



Sen. Graciela Guzmán

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10400SB3467sam001

LRB104 18841 AAS 36293 a

1 AMENDMENT TO SENATE BILL 3467

2 AMENDMENT NO. _____. Amend Senate Bill 3467 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 the failure of a higher
23 education institution to respond to conduct that violates the
24 higher education institution's comprehensive policy or the
25 substantial failure of a higher education institution to act
26 in accordance with its comprehensive policy may bring a civil

1 lawsuit. The lawsuit must be brought no later than 7 years
2 after the alleged violation of the comprehensive policy or 7
3 years after the date the aggrieved party becomes aware of the
4 alleged violation, whichever is later. If the court finds that
5 a higher education institution willfully violated its
6 comprehensive policy or willfully disregarded the safety of
7 the aggrieved party, the court may award actual and punitive
8 damages. The court, as it deems appropriate, may grant, as
9 relief, a permanent or preliminary negative or mandatory
10 injunction, temporary restraining order, or other order.

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

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

21 (Source: P.A. 99-426, eff. 8-21-15; 99-741, eff. 8-5-16;
22 100-1087, eff. 1-1-19.)

23 (110 ILCS 155/15)

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

25 (a) Upon ~~On or before August 1, 2016, upon~~ being notified

1 of an alleged violation of the comprehensive policy by or on
2 behalf of a student, each higher education institution shall,
3 at a minimum, provide the survivor, when identified, with a
4 concise notification, written in plain language, of the
5 survivor's rights and options, including without limitation:

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

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

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

21 (4) the survivor's ability to request ~~interim~~
22 protective and supportive measures ~~and accommodations for~~
23 ~~survivors~~, including without limitation changes to
24 academic, living, dining, working, and transportation
25 situations and, obtaining and enforcing a campus-issued
26 order of protection or no contact order, if such

1 protective and supportive measures ~~and accommodations~~ are
2 reasonably available, and an order of protection or no
3 contact order in State court;

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

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

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

17 (b) Within 12 hours after receiving an electronic report
18 or by the next business day for other reports, the higher
19 education institution shall respond to the ~~electronic~~
20 reporter. If the reporter is not the survivor, the higher
21 education institution shall also contact the survivor, if
22 known, by the next business day following receipt of the
23 report. The separate responses to the reporter and the
24 survivor must ~~and~~, at a minimum, provide the information
25 described in subdivisions (1) through (7) ~~(6)~~ of subsection
26 (a) of this Section and a list of available resources. The

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

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

7 (110 ILCS 155/20)

8 Sec. 20. Confidential advisor.

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

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

18 (b-5) A confidential advisor is separate from a complaint
19 advisor, unless the complainant and confidential advisor agree
20 to have the confidential advisor also serve as the complaint
21 advisor. Unless prohibited by Title IX of the federal
22 Education Amendments of 1972 or other federal law, a
23 complainant has a right to have both a support person, which
24 may be the confidential advisor if the person so chooses, and a
25 complaint advisor at any meeting or proceeding related to an

1 alleged violation of the comprehensive policy or under Title
2 IX of the federal Education Amendments of 1972. The higher
3 education institution must not require or appoint a
4 confidential advisor to serve as the complainant's complaint
5 advisor.

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

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

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

25 (2) Notify the survivor of resources and services for
26 survivors of sexual violence, including, but not limited

1 to, student services available on campus and through
2 community-based resources, including without limitation
3 sexual assault crisis centers, medical treatment
4 facilities, counseling services, legal resources, medical
5 forensic services, and mental health services. A
6 confidential advisor must inform the survivor if
7 requesting or receiving certain resources or services may
8 affect confidentiality.

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

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

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

26 (6) Upon the survivor's request, liaise with the

1 necessary campus authorities to secure ~~interim~~ protective
2 and supportive measures ~~and accommodations~~ for the
3 survivor.

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

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

10 (110 ILCS 155/25)

11 Sec. 25. Complaint resolution procedures.

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

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

20 (1) Complainants and respondents ~~alleging student~~
21 ~~violation of the comprehensive policy~~ shall have the right
22 to have opportunity to request that the complaint
23 resolution procedure begin promptly and be completed
24 within 120 days after the complaint was received by the
25 higher education institution. A reasonable extension of

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

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

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

25 (4) The higher education institution shall have a
26 sufficient number of individuals trained to resolve

1 complaints so that (i) a substitution can occur in the
2 case of a conflict of interest or recusal and (ii) an
3 individual or individuals with no prior involvement in the
4 initial determination or finding hear any appeal brought
5 by a party.

6 (4.5) The higher education institution may consolidate
7 complaints by a complainant against more than one
8 respondent or by more than one complainant against one or
9 more respondents if the allegations arise out of the same
10 facts or circumstances if the higher education institution
11 provides the complainant with a timely written notice of
12 its intent to consolidate and offers the complainant a
13 reasonable opportunity to respond. However, in a
14 consolidated complaint resolution proceeding, the
15 individual or individuals resolving the complaints must
16 take reasonable measures to protect the privacy of each
17 complainant and respondent.

