

## CHAPTER 445

### SEXUAL VIOLENCE, INTIMATE PARTNER VIOLENCE AND STALKING AT INSTITUTIONS OF HIGHER EDUCATION

#### §12981. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2021, c. 733, §2 (NEW).]

**1. Affirmative consent.** "Affirmative consent" means consent to sexual activity that can be revoked at any time. "Affirmative consent" does not include silence, lack of resistance or consent given while intoxicated.

[PL 2021, c. 733, §2 (NEW).]

**2. Employee.** "Employee" means an individual who is employed by an institution of higher education, including a full-time, part-time or contracted employee, or an individual who was employed by an institution of higher education, including a full-time, part-time or contracted employee, but has taken a leave of absence or terminated the employment as a result of having been a victim of sexual violence, intimate partner violence or stalking or for any other reason.

[PL 2021, c. 733, §2 (NEW).]

**3. Institution of higher education.** "Institution of higher education" or "institution" means a public, private, nonprofit or for-profit postsecondary school chartered, incorporated or otherwise organized in the State with an established physical presence in the State.

[PL 2021, c. 733, §2 (NEW).]

**4. Interpersonal violence climate survey.** "Interpersonal violence climate survey" means the survey developed pursuant to section 12984, subsection 8.

[PL 2021, c. 733, §2 (NEW).]

**5. Intimate partner violence.** "Intimate partner violence" means any of the acts that constitute abuse under Title 19-A, section 4002, subsection 1, paragraphs A to H that are committed by an individual who is or has been in a social relationship with another individual of an intimate nature regardless of whether the individuals were or are sexual partners.

[PL 2021, c. 733, §2 (NEW).]

**6. Reporting party.** "Reporting party" means a student or employee who reports having experienced an alleged incident of sexual violence, intimate partner violence or stalking at an institution of higher education.

[PL 2021, c. 733, §2 (NEW).]

**7. Responding party.** "Responding party" means an individual who has been accused of an alleged incident of sexual violence, intimate partner violence or stalking at an institution of higher education.

[PL 2021, c. 733, §2 (NEW).]

**8. Sexual violence.** "Sexual violence" means conduct that constitutes:

A. Any crime under Title 17-A, chapter 11; [PL 2021, c. 733, §2 (NEW).]

B. Unauthorized dissemination of certain private images pursuant to Title 17-A, section 511-A; [PL 2021, c. 733, §2 (NEW).]

C. Aggravated sex trafficking or sex trafficking pursuant to Title 17-A, section 852 or 853, respectively; or [PL 2021, c. 733, §2 (NEW).]

D. Sexual harassment as defined in Title 14, section 6000, subsection 2-A. [PL 2021, c. 733, §2 (NEW).]

[PL 2021, c. 733, §2 (NEW).]

**9. Stalking.** "Stalking" means conduct that constitutes the crime of stalking under Title 17-A, section 210-A.

[PL 2021, c. 733, §2 (NEW).]

**10. Student.** "Student" means an individual who is enrolled or is seeking to be enrolled in an institution of higher education in this State and is a candidate for a degree or diploma or graduate certificate or has taken a leave of absence as a result of having been a victim of sexual violence, intimate partner violence or stalking.

[PL 2021, c. 733, §2 (NEW).]

**11. Title IX coordinator.** "Title IX coordinator" means the employee at an institution of higher education who is responsible for institutional compliance with the so-called Title IX provisions of the federal Education Amendments of 1972, Public Law 92-318, as amended.

[PL 2021, c. 733, §2 (NEW).]

**12. Trauma-informed response.** "Trauma-informed response" means a response by an individual who has received specific training in the complexities of trauma caused by intimate partner violence, sexual violence or stalking including training on:

A. The neurobiological impact of trauma; [PL 2021, c. 733, §2 (NEW).]

B. The influence of societal stereotypes or other misconceptions relating to the causes and impacts of trauma on an individual experiencing the trauma caused by intimate partner violence, sexual violence or stalking; [PL 2021, c. 733, §2 (NEW).]

C. Methodologies for avoiding perpetuation of the trauma caused by intimate partner violence, sexual violence or stalking; and [PL 2021, c. 733, §2 (NEW).]

D. How to conduct an effective investigation of trauma. [PL 2021, c. 733, §2 (NEW).]

[PL 2021, c. 733, §2 (NEW).]

## SECTION HISTORY

PL 2021, c. 733, §2 (NEW).

