

1 AN ACT concerning education.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

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.

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

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

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

14 "Confidential advisor" means a person who is employed or
15 contracted by a higher education institution to provide
16 emergency and ongoing support to student survivors of sexual
17 violence, domestic violence, dating violence, stalking, and
18 sexual harassment, with the training, duties, and
19 responsibilities described in Section 20 of this Act.
20 "Confidential advisor" does not include a complainant's
21 complaint advisor, unless the complainant requests that the
22 confidential advisor serve as the complainant's complaint
23 advisor and the confidential advisor agrees to serve as such.

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

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

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

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

15 "Lack of capacity" means an inability to give knowing and
16 affirming consent.

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

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

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

16 "Sexual harassment" means unwelcome sex-based conduct,
17 including, but not limited to, unwanted sexual advances,
18 unwanted requests for sexual favors, or any unwanted verbal,
19 nonverbal, or physical conduct that is sex-based or that is
20 related to a person's sex, sexual orientation, or gender
21 identity, toward a student that (i) a reasonable person would
22 view as substantially interfering with the student's
23 educational performance or participation in a program or
24 activity of a higher education institution, including, but not
25 limited to, any mental or physical health impacts, any new or
26 increased challenges with focusing on academics or activities,

1 any fear or anxiety about attending class or activities, or
2 the need to alter routines or class or activity schedules to
3 avoid another student, or (ii) creates an environment that a
4 reasonable person would consider to be intimidating, hostile,
5 or offensive. "Sexual harassment" includes digital sexual
6 harassment.

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

12 "Stalking" has the meaning given to that term in the
13 Stalking No Contact Order Act.

14 "Survivor" means a student enrolled at a higher education
15 institution who has self-identified as having experienced
16 sexual violence, domestic violence, dating violence, ~~or~~
17 stalking, or sexual harassment ~~while enrolled at a higher~~
18 ~~education institution.~~

19 "Survivor-centered" means a systematic focus on the needs
20 and concerns of a survivor of sexual violence, domestic
21 violence, dating violence, ~~or~~ stalking, or sexual harassment
22 that (i) ensures the compassionate and sensitive delivery of
23 services in a nonjudgmental manner; (ii) ensures an
24 understanding of how trauma affects survivor behavior; (iii)
25 maintains survivor safety, privacy, and, if possible,
26 confidentiality; and (iv) recognizes that a survivor is not

1 responsible for the sexual violence, domestic violence, dating
2 violence, ~~or~~ stalking, or sexual harassment.

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

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

16 (110 ILCS 155/10)

17 Sec. 10. Comprehensive policy.

18 (a) All ~~On or before August 1, 2016,~~ all higher education
19 institutions shall adopt a comprehensive policy concerning
20 sexual violence, domestic violence, dating violence, ~~and~~
21 stalking, and sexual harassment consistent with governing
22 federal and State law. The higher education institution's
23 comprehensive policy shall include, at a minimum, all of the
24 following components:

25 (1) A definition of consent that, at a minimum,

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

15 (A) the person has a lack of capacity ~~is~~
16 ~~incapacitated~~ due to the use or influence of alcohol
17 or drugs;

18 (B) the person is asleep or unconscious;

19 (C) the person is under age; or

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

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

25 (2) Procedures that students of the higher education
26 institution may follow if they choose to report an alleged

1 violation of the comprehensive policy, regardless of where
2 the incident of sexual violence, domestic violence, dating
3 violence, ~~or~~ stalking, or sexual harassment occurred,
4 including all of the following:

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

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

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

23 (D) An option for students to electronically
24 report.

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

26 (F) An option for students to confidentially

1 report.

2 (G) An option for reports by third parties and
3 bystanders. However, while third parties and
4 bystanders may report, the higher education
5 institution may not compel a survivor's participation
6 in a complaint resolution procedure.

7 (H) Information about how the higher education
8 institution prohibits and responds to retaliation and
9 the process for reporting retaliation under the
10 comprehensive policy.

11 (3) The higher education institution's procedure for
12 responding to a report of an alleged incident of sexual
13 violence, domestic violence, dating violence, ~~or~~ stalking,
14 or sexual harassment, including without limitation (i)
15 assisting and interviewing the survivor, (ii) identifying
16 and locating witnesses, (iii) contacting and interviewing
17 the respondent, (iv) contacting and cooperating with law
18 enforcement, when applicable, ~~and~~ (v) providing
19 information regarding the importance of preserving
20 physical evidence of the sexual violence and the
21 availability of a medical forensic examination at no
22 charge to the survivor, and (vi) providing information
23 about how the higher education institution prohibits and
24 responds to retaliation and the process for reporting
25 retaliation under the comprehensive policy.