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

22 (6) The complainant and respondent shall (i) receive
23 notice of the individual or individuals with authority to
24 make a finding or impose a sanction in their proceeding
25 before the individual or individuals initiate contact with
26 either party and (ii) have the opportunity to request a

1 substitution if the participation of an individual with
2 authority to make a finding or impose a sanction poses a
3 conflict of interest.

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

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

18 If the higher education institution determines that,
19 to provide reasonable protective and supportive measures,
20 it must burden either the complainant or the respondent,
21 the higher education institution must minimize the burden
22 on the complainant to the extent possible, unless the
23 higher education institution is obligated to address the
24 protective and supportive measures under Title IX of the
25 federal Education Amendments of 1972 and Title IX requires
26 burdening the complainant instead of the respondent.

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

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

1 class schedule, a campus employment or work schedule,
2 housing, or an extracurricular or other activity.

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

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

24 (9) The complainant, regardless of this person's level
25 of involvement in the complaint resolution procedure, and
26 the respondent shall have the opportunity to provide or

1 present evidence and witnesses on their behalf during the
2 complaint resolution procedure.

3 (9.5) The higher education institution may not
4 distribute any evidence that includes a private or
5 intentionally digitally altered sexual image by physical
6 or electronic means, except as required by law, a
7 subpoena, or a court order. The complainant, the
8 respondent, and each party's complaint advisor shall have
9 the opportunity to view physical or electronic copies of
10 any private or intentionally digitally altered sexual
11 image evidence in person in a higher education institution
12 office and only in the presence of the individual
13 resolving the complaint, a Title IX coordinator or a
14 member of the Title IX coordinator's staff, or the legal
15 counsel representing the higher education institution. If
16 either party is unable to view this evidence in person,
17 that party and the party's complainant advisor may view it
18 temporarily via an electronic procedure established by the
19 higher education institution that ensures confidentiality.
20 Each party and each party's complaint advisor must not
21 create physical or electronic copies of private or
22 intentionally digitally altered sexual image evidence. All
23 private or intentionally digitally altered sexual image
24 evidence must be kept in the strictest of confidence by
25 the higher education institution and its employees during
26 and after the completion of the complaint resolution

1 procedure, and evidence shall be retained as required
2 under the federal Family Educational Rights and Privacy
3 Act of 1974.

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

22 (11) Both parties may request and must be allowed to
23 have a complaint ~~an~~ advisor of their choice accompany them
24 to any meeting or proceeding related to an alleged
25 violation of the comprehensive policy, provided that the
26 involvement of the complaint advisor does not result in

1 undue delay of the meeting or proceeding. The complaint
2 advisor must comply with any rules in the higher education
3 institution's complaint resolution procedure regarding the
4 advisor's role. If the complaint advisor violates the
5 rules or engages in behavior or advocacy that harasses,
6 abuses, or intimidates either party, a witness, or an
7 individual resolving the complaint, that advisor may be
8 prohibited from further participation.

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

15 (12.5) Survivors of sexual violence, domestic
16 violence, dating violence, stalking, or sexual harassment
17 have a right to have a support person of their choosing,
18 including a confidential advisor, at any meeting or
19 proceeding related to an alleged violation of the
20 comprehensive policy or under Title IX of the federal
21 Education Amendments of 1972. If a support person violates
22 the rules or engages in behavior that harasses, abuses, or
23 intimidates either party, a witness, or an individual
24 resolving the complaint, that support person may be
25 prohibited from further participation. Nothing in this
26 paragraph (12.5) prohibits a higher education institution

1 from allowing respondents to have their own support
2 person.

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

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

1 sanctions or sooner if required by federal or State law.

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

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

9 (110 ILCS 155/30)

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

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

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

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

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

23 (4) An explanation of the role of (i) Title IX
24 coordinators, including deputy or assistant Title IX
25 coordinators, under Title IX of the federal Education

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

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

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

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

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

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

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

11 (3) reporting to the confidential advisor or other
12 confidential resources;

13 (4) available survivor services; and

14 (5) strategies for bystander intervention and risk
15 reduction.

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

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

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

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

1 seek to improve the trainee's ability to respond with cultural
2 sensitivity; provide services to or assist in locating
3 services for a survivor, as appropriate; and communicate
4 sensitively and compassionately with a survivor of sexual
5 violence, domestic violence, dating violence, ~~or~~ stalking, or
6 sexual harassment.

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

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

10 (735 ILCS 5/8-804)

11 Sec. 8-804. Confidential advisor.

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

24 (b) In this Section:

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

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

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

11 "Gender-based violence" means sexual violence, domestic
12 violence, dating violence, stalking, or sexual harassment.

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

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

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

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

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

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

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

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

1 advisor in accordance with the higher education institution's
2 reporting requirements under subsection (b) of Section 9.21 of
3 the Board of Higher Education Act and under federal law.

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

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

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

24 Section 99. Effective date. This Act takes effect July 1,
25 2027."