### §12982. Adoption of policies and related procedures

**1. Adoption of policy required.** No later than July 1, 2023, each institution of higher education shall adopt a policy and related procedures on sexual violence, intimate partner violence and stalking, referred to in this section as "the policy," in accordance with this section and consistent with applicable state and federal law. The policy must be publicly available on each institution's campus website and in student handbooks. Notices of where the full policy is available and outreach for victims of sexual violence, intimate partner violence and stalking must be posted at campus locations where students regularly congregate. The institution shall update the policy on the institution's website annually.

[PL 2021, c. 733, §2 (NEW).]

**2. Development of policy.** The policy must reflect the diverse needs of all students and employees and be culturally competent. An institution may consider input from various internal and external entities, including, but not limited to, the institution's Title IX coordinator, a local sexual assault support center, a domestic violence resource center, administrators, personnel affiliated with on-campus and off-campus health care centers, confidential resource advisors, residence life staff, students, local law enforcement agencies and the district attorney having jurisdiction in the municipality where the institution of higher education's primary campus is located.

[PL 2021, c. 733, §2 (NEW).]

**3. Content of policy.** The policy must include, but is not limited to:

A. Procedures by which students and employees at the institution may report or disclose alleged incidents of sexual violence, intimate partner violence or stalking regardless of where the alleged incident occurred; [PL 2021, c. 733, §2 (NEW).]

B. Information on where a reporting party may receive immediate emergency assistance following an alleged incident of sexual violence, intimate partner violence or stalking including, but not limited to:

(1) The name and location of the nearest medical facility where a reporting party may request that a forensic examination be administered by a licensed health care practitioner that has received sexual assault forensic examiner training and education provided by the sexual assault forensic examiner program, including information on transportation options and information on reimbursement for travel costs, if any;

(2) The contact information for a local sexual assault support center and a domestic violence resource center and a description of the services provided by the centers;

(3) The telephone number and website for a confidential statewide sexual assault helpline and a national 24-hour hotline that provides information on sexual assault; and

(4) Information on any programs that may financially assist a reporting party with the cost of emergency medical assistance, including the Victims' Compensation Fund pursuant to Title 5, chapter 316-A; [PL 2021, c. 733, §2 (NEW).]

C. Descriptions of the types of and contact information for counseling, health, safety, academic and other support services available within the local community or region or through a local sexual assault support center or a domestic violence resource center, including but not limited to the names of and contact information for organizations that support responding parties accused of sexual violence, intimate partner violence or stalking; the name of and contact information for a confidential resource advisor under section 12986 and a description of the role of and services provided by the confidential resource advisor; and the name of and contact information for the institution's Title IX coordinator; [PL 2021, c. 733, §2 (NEW).]

D. The rights of students and employees to:

(1) Notify or decline to notify a law enforcement agency, including campus, local or state police, of an alleged incident of sexual violence, intimate partner violence or stalking;

(2) Receive assistance from campus authorities in making any notification under subparagraph (1); and

(3) Obtain a court-issued or institution-issued protection order against a responding party involved with the alleged incident of sexual violence, intimate partner violence or stalking; [PL 2021, c. 733, §2 (NEW).]

E. The process for requesting supportive measures reasonably available from the institution, including, but not limited to, options for changing academic, living, campus transportation or working arrangements or taking a leave of absence in response to an alleged incident of sexual violence, intimate partner violence or stalking, how to request those changes and the process to have any such measures reviewed; [PL 2021, c. 733, §2 (NEW).]

F. The contact information for the closest local, state and federal law enforcement agencies with jurisdiction over matters involving sexual violence, intimate partner violence or stalking, procedures for students to notify the institution that a protection order has been issued under state or federal law and the institution's responsibilities upon receipt of such notice; [PL 2021, c. 733, §2 (NEW).]

G. A summary of the institution's procedures for informal resolution, investigating, adjudicating and resolving sexual violence, intimate partner violence or stalking complaints against students, regardless of where the alleged offense occurred, including an explanation of all procedures that must be followed to obtain investigatory reports and gather evidence, and potential sanctions or penalties that may be imposed. The policy must provide that:

- (1) The procedures be uniformly applied, to the extent practicable, for all proceedings relating to any claims of sexual violence, intimate partner violence or stalking;
- (2) An investigation, including any hearings and resulting disciplinary proceedings, be conducted by an individual who receives not less than annual training on issues relating to sexual violence, intimate partner violence or stalking, investigatory procedures and hearing procedures to protect the safety and rights of students and promote accountability, objectivity, impartiality and a trauma-informed response;
- (3) The reporting party and the responding party be provided with a copy of the policy regarding the submission and consideration of evidence that may be used during a disciplinary proceeding;
- (4) The reporting party and the responding party be informed in writing of the results of a disciplinary proceeding not later than 7 business days after a final determination of a complaint, not including time for appeal, if any, unless good cause for additional time is shown. The reporting party and responding party must be informed of the process, if any, for appealing the decision;
- (5) The institution may not publicly disclose the identity of the reporting party or the responding party, except as necessary to carry out a disciplinary proceeding or as otherwise permitted under state or federal law; and
- (6) The reporting party and the responding party must be informed that the institution's disciplinary proceedings may not serve as a substitute for the criminal justice process; and [PL 2021, c. 733, §2 (NEW).]