26 (4) A statement of the higher education institution's

1 obligation to provide survivors with concise information,
2 written in plain language, concerning the survivor's
3 rights and options, upon receiving a report of an alleged
4 violation of the comprehensive policy, as described in
5 Section 15 of this Act.

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

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

15 (7) A statement notifying survivors of the ~~interim~~
16 protective and supportive measures ~~and accommodations~~
17 reasonably available from the higher education institution
18 that a survivor may request in response to an alleged
19 violation of the comprehensive policy, including without
20 limitation changes to academic, living, dining,
21 transportation, and working situations, obtaining and
22 enforcing campus no contact orders, and how the higher
23 education institution supports the honoring of an order of
24 protection or no contact order entered by a State civil or
25 criminal court.

26 (8) The higher education institution's complaint

1 resolution procedures if a student alleges violation of
2 the comprehensive violence policy, including, at a
3 minimum, the guidelines set forth in Section 25 of this
4 Act.

5 (9) A statement of the range of sanctions the higher
6 education institution may impose following the
7 implementation of its complaint resolution procedures in
8 response to an alleged violation of the comprehensive
9 policy. Sanctions may include, but are not limited to,
10 suspension, expulsion, or removal of the student found,
11 after complaint resolution procedures, to be in violation
12 of the comprehensive policy of the higher education
13 institution.

14 (10) A statement of the higher education institution's
15 obligation to include an amnesty provision that provides
16 immunity to any student who reports, in good faith, an
17 alleged violation of the higher education institution's
18 comprehensive policy to a responsible employee, as defined
19 by federal law, so that the reporting student will not
20 receive a disciplinary sanction by the institution for a
21 student conduct violation, such as underage drinking or
22 possession or use of a controlled substance, that is
23 revealed in the course of such a report, unless the
24 institution determines that the violation ~~was egregious,~~
25 ~~including without limitation an action that~~ places the
26 health or safety of any other person at significant or

1 serious risk.

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

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

13 (c) Each higher education institution shall act in
14 accordance with its comprehensive policy. Beginning August 1,
15 2027, any party that is aggrieved by the failure of a higher
16 education institution to respond to conduct that violates the
17 higher education institution's comprehensive policy or the
18 substantial failure of a higher education institution to act
19 in accordance with its comprehensive policy may bring a civil
20 lawsuit. The lawsuit must be brought no later than 7 years
21 after the alleged violation of the comprehensive policy or 7
22 years after the date the aggrieved party becomes aware of the
23 alleged violation, whichever is later. If the court finds that
24 a higher education institution willfully violated its
25 comprehensive policy or willfully disregarded the safety of
26 the aggrieved party, the court may award actual and punitive

1 damages. The court, as it deems appropriate, may grant, as
2 relief, a permanent or preliminary negative or mandatory
3 injunction, temporary restraining order, or other order.

4 Upon a motion, a court shall award reasonable attorney's
5 fees and costs, including expert witness fees and other
6 litigation expenses, to a plaintiff who is a prevailing party
7 in any action brought under this subsection (c). In awarding
8 reasonable attorney's fees, the court shall consider the
9 degree to which the relief obtained relates to the relief
10 sought.

11 Nothing in this Section may be construed to require an
12 exhaustion of the administrative complaint process before
13 civil law remedies may be pursued.

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

16 (110 ILCS 155/15)

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

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

24 (1) the survivor's right to report or not report the
25 alleged incident to the higher education institution, law

1 enforcement, or both, including information about the
2 survivor's right to privacy and which reporting methods
3 are confidential, as well as the survivor's right to
4 participate or not participate in any investigation into
5 the alleged incident;

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

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

14 (4) the survivor's ability to request ~~interim~~
15 protective and supportive measures ~~and accommodations for~~
16 ~~survivors~~, including without limitation changes to
17 academic, living, dining, working, and transportation
18 situations and, obtaining and enforcing a campus-issued
19 order of protection or no contact order, if such
20 protective and supportive measures ~~and accommodations~~ are
21 reasonably available, and an order of protection or no
22 contact order in State court;

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

1 ~~and~~

2 (6) a summary of the higher education institution's
3 complaint resolution procedures, under Section 25 of this
4 Act, if the survivor reports a violation of the
5 comprehensive policy; ~~and-~~

6 (7) information about how the higher education
7 institution prohibits and responds to retaliation and the
8 process for reporting retaliation under the comprehensive
9 policy.

