the annual training required for employees as provided
7 in subsection (c) of Section 30 of this Act. The initial
8 training must be completed prior to such individuals
9 participating in the investigation of or resolution of
10 complaints.

11 (4) The higher education institution shall have a
12 sufficient number of individuals trained to resolve
13 complaints so that (i) a substitution can occur in the
14 case of a conflict of interest or recusal and (ii) an
15 individual or individuals with no prior involvement in the
16 initial determination or finding hear any appeal brought
17 by a party.

18 (4.5) The higher education institution may consolidate
19 complaints by a complainant against more than one
20 respondent or by more than one complainant against one or
21 more respondents if the allegations arise out of the same
22 facts or circumstances and if the higher education
23 institution provides the complainant with a timely written
24 notice of its intent to consolidate and offers the
25 complainant a reasonable opportunity to respond. However,
26 in a consolidated complaint resolution proceeding, the

1 individual or individuals resolving the complaints must
2 take reasonable measures to protect the privacy of each
3 complainant and respondent.

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

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

16 (7) The higher education institution shall have a
17 procedure to determine ~~interim~~ protective and supportive
18 ~~measures and accommodations available pending the~~
19 ~~resolution of the complaint.~~ Such protective and
20 supportive measures must not be overly burdensome to
21 either party or result in excluding either party from
22 participation in, denying either party the benefits of, or
23 subjecting either party to discrimination under any
24 education program or activity or otherwise interfere with
25 any right or privilege secured by this Act or Title IX of
26 the federal Education Amendments of 1972.

1 Nothing in this Section prohibits a higher education
2 institution from following its emergency or regular
3 removal or expulsion processes.

4 If the higher education institution determines that,
5 to provide reasonable protective and supportive measures,
6 it must burden either the complainant or the respondent,
7 the higher education institution must minimize the burden
8 on the complainant to the extent possible, unless the
9 higher education institution is obligated to address the
10 protective and supportive measures under Title IX of the
11 federal Education Amendments of 1972 and Title IX requires
12 burdening the complainant instead of the respondent.

13 The higher education institution shall provide or
14 facilitate reasonable protective and supportive measures
15 within the scope of services, programs, and accommodations
16 reasonably available through the higher education
17 institution and bear the cost of those reasonable
18 protective and supportive measures. The higher education
19 institution shall have a procedure for providing
20 reasonable protective and supportive measures to all
21 students who report sexual violence, domestic violence,
22 dating violence, stalking, and sexual harassment. Those
23 protective and supportive measures shall be available even
24 if a student does not file a formal complaint, the
25 student's complaint is dismissed, or there is no finding
26 of responsibility in the complaint resolution procedure.

1 Protective and supportive measures may include, but
2 are not limited to, counseling; extensions of deadlines;
3 granting requests to change enrollment options after
4 deadlines and other course-related adjustments; campus
5 escort services; increased security and monitoring of
6 certain areas of the campus; campus no contact orders and
7 honoring protective orders entered by a civil or criminal
8 court; leaves of absence to seek medical care, legal
9 assistance, counseling, safety planning, advocacy, or
10 other assistance without penalty from the higher education
11 institution; excused absences to attend, participate in,
12 or prepare for a court, campus, administrative, or
13 quasi-judicial proceeding; training and education programs
14 related to sexual violence, domestic violence, dating
15 violence, stalking, or sexual harassment; and changes in a
16 class schedule, a campus employment or work schedule,
17 housing, or an extracurricular or other activity.

18 A higher education institution must make a good faith
19 effort to accommodate requests for reasonable protective
20 and supportive measures. Each request for protective and
21 supportive measures must be evaluated on an individualized
22 basis to determine the reasonableness of the request, and,
23 if the original request is determined to be unreasonable,
24 the higher education institution must consider alternative
25 reasonable protective and supportive measures to address
26 the party's needs. The major or course enrolled in by the

1 party, on its own, is not a reason to deny protective and
2 supportive measures. If the higher education institution
3 cannot grant a survivor's request and a comparable
4 alternative is not available, the higher education
5 institution must consider whether there are any other
6 reasonably available options that could support the
7 survivor or meet the survivor's needs and offer those
8 options to the survivor.