H. The range of sanctions or penalties the institution may impose on students and employees found responsible for a violation of the applicable institutional policy prohibiting sexual violence, intimate partner violence or stalking. [PL 2021, c. 733, §2 (NEW).]  
[PL 2021, c. 733, §2 (NEW).]

**4. Adoption of and amendments to the policy.** When adopting or amending a policy, an institution shall provide an opportunity for comment and a reasonable length of time in which comments will be accepted. The institution shall provide the draft policy or proposed substantive amendments by electronic or regular mail to internal and external entities, with instructions on how to comment and the reasonable length of time in which comments will be accepted. Once an institution has adopted a policy, the opportunity for review and comment by internal and external entities applies only to substantive amendments in the policy.  
[PL 2021, c. 733, §2 (NEW).]

**5. Confidentiality.** The identity of a reporting party and a responding party and all information relating to an incident of sexual violence, intimate partner violence or stalking are confidential and may not be disclosed by the institution except as necessary to carry out a disciplinary process or as otherwise permitted under state or federal law.  
[PL 2021, c. 733, §2 (NEW).]

#### SECTION HISTORY

PL 2021, c. 733, §2 (NEW).

#### §12983. Notice to proceed

Each institution shall provide a reporting party and a responding party with written notice of the institution's decision to hold a disciplinary proceeding regarding an allegation of sexual violence, intimate partner violence or stalking sufficiently in advance of a disciplinary proceeding to provide the reporting and responding parties with the opportunity to meaningfully exercise their rights. The disciplinary proceeding must provide due process and be prompt, fair and impartial and include the opportunity for both parties to present witnesses and other evidence. The written notice must include the information required to be posted on the institution's publicly accessible website pursuant to section 12982, subsection 1. [PL 2021, c. 733, §2 (NEW).]

#### SECTION HISTORY

PL 2021, c. 733, §2 (NEW).

#### §12984. Higher Education Interpersonal Violence Advisory Commission

**1. Establishment.** The Higher Education Interpersonal Violence Advisory Commission, established by Title 5, section 12004-I, subsection 12-C and referred to in this chapter as "the commission," is created for the purpose of developing a base interpersonal violence climate survey for dissemination to institutions of higher education and providing recommendations on the content, timing and application of the survey and reporting on the survey to the joint standing committee of the Legislature having jurisdiction over higher education matters.

[PL 2021, c. 733, §2 (NEW).]

**2. Membership.** The commission consists of the following 22 members:

A. The commissioner or the commissioner's designee; [PL 2021, c. 733, §2 (NEW).]

B. The Commissioner of Health and Human Services or the commissioner's designee; [PL 2021, c. 733, §2 (NEW).]

C. The following 9 members appointed by the commissioner:

(1) A member representing a statewide coalition of sexual assault support centers;

(2) A member representing an organization promoting racial equity and justice;

(3) A member representing a tribal coalition against sexual assault and domestic violence;

(4) A member representing a statewide organization for disability rights;

(5) A member representing a statewide organization for lesbian, gay, bisexual and transgender people;

(6) A member representing a national advocacy organization focused on passing state legislation written by students and survivors addressing campus sexual violence;

(7) A member representing a statewide coalition of domestic violence resource centers;

(8) A member representing an organization that advocates for immigrant communities in this State; and

(9) A representative from a civil legal services provider representing sexual assault survivors; and [PL 2021, c. 733, §2 (NEW).]