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

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

1 (110 ILCS 155/20)

2 Sec. 20. Confidential advisor.

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

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

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

25 (c) All confidential advisors shall receive 40 hours of
26 training on sexual violence, if they have not already

1 completed this 40-hour training, before being designated a
2 confidential advisor and shall attend a minimum of 6 hours of
3 ongoing education training annually on issues related to
4 sexual violence to remain a confidential advisor. Confidential
5 advisors shall also receive periodic training on the campus
6 administrative processes, ~~interim~~ protective and supportive
7 measures ~~and accommodations~~, and complaint resolution
8 procedures.

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

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

18 (2) Notify the survivor of resources and services for
19 survivors of sexual violence, including, but not limited
20 to, student services available on campus and through
21 community-based resources, including without limitation
22 sexual assault crisis centers, medical treatment
23 facilities, counseling services, legal resources, medical
24 forensic services, and mental health services. A
25 confidential advisor must inform the survivor if
26 requesting or receiving certain resources or services may

1 affect confidentiality.

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

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

11 (5) Upon the survivor's request and as appropriate,
12 liaise with campus officials, community-based sexual
13 assault crisis centers, or local law enforcement and, if
14 requested, assist the survivor with contacting and
15 reporting to campus officials, campus law enforcement, or
16 local law enforcement. A confidential advisor must inform
17 the survivor if requesting or receiving certain resources
18 or services may affect confidentiality.

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

23 (7) Upon the survivor's request, liaise with the
24 necessary campus authorities to assist the survivor in
25 responding to and advocating against any retaliation by
26 the respondent or any other individual, including agents

1 of the higher education institution.

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

3 (110 ILCS 155/25)

4 Sec. 25. Complaint resolution procedures.

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

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

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

1 necessary due to a delay in the complaint resolution
2 procedure ~~proceed in a timely manner.~~

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

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

18 (4) The higher education institution shall have a
19 sufficient number of individuals trained to resolve
20 complaints so that (i) a substitution can occur in the
21 case of a conflict of interest or recusal and (ii) an
22 individual or individuals with no prior involvement in the
23 initial determination or finding hear any appeal brought
24 by a party.

25 (4.5) The higher education institution may consolidate
26 complaints by a complainant against more than one

1 respondent or by more than one complainant against one or
2 more respondents if the allegations arise out of the same
3 facts or circumstances if the higher education institution
4 provides the complainant with a timely written notice of
5 its intent to consolidate and offers the complainant a
6 reasonable opportunity to respond. However, in a
7 consolidated complaint resolution proceeding, the
8 individual or individuals resolving the complaints must
9 take reasonable measures to protect the privacy of each
10 complainant and respondent.

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

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

23 (7) The higher education institution shall have a
24 procedure to determine ~~interim~~ protective and supportive
25 ~~measures and accommodations available pending the~~
26 ~~resolution of the complaint.~~ Such protective and

1 supportive measures must not be overly burdensome to
2 either party or result in excluding either party from
3 participation in, denying either party the benefits of, or
4 subjecting either party to discrimination under any
5 education program or activity or otherwise interfere with
6 any right or privilege secured by this Act or Title IX of
7 the federal Education Amendments of 1972.

8 Nothing in this Section prohibits a higher education
9 institution from following its emergency or regular
10 removal or expulsion processes.

11 If the higher education institution determines that,
12 to provide reasonable protective and supportive measures,
13 it must burden either the complainant or the respondent,
14 the higher education institution must minimize the burden
15 on the complainant to the extent possible, unless the
16 higher education institution is obligated to address the
17 protective and supportive measures under Title IX of the
18 federal Education Amendments of 1972 and Title IX requires
19 burdening the complainant instead of the respondent.

20 The higher education institution shall bear the cost
21 of reasonable protective and supportive measures. The
22 higher education institution shall have a procedure for
23 providing reasonable protective and supportive measures to
24 all students who report sexual violence, domestic
25 violence, dating violence, stalking, and sexual
26 harassment. Such protective and supportive measures shall

1 be available even if a student does not file a formal
2 complaint, the student's complaint is dismissed, or there
3 is no finding of responsibility in the complaint
4 resolution procedure.