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

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

18 (9.5) The higher education institution may not
19 distribute any evidence that includes a private or
20 intentionally digitally altered sexual image by physical
21 or electronic means, except as required by law, a
22 subpoena, or a court order. The complainant, the
23 respondent, and each party's complaint advisor shall have
24 the opportunity to view physical or electronic copies of
25 any private or intentionally digitally altered sexual
26 image evidence in person in a higher education institution

1 office and only in the presence of the individual
2 resolving the complaint, a Title IX coordinator or a
3 member of the Title IX coordinator's staff, or the legal
4 counsel representing the higher education institution. If
5 either party is unable to view this evidence in person,
6 that party and the party's complainant advisor may view it
7 temporarily via an electronic procedure established by the
8 higher education institution that ensures confidentiality.
9 Each party and each party's complaint advisor must not
10 create physical or electronic copies of private or
11 intentionally digitally altered sexual image evidence. All
12 private or intentionally digitally altered sexual image
13 evidence must be kept in the strictest of confidence by
14 the higher education institution and its employees during
15 and after the completion of the complaint resolution
16 procedure, and evidence shall be retained as required
17 under the federal Family Educational Rights and Privacy
18 Act of 1974.

19 (10) The complainant, ~~and~~ the respondent, and each
20 party's complaint advisor may not directly question the
21 other party ~~cross examine one another~~, but may, at the
22 discretion and direction of the individual or individuals
23 resolving the complaint, suggest questions to be posed to
24 the other party by the individual or individuals resolving
25 the complaint ~~and respond to the other party~~. This
26 prohibition on direct questioning does not apply to any

1 complaint resolution procedure that involves a complaint
2 that the higher education institution is obligated to
3 address under Title IX of the federal Education Amendments
4 of 1972 if, at the time of the complaint resolution
5 procedure, Title IX rules require allowing
6 cross-examination by the parties' complaint advisors. If
7 Title IX rules require allowing cross-examination by the
8 parties' complaint advisors, the higher education
9 institution must appoint a complaint advisor for any party
10 that does not have one.

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

24 (12) The complainant and the respondent may not be
25 compelled to testify, if the complaint resolution
26 procedure involves a hearing, in the presence of the other

1 party. If a party invokes this right, the higher education
2 institution shall provide a procedure by which each party
3 can, at a minimum, hear the other party's testimony.

4 (12.5) Survivors of sexual violence, domestic
5 violence, dating violence, stalking, or sexual harassment
6 have a right to have a support person of their choosing,
7 including a confidential advisor, at any meeting or
8 proceeding related to an alleged violation of the
9 comprehensive policy or under Title IX of the federal
10 Education Amendments of 1972. If a support person violates
11 the rules or engages in behavior that harasses, abuses, or
12 intimidates either party, a witness, or an individual
13 resolving the complaint, that support person may be
14 prohibited from further participation. Nothing in this
15 paragraph (12.5) prohibits a higher education institution
16 from allowing respondents to have their own support
17 person.

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

23 (14) The complainant and the respondent shall, at a
24 minimum, have the right to timely appeal the complaint
25 resolution procedure's findings or imposed sanctions if
26 the party alleges (i) a procedural error occurred, (ii)

1 new information exists that would substantially change the
2 outcome of the finding, or (iii) the sanction is
3 disproportionate with the violation. The individual or
4 individuals reviewing the findings or imposed sanctions
5 shall not have participated previously in the complaint
6 resolution procedure and shall not have a conflict of
7 interest with either party. The complainant and the
8 respondent shall receive written notice of an appeal and
9 the alleged grounds for appeal within 7 days after the
10 appeal was submitted to the higher education institution,
11 and the nonappealing party shall be provided an
12 opportunity to submit a response to the higher education
13 institution. The complainant and the respondent shall
14 receive notice of the appeal decision in writing within 7
15 days after the conclusion of the review of findings or
16 sanctions or sooner if required by federal or State law.

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

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

24 (110 ILCS 155/30)

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

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

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

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

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

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

25 (5) The name, title, and contact information for all
26 confidential advisors, counseling services, and

1 confidential resources that can provide a confidential
2 response to a report and a description of what
3 confidential reporting means.

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

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

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

21 (1) the institution's definitions of consent,
22 inability to consent, and retaliation as they relate to
23 sexual violence;

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

26 (3) reporting to the confidential advisor or other

1 confidential resources;

2 (4) available survivor services; and

3 (5) strategies for bystander intervention and risk
4 reduction.