D. The following 11 members appointed by the Governor:

(1) A student attending a public institution of higher education in this State;

(2) A student attending a private institution of higher education in this State;

(3) A student attending an institution in the Maine Community College System;

(4) A representative of the University of Maine System recommended by the Chancellor of the University of Maine System;

- (5) A representative of a private institution of higher education recommended by an association of independent colleges in this State;
- (6) A representative of the Maine Community College System recommended by the President of the Maine Community College System;
- (7) A Title IX coordinator at a public institution of higher education in this State;
- (8) A Title IX coordinator at a private institution of higher education in this State;
- (9) A researcher with experience in the development and design of interpersonal violence climate surveys;
- (10) A researcher of statistics, data analytics or econometrics with experience in higher education survey analysis; and
- (11) A representative of an on-campus health center at an institution of higher education who has experience dealing with campus sexual violence, intimate partner violence or stalking. [PL 2021, c. 733, §2 (NEW).]

[PL 2021, c. 733, §2 (NEW).]

**3. Staffing.** The department shall provide appropriate staffing assistance to the commission. [PL 2021, c. 733, §2 (NEW).]

**4. Terms; vacancies; compensation.** Each appointed member serves a 2-year term except that, of those members first appointed, 5 appointed by the Governor and 5 appointed by the commissioner must be appointed for a one-year term. The term of office of each member must be designated at the time of appointment. A member of the commission may serve after the expiration of that member's term until a successor has been appointed. Members are compensated in accordance with Title 5, chapter 379.

[PL 2021, c. 733, §2 (NEW).]

**5. Quorum.** A quorum of the commission consists of 2/3 of appointed members. [PL 2021, c. 733, §2 (NEW).]

**6. Powers and duties.** Beginning July 1, 2023 and biennially thereafter, the commission shall provide to the commissioner the interpersonal violence climate survey developed in accordance with subsections 8 and 9 and any related recommendations, including but not limited to recommendations on achieving statistically valid response rates. The commission may make recommendations on legislative and policy actions or on enforcing and carrying out the provisions of this chapter and may undertake research development and program initiatives consistent with this section. The commission shall meet at least 4 times a year. Subcommittees of the commission may meet as necessary. The commission may accept funds from the Federal Government, from a political subdivision of the State or from an individual, foundation or corporation and may expend these funds for purposes that are consistent with this subsection. The commission may develop bylaws to fulfill this section.

[PL 2021, c. 733, §2 (NEW).]

**7. Fund established.** The Higher Education Interpersonal Violence Advisory Commission Fund is established as a nonlapsing fund for the purpose of receiving funds accepted by the commission under subsection 6.

[PL 2021, c. 733, §2 (NEW).]

**8. Development of interpersonal violence climate survey.** The commission shall develop the interpersonal violence climate survey by:

- A. Using best practices from peer-reviewed research and in consultation with individuals with expertise in the development and use of interpersonal violence climate surveys by institutions of higher education; [PL 2021, c. 733, §2 (NEW).]

- B. Reviewing interpersonal violence climate surveys that have been developed and previously used by institutions of higher education in other states; [PL 2021, c. 733, §2 (NEW).]
  - C. To ensure the adequacy and appropriateness of the proposed content, providing opportunities for written comment from organizations that work directly with victims and survivors of sexual violence, intimate partner violence and stalking; [PL 2021, c. 733, §2 (NEW).]
  - D. Consulting with institutions on strategies for optimizing the effectiveness of the interpersonal violence climate survey; and [PL 2021, c. 733, §2 (NEW).]
  - E. Accounting for the diverse needs and differences among the institutions of higher education. [PL 2021, c. 733, §2 (NEW).]
- [PL 2021, c. 733, §2 (NEW).]

**9. Information to be gathered.** The interpersonal violence climate survey must collect anonymous responses and may not require the disclosure of personally identifiable information. The survey must include the survey requirements of the federal Violence Against Women Act Reauthorization Act of 2022, Public Law 117-103 and the survey must be designed, without being duplicative of the federal requirements, to gather the following information:

- A. The number of incidents, both reported and unreported, of sexual violence, intimate partner violence and stalking at each institution of higher education; [PL 2021, c. 733, §2 (NEW).]
- B. Generally, when or where incidents of sexual violence, intimate partner violence or stalking occurred, including but not limited to on-campus, off-campus, abroad, online or elsewhere, but without requiring students to disclose specific information about any incident; [PL 2021, c. 733, §2 (NEW).]
- C. Student awareness of the institution's policies and procedures related to sexual violence, intimate partner violence and stalking; [PL 2021, c. 733, §2 (NEW).]
- D. Whether a student reported sexual violence, intimate partner violence or stalking and, if so, to which campus resource or law enforcement agency the report was made, and, if not, the reason for the student's decision not to report; [PL 2021, c. 733, §2 (NEW).]
- E. Whether a student was informed of or referred to local, state, campus or other resources or victim support services, including appropriate medical care and legal services; [PL 2021, c. 733, §2 (NEW).]
- F. Whether a student was provided the option of protection from retaliation, access to school-based accommodations and criminal justice remedies; [PL 2021, c. 733, §2 (NEW).]
- G. Contextual factors of each incident of sexual violence, intimate partner violence or stalking, such as the involvement of force, incapacitation, coercion or drug or alcohol facilitation; [PL 2021, c. 733, §2 (NEW).]
- H. Demographic information that could be used to identify at-risk groups including but not limited to gender, race and sexual orientation; [PL 2021, c. 733, §2 (NEW).]
- I. Perceptions of campus safety among members of the campus community and confidence in the institution's ability to protect against and respond in a timely and trauma-informed manner to incidents of sexual violence, intimate partner violence or stalking; [PL 2021, c. 733, §2 (NEW).]
- J. Whether a reporting party was satisfied with the institution of higher education's response to the reporting party's report; [PL 2021, c. 733, §2 (NEW).]
- K. Whether the student has chosen to withdraw or take a leave of absence from the institution or transferred to another institution due to being either the reporting party or the responding party in an allegation of sexual violence, intimate partner violence or stalking; [PL 2021, c. 733, §2 (NEW).]

L. Whether a student has withdrawn from any classes or been placed on academic probation as a result of an incident of sexual violence, intimate partner violence or stalking; and [PL 2021, c. 733, §2 (NEW).]

M. Answers to any other questions developed by the commission. [PL 2021, c. 733, §2 (NEW).]  
[PL 2021, c. 733, §2 (NEW).]

#### SECTION HISTORY

PL 2021, c. 733, §2 (NEW).

### **§12985. Interpersonal violence climate survey dissemination; aggregate data collection; reporting**

**1. Dissemination; conduct.** The commissioner shall provide the interpersonal violence climate survey biennially to each institution, and each institution shall biennially conduct the interpersonal violence climate survey on each campus. Each institution may append campus-specific questions to the survey, as long as any additional questions do not require the disclosure of any personally identifiable information and are not unnecessarily traumatizing for victims of sexual violence, intimate partner violence and stalking. All students must be offered an opportunity to complete part or all of the interpersonal violence climate survey.

[PL 2021, c. 733, §2 (NEW).]

**2. Report to commissioner; website.** Within 120 days after completion of the interpersonal violence climate survey, each institution shall submit a summary of the results and the aggregate data, with any personally identifiable information removed or redacted, supporting the results to the commissioner and post the following on the institution of higher education's publicly accessible website in a way that does not personally identify any student:

A. The summary of the results of the survey; [PL 2021, c. 733, §2 (NEW).]

B. The annual security report completed pursuant to 20 United States Code, Section 1092(f); and [PL 2021, c. 733, §2 (NEW).]

C. A link to the department's statewide interpersonal violence climate survey data pursuant to subsection 3. [PL 2021, c. 733, §2 (NEW).]

[PL 2021, c. 733, §2 (NEW).]

**3. Data collection.** The department shall establish a data repository for all summaries and anonymized and aggregated data of interpersonal violence climate surveys submitted by institutions. The department shall ensure that the interpersonal violence climate survey data submitted by all institutions in accordance with subsection 2 is available to the public in an easily accessible manner on the department's publicly accessible website.

[PL 2021, c. 733, §2 (NEW).]

**4. Protection of personal information.** The interpersonal violence climate survey must be designed to collect anonymous responses and may not publicly disclose any personally identifying information. An institution of higher education may not use or attempt to use information collected through the interpersonal violence climate survey to identify or contact any individual student on campus, nor may the responses to the survey be used as the basis for any type of investigation or disciplinary or legal proceeding.

[PL 2021, c. 733, §2 (NEW).]

#### SECTION HISTORY

PL 2021, c. 733, §2 (NEW).

### **§12986. Confidential resource advisors**

**1. Confidential resource advisor designated.** Each institution shall designate at least one confidential resource advisor to provide emergency and ongoing support to survivors of sexual violence, intimate partner violence and stalking. The confidential resource advisor must be designated based on the confidential resource advisor's experience in advocating on behalf of victims of sexual assault or domestic violence and a demonstrated ability to effectively provide victim services related to sexual violence, intimate partner violence or stalking. The confidential resource advisor may have another role at the institution of higher education, but may not be a student or a Title IX coordinator and may not have any other job responsibilities that may create a conflict of interest, including but not limited to being general counsel, director of athletics, dean of students or any employee who serves on a judicial or hearing board overseeing reports of sexual violence, intimate partner violence or stalking or to whom an appeal of such a proceeding might be made. The confidential resource advisor shall maintain a physical presence on campus that provides the confidential resource advisor a place to meet discreetly and privately with students or employees in-person or remotely. An institution may contract or partner with a local, state or national victim advocacy organization to provide a confidential resource advisor under this subsection.