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

22 A higher education institution must make a good faith
23 effort to accommodate requests for reasonable protective
24 and supportive measures. Each request for protective and
25 supportive measures must be evaluated on an individualized
26 basis to determine the reasonableness of the request, and,

1 if the original request is determined to be unreasonable,
2 the higher education institution must consider alternative
3 reasonable protective and supportive measures to address
4 the party's needs. The major or course enrolled in by the
5 party, on its own, is not a reason to deny protective and
6 supportive measures. If the higher education institution
7 cannot grant a survivor's request and a comparable
8 alternative is not available, the higher education
9 institution must consider whether there are any other
10 reasonably available options that could support the
11 survivor or meet the survivor's needs and offer those
12 options to the survivor.

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

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

22 (9.5) The higher education institution may not
23 distribute any evidence that includes a private or
24 intentionally digitally altered sexual image by physical
25 or electronic means, except as required by law, a
26 subpoena, or a court order. The complainant, the

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

23 (10) The complainant, ~~and~~ the respondent, and each
24 party's complaint advisor may not directly question the
25 other party ~~cross examine one another~~, but may, at the
26 discretion and direction of the individual or individuals

1 resolving the complaint, suggest questions to be posed to
2 the other party by the individual or individuals resolving
3 the complaint ~~and respond to the other party.~~ This
4 prohibition on direct questioning does not apply to any
5 complaint resolution procedure that involves a complaint
6 that the higher education institution is obligated to
7 address under Title IX of the federal Education Amendments
8 of 1972 if, at the time of the complaint resolution
9 procedure, Title IX rules require allowing
10 cross-examination by the parties' complaint advisors. If
11 Title IX rules require allowing cross-examination by the
12 parties' complaint advisors, the higher education
13 institution must appoint a complaint advisor for any party
14 that does not have one.

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

1 prohibited from further participation.

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

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

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

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

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

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

2 (110 ILCS 155/30)

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

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

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

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

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

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

1 confidentiality each is allowed to provide to reporting
2 students under relevant federal and State law.

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

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

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

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

25 (1) the institution's definitions of consent,
26 inability to consent, and retaliation as they relate to

1 sexual violence;

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

4 (3) reporting to the confidential advisor or other
5 confidential resources;

6 (4) available survivor services; and

7 (5) strategies for bystander intervention and risk
8 reduction.

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

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

1 service provider of the higher education institution with the
2 employee responsibilities outlined in clauses (i) through
3 (iii) of this paragraph shall also receive annual
4 survivor-centered and trauma-informed response training.

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

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

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

3 (735 ILCS 5/8-804)

4 Sec. 8-804. Confidential advisor.

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

17 (b) In this Section:

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

24 "Dating violence" has the meaning given to that term in

1 the Preventing Sexual Violence in Higher Education Act.

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

4 "Gender-based violence" means sexual violence, domestic
5 violence, dating violence, stalking, or sexual harassment.

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

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

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

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

20 "Survivor" has the meaning given to that term in the
21 Preventing Sexual Violence in Higher Education Act ~~means a~~
22 ~~student who has experienced sexual violence while enrolled at~~
23 ~~a higher education institution.~~

24 (c) All communications between a confidential advisor and
25 a survivor ~~pertaining to an incident of sexual violence~~ shall
26 remain confidential, unless the survivor consents to the

1 disclosure of the communication in writing, the disclosure
2 falls within one of the exceptions outlined in subsection (d)
3 of this Section, or failure to disclose the communication
4 would violate State or federal law. Communications include all
5 records kept by the confidential advisor in the course of
6 providing the survivor with services ~~related to the incident~~
7 ~~of sexual violence~~.

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

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

23 If, in any judicial proceeding, a party alleges that the
24 communications are necessary to the determination of any issue
25 before the court and written consent to disclosure has not
26 been given, the party may ask the court to consider ordering

1 the disclosure of the communications. In such a case,
2 communications may be disclosed if the court finds, after in
3 camera examination of the communication, that the
4 communication is relevant, probative, and not unduly
5 prejudicial or inflammatory or is otherwise clearly
6 admissible; that other evidence is demonstrably unsatisfactory
7 as evidence of the facts sought to be established by the
8 communication or communications; and that disclosure is more
9 important to the interests of substantial justice than
10 protection from injury to the confidential advisor-survivor
11 relationship, to the survivor, or to any other individual whom
12 disclosure is likely to harm.

13 (e) This privilege shall not preclude an individual from
14 asserting a greater privilege under federal or State law that
15 applies.

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

17 Section 99. Effective date. This Act takes effect July 1,
18 2027.