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PREVENTING SEXUAL VIOLENCE IN HIGHER EDUCATION ACT P.A. 99-426

Increasing Protections for Illinois Students & Strengthening Guidelines for Higher Education's Responsiveness

More than one in five undergraduate women (and more than one in twenty undergraduate men) experienced unwanted sexual contact while in college.[i]

Nearly three out of four student victims did not report their sexual assault by physically forced penetration to any authority.[ii]

Every student in Illinois deserves access to the same protections, regardless of where they go to school. The Preventing Sexual Violence in Higher Education Act ensures that all Illinois higher education institutions:

- Develop a single, **comprehensive policy** concerning sexual violence, domestic violence, dating violence and stalking that includes reporting procedures and university response guidelines. 110 ILCS 155/10.
    - The policy must state available interim protection measures and accommodations and the range of sanctions the institution can impose.
    - The institution must include an amnesty provision.
- Provide a **confidential advisor** to **survivors** to help them understand their options to report and seek medical, legal and other services. 110 ILCS 155/20.
    - Institutions may not designate a "responsible employee" (as defined by Title IX of the Education Amendments of 1972) for this position.
    - Communications between a confidential advisor and survivor regarding an incident of sexual violence are subject to a privilege outlined in the Illinois Civil Code of Procedure. 110 ILCS 155/20(d)(4); 735 ILCS 5/8-804.
- Offer students options to report **electronically, confidentially or anonymously and provide for bystander/third party reports**. 110 ILCS 155/10(2)(D)-(G).
    - Institutions must respond in 12 hours to an electronic report. 110 ILCS 155/15(b).
- Define **consent** in the institution's comprehensive policy. 110 ILCS 155/10(1).
    - The Act sets out minimum requirements for the definition, but institutions may establish stricter standards for consent.
    - A person cannot consent to sexual activity if unable to understand the nature of the activity or give knowing consent. This includes circumstances where the person is incapacitated due to drugs or alcohol, asleep or unconscious.

- **Notify survivors about their rights,** including reporting options, interim remedies and accommodations (e.g., changing a class schedule, room assignment, and dining hall privilege), and the campus complaint resolution procedure. 110 ILCS 155/15.
    - Institutions must provide a short, clear written explanation of rights and options when it receives a report from a student.

- Each campus must adopt a fair, balanced **procedure to resolve complaints** of alleged student violations of the comprehensive policy. 110 ILCS 155/25.
    - The same procedure must apply to all students at that campus.
    - The institution shall use a preponderance of the evidence standard.
    - Students shall receive notice of which individuals will resolve the complaint in time to request substitution where a conflict of interest exists.
    - Students may have an advisor of their choice present for meetings and hearings.
    - Institutions may not compel a student to testify in the presence of the other party.

- Annually **train students and campus employees** to improve awareness of and responsiveness to allegations of sexual violence beginning the 2016-2017 academic year. 110 ILCS 155/30(b)-(c).
    - Institutions must provide student trainings on consent, retaliation, reporting, resources, bystander intervention and risk reduction strategies and other topics.
    - Campus employees who could receive a report of campus sexual assault will receive trauma-informed, survivor-centered training on topics, including: the comprehensive policy, relevant laws, and how to respond to a survivor.
    - Individuals who resolve complaints must receive 8 to 10 hours of additional annual training, including training on how to resolve complaints.
    - All confidential advisors must complete 40-hour sexual violence training before appointment and 6 hours of ongoing education annually.

- Participate in a **campus-wide or regional task force** 110 ILCS 12/10(b).
    - Task forces must include representatives from law enforcement, campus administration, the advocacy community, and students.
    - They must meet at least twice a year to evaluate policies, practices and procedures as well as bolster collaboration and information-sharing among stakeholders.

- **Annually report data** regarding trainings, prevention programs, incidents, reports and complaint resolution outcomes to the Illinois Attorney General's Office (OAG). 110 ILCS 205/9.21(b).
    - All reports are due each year by November 1, beginning in November 2017.
    - The OAG will list on its website institutions that fail to report.

❖ The Act applies to all (more than 200) higher education institutions in Illinois – public and private.

❖ Unless otherwise noted, Illinois higher education institutions must have these requirements in place by **August 1, 2016**.

For more information, please contact:
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[i] Cantor, D., Fisher, B., Chibnall, S., Townsend, R., Lee, H., Brus, C, & Thomas, G. (2015), Report on the AAU Campus Climate Survey on Sexual Assault and Sexual Misconduct. Westat. Available at: https://www.aau.edu/uploadedFiles/AAU_Publications/AAU_Reports/Sexual_Assault_Campus_Survey/Report%20on%20the%20AAU%20Campus%20Climate%20Survey%20on%20Sexual%20Assault%20and%20Sexual%20Misconduct.pdf.

[ii] Id.