[PL 2021, c. 733, §2 (NEW).]

**2. Additional designation; partnership.** Each institution of higher education shall designate existing categories of employees who may also serve as confidential resource advisors. This subsection may not be construed to limit an institution of higher education from designating a new or existing employee as a confidential resource advisor. An institution of higher education that enrolls fewer than 1,000 residential students may partner with another institution of higher education or local sexual assault support center within the State to provide the services under this section. Any partnership entered into under this subsection must ensure that the confidential resource advisor is available to a student within a reasonable distance from the student's institution of higher education.

[PL 2021, c. 733, §2 (NEW).]

**3. Training.** A confidential resource advisor must receive the following training:

A. Prior to designation as a confidential resource advisor, 40 hours of training on sexual violence, intimate partner violence and stalking; [PL 2021, c. 733, §2 (NEW).]

B. Training regarding unconscious biases related to race, gender and sexuality; [PL 2021, c. 733, §2 (NEW).]

C. Training regarding awareness and prevention of sexual violence, intimate partner violence or stalking, relevant federal policies, the institution's policy under section 12982 and trauma-informed response; and [PL 2021, c. 733, §2 (NEW).]

D. Twenty hours of educational training annually on issues related to sexual violence, intimate partner violence and stalking, including but not limited to awareness and prevention of sexual violence, intimate partner violence and stalking and a trauma-informed response. [PL 2021, c. 733, §2 (NEW).]

[PL 2021, c. 733, §2 (NEW).]

**4. Coordination.** A confidential resource advisor shall coordinate with on-campus, if any, and off-campus sexual assault support centers and domestic violence resource centers within a reasonable time after being designated as a confidential resource advisor.

[PL 2021, c. 733, §2 (NEW).]

**5. Information and resources.** A confidential resource advisor is responsible for providing the following information and resources regarding incidents of sexual violence, intimate partner violence or stalking to students and employees:

A. Reporting options and the probable effects of each option; [PL 2021, c. 733, §2 (NEW).]

- B. Counseling services available on campus and through a local sexual assault support center or domestic violence resource center; [PL 2021, c. 733, §2 (NEW).]
  - C. Medical and mental health services available on campus and off campus; [PL 2021, c. 733, §2 (NEW).]
  - D. When requested, campus escort services for security; [PL 2021, c. 733, §2 (NEW).]
  - E. Available supportive measures, including academic and residential life accommodations; [PL 2021, c. 733, §2 (NEW).]
  - F. For students considering temporary or permanent withdrawal or reduced enrollment, student loan counseling including but not limited to information regarding loan deferment, forbearance or other applicable student loan programs; [PL 2021, c. 733, §2 (NEW).]
  - G. The institution's investigative, disciplinary and nondisciplinary processes; [PL 2021, c. 733, §2 (NEW).]
  - H. The legal process of local, state and federal law enforcement agencies; [PL 2021, c. 733, §2 (NEW).]
  - I. That the institution of higher education's disciplinary process is not to be considered a substitute for the criminal justice process; and [PL 2021, c. 733, §2 (NEW).]
  - J. Any limits on the ability of the confidential resource advisor to keep private or confidential the information of the student. [PL 2021, c. 733, §2 (NEW).]
- [PL 2021, c. 733, §2 (NEW).]

**6. Direct assistance.** If requested by the reporting party, the confidential resource advisor, using only the student or employee's identifying information, shall coordinate with the campus resources to arrange possible school-provided supportive measures, including those available through any memoranda of understanding with sexual assault support centers and domestic violence resource centers, and including but not limited to:

- A. Changes in academic status, dining, housing, transportation or campus employment; [PL 2021, c. 733, §2 (NEW).]
- B. Access to counseling and other mental health services; [PL 2021, c. 733, §2 (NEW).]
- C. Excused absences, academic counseling and tutoring; [PL 2021, c. 733, §2 (NEW).]
- D. Academic course work accommodations; and [PL 2021, c. 733, §2 (NEW).]
- E. Financial resources that are under the control of the institution, including if a student has to withdraw from a class or the institution entirely, such as tuition credit, opportunities to withdraw or reenroll in a course without academic or financial penalty and continued eligibility for scholarships and honors. [PL 2021, c. 733, §2 (NEW).]