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

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

1 The higher education institution shall design the training
2 to improve the trainee's ability to understand (i) the higher
3 education institution's comprehensive policy; (ii) the
4 relevant federal and State law concerning survivors of sexual
5 violence, domestic violence, dating violence, ~~and~~ stalking,
6 and sexual harassment at higher education institutions; (iii)
7 the roles of the higher education institution, medical
8 providers, law enforcement, and community agencies in ensuring
9 a coordinated response to a reported incident of sexual
10 violence; (iv) the effects of trauma on a survivor; (v) the
11 types of conduct that constitute sexual violence, domestic
12 violence, dating violence, ~~and~~ stalking, and sexual
13 harassment, including same-sex violence and digital sexual
14 harassment; and (vi) consent and the role drugs and alcohol
15 use can have on the ability to consent. The training shall also
16 seek to improve the trainee's ability to respond with cultural
17 sensitivity; provide services to or assist in locating
18 services for a survivor, as appropriate; and communicate
19 sensitively and compassionately with a survivor of sexual
20 violence, domestic violence, dating violence, ~~or~~ stalking, or
21 sexual harassment.

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

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

1 (735 ILCS 5/8-804)

2 Sec. 8-804. Confidential advisor.

3 (a) This Section is intended to protect students at higher
4 education institutions in this State who are survivors of
5 sexual violence, domestic violence, dating violence, stalking,
6 or sexual harassment from public disclosure of communications
7 they make in confidence to confidential advisors. Because of
8 the fear, stigma, and trauma that often result from incidents
9 of gender-based ~~sexual~~ violence, many survivors hesitate to
10 report or seek help, even when it is available at no cost to
11 them. As a result, they not only fail to receive needed medical
12 care and emergency counseling, but may lack the psychological
13 support necessary to report the incident ~~of sexual violence~~ to
14 the higher education institution or law enforcement.

15 (b) In this Section:

16 "Confidential advisor" means a person who is employed or
17 contracted by a higher education institution to provide
18 emergency and ongoing support to survivors ~~of sexual violence~~
19 with the training, duties, and responsibilities described in
20 Section 20 of the Preventing Sexual Violence in Higher
21 Education Act.

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

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

26 "Gender-based violence" means sexual violence, domestic

1 violence, dating violence, stalking, or sexual harassment.

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

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

8 "Sexual violence" has the meaning given to that term in
9 the Preventing Sexual Violence in Higher Education Act ~~means~~
10 ~~physical sexual acts attempted or perpetrated against a~~
11 ~~person's will or when a person is incapable of giving consent,~~
12 ~~including without limitation rape, sexual assault, sexual~~
13 ~~battery, sexual abuse, and sexual coercion.~~

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

16 "Survivor" has the meaning given to that term in the
17 Preventing Sexual Violence in Higher Education Act ~~means a~~
18 ~~student who has experienced sexual violence while enrolled at~~
19 ~~a higher education institution.~~

20 (c) All communications between a confidential advisor and
21 a survivor ~~pertaining to an incident of sexual violence~~ shall
22 remain confidential, unless the survivor consents to the
23 disclosure of the communication in writing, the disclosure
24 falls within one of the exceptions outlined in subsection (d)
25 of this Section, or failure to disclose the communication
26 would violate State or federal law. Communications include all

1 records kept by the confidential advisor in the course of
2 providing the survivor with services ~~related to the incident~~
3 ~~of sexual violence.~~

4 (d) The confidential advisor may disclose confidential
5 communications between the confidential advisor and the
6 survivor if failure to disclose would result in a clear,
7 imminent risk of serious physical injury to or death of the
8 survivor or another person.

9 The confidential advisor shall have no obligation to
10 report crimes to the higher education institution or law
11 enforcement, except to report to the Title IX coordinator, as
12 defined by Title IX of the federal Education Amendments of
13 1972, on a monthly basis the number and type of incidents of
14 sexual violence, domestic violence, dating violence, stalking,
15 and sexual harassment reported exclusively to the confidential
16 advisor in accordance with the higher education institution's
17 reporting requirements under subsection (b) of Section 9.21 of
18 the Board of Higher Education Act and under federal law.

19 If, in any judicial proceeding, a party alleges that the
20 communications are necessary to the determination of any issue
21 before the court and written consent to disclosure has not
22 been given, the party may ask the court to consider ordering
23 the disclosure of the communications. In such a case,
24 communications may be disclosed if the court finds, after in
25 camera examination of the communication, that the
26 communication is relevant, probative, and not unduly

1 prejudicial or inflammatory or is otherwise clearly
2 admissible; that other evidence is demonstrably unsatisfactory
3 as evidence of the facts sought to be established by the
4 communication or communications; and that disclosure is more
5 important to the interests of substantial justice than
6 protection from injury to the confidential advisor-survivor
7 relationship, to the survivor, or to any other individual whom
8 disclosure is likely to harm.

9 (e) This privilege shall not preclude an individual from
10 asserting a greater privilege under federal or State law that
11 applies.

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

13 Section 99. Effective date. This Act takes effect July 1,
14 2027."