Supportive measures may also be obtained, when appropriate, through disability services and the Title IX coordinator at the institution of higher education.  
[PL 2021, c. 733, §2 (NEW).]

**7. Additional actions.** A confidential resource advisor, regarding an alleged incident of sexual violence, intimate partner violence or stalking reported to the advisor:

- A. Shall notify all campus resources that are involved in providing or enforcing supportive measures or accommodations of their duties; [PL 2021, c. 733, §2 (NEW).]
- B. May, if appropriate and directed by a student, assist the student in contacting or reporting to campus or local law enforcement agencies; [PL 2021, c. 733, §2 (NEW).]

C. Shall notify a student of the student's rights and the institution's responsibility regarding a protection order, no-contact order or any other lawful order issued by the institution or by a criminal, civil or tribal court; [PL 2021, c. 733, §2 (NEW).]

D. May not be required to report the incident to the institution or a law enforcement agency unless otherwise required to do so by state or federal law and shall provide confidential services to students or employees; [PL 2021, c. 733, §2 (NEW).]

E. May attend an administrative adjudication proceeding or the institution's disciplinary proceeding as an advisor or support person of a student's or employee's choice; [PL 2021, c. 733, §2 (NEW).]

F. May disclose confidential information with the prior written consent of the reporting party or if required by state or federal law; [PL 2021, c. 733, §2 (NEW).]

G. May not provide services to both the reporting party and the responding party to the incident of sexual violence, intimate partner violence or stalking; and [PL 2021, c. 733, §2 (NEW).]

H. May not act as a counselor or therapist unless the confidential resource advisor is a licensed counselor in this State and the student engages the confidential resource advisor in that capacity. [PL 2021, c. 733, §2 (NEW).]

[PL 2021, c. 733, §2 (NEW).]

**8. Notice.** A report to a confidential resource advisor of an alleged incident of sexual violence, intimate partner violence or stalking or a confidential resource advisor's performance of a service under this section may not be considered actual or constructive notice of such an alleged incident to the institution of higher education at which the confidential resource advisor is employed or provides contracted services.

[PL 2021, c. 733, §2 (NEW).]

**9. Retaliation.** If a conflict of interest arises for an institution in which a confidential resource advisor is advocating for a reporting party's need for sexual assault support services or campus or local law enforcement agency services, the institution may not discipline, penalize or otherwise retaliate against the confidential resource advisor for representing the interest of the reporting party.

[PL 2021, c. 733, §2 (NEW).]

**10. Privileged communications.** Communications between a reporting party and a confidential resource advisor are privileged from disclosure as follows.

A. A reporting party may refuse to disclose and may deny permission to a confidential resource advisor to disclose confidential written or oral communications between the reporting party and the confidential resource advisor and any written records, notes, memoranda or reports concerning the reporting party. [PL 2021, c. 733, §2 (NEW).]

B. Except as provided in paragraph C, a confidential resource advisor may not be required through oral or written testimony or through production of documents to disclose to a court in criminal or civil proceedings or to any agency or person any privileged communications between the reporting party and the confidential resource advisor. [PL 2021, c. 733, §2 (NEW).]

C. Privileged communications may be disclosed in the following circumstances:

(1) When disclosure is required under Title 22, chapter 958-A or 1071 and that disclosure is in accordance with provisions of either chapter;

(2) When a court in the exercise of its discretion determines the disclosure of the information necessary to proper administration of justice, an inspection of records may be held in camera by the judge to determine whether those records contain relevant information. This proceeding does not entitle an opposing party to examine the records unless those records are made available by the court; or

(3) When a reporting party dies or is incapable of giving consent and disclosure is required for an official law enforcement agency investigation or criminal proceeding regarding the cause of the victim's death or incapacitation. [PL 2021, c. 733, §2 (NEW).]

[PL 2021, c. 733, §2 (NEW).]

**11. Confidential criminal history record information.** Notwithstanding any provision of law to the contrary, a criminal justice agency, whether directly or through any intermediary, may disseminate confidential criminal history record information to a confidential resource advisor for the purpose of planning for the safety of the party the confidential resource advisor is advising. A confidential resource advisor who receives confidential criminal history record information pursuant to this subsection shall use it solely for the purpose authorized by this subsection and may not further disseminate the information.

[PL 2021, c. 733, §2 (NEW).]

**12. Cross-examination.** Nothing in this section may be construed to limit either party's right of cross-examination of the confidential resource advisor in a civil or criminal proceeding if the confidential resource advisor testifies after written consent has been given or in accordance with subsection 10.

[PL 2021, c. 733, §2 (NEW).]

#### SECTION HISTORY

PL 2021, c. 733, §2 (NEW).

#### §12987. Awareness programming

An institution of higher education, with guidance from its Title IX coordinator, a local law enforcement agency and the sexual assault support center or the domestic violence resource center identified in the institution's policy under section 12982, shall provide mandatory prevention and awareness programming on sexual violence, intimate partner violence and stalking for all incoming students and all employees of the institution. The institution shall make available prevention and awareness programming to all returning students of the institution. The prevention and awareness programming must include: [PL 2021, c. 733, §2 (NEW).]

**1. Affirmative consent.** An explanation of affirmative consent as it applies to sexual activity and sexual relationships;

[PL 2021, c. 733, §2 (NEW).]

**2. Affirmative consent; drugs and alcohol.** The role drugs and alcohol play in an individual's ability to provide affirmative consent;

[PL 2021, c. 733, §2 (NEW).]

**3. Options for reporting.** Information on options relating to the reporting of an incident of sexual violence, intimate partner violence or stalking, the probable effects and potential outcomes of each option and the methods to report an incident of sexual violence, intimate partner violence or stalking, including confidential and anonymous disclosure;

[PL 2021, c. 733, §2 (NEW).]

**4. Institution's procedures; sanctions and penalties.** Information on the institution's procedures for resolving reports of sexual violence, intimate partner violence and stalking and the range of sanctions or penalties the institution may impose on students and employees found responsible for a violation of a policy and related procedures adopted under section 12982;

[PL 2021, c. 733, §2 (NEW).]

**5. Contact information.** The name, contact information and role of the confidential resource advisor, information about the local sexual assault support center, their confidential services and how to access those services, information about the domestic violence resource center, their confidential

services and how to access those services, as well as the name and contact information of all other personnel governed by confidentiality policies at the institution;  
[PL 2021, c. 733, §2 (NEW).]

**6. Bystander intervention and risk reduction.** Strategies for bystander intervention and risk reduction;  
[PL 2021, c. 733, §2 (NEW).]

**7. Ongoing prevention and awareness.** Opportunities for ongoing sexual violence, intimate partner violence and stalking prevention and awareness programming, including through ongoing campaigns; and  
[PL 2021, c. 733, §2 (NEW).]

**8. Sensitivity; marginalized groups.** An approach to training that recognizes and is sensitive to the disproportionate impacts and rates of occurrence of sexual violence, intimate partner violence and stalking on members of marginalized groups, including but not limited to people of color, people with disabilities and lesbian, gay, bisexual and transgender people.  
[PL 2021, c. 733, §2 (NEW).]

#### SECTION HISTORY

PL 2021, c. 733, §2 (NEW).

#### **§12988. Training for Title IX coordinators, campus safety personnel and individuals involved in the disciplinary process**

**1. General requirement.** Each institution of higher education shall ensure that its Title IX coordinator and members of its campus police force or campus safety personnel employed by the institution of higher education undergo annual training in awareness of sexual violence, intimate partner violence and stalking and trauma-informed responses.  
[PL 2021, c. 733, §2 (NEW).]

**2. Requirements for involvement in disciplinary process.** Any individual who participates in the implementation of an institution's disciplinary process under this chapter, including but not limited to any individuals responsible for resolving reports of incidents of sexual violence, intimate partner violence and stalking, must be trained or have experience in handling such reports and the operations of the institution's disciplinary practice. The training must include, but is not limited to:

A. Information about providing a trauma-informed response when working with and interviewing victims of an alleged incident of sexual violence, intimate partner violence or stalking; [PL 2021, c. 733, §2 (NEW).]

B. Information on particular types of conduct that constitute sexual violence, intimate partner violence and stalking; [PL 2021, c. 733, §2 (NEW).]

C. Information on affirmative consent and the role drugs and alcohol may play in an individual's ability to consent; [PL 2021, c. 733, §2 (NEW).]

D. The effects of trauma, including any neurobiological impact on an individual; [PL 2021, c. 733, §2 (NEW).]

E. Cultural competency training regarding how sexual violence, intimate partner violence and stalking may affect students differently depending on factors that contribute to a student's cultural background, including but not limited to national origin, sex, ethnicity, religion, gender identity, gender expression and sexual orientation; [PL 2021, c. 733, §2 (NEW).]

F. Methods of communicating sensitively and compassionately with a reporting party including, but not limited to, an awareness of responding to a reporting party with consideration of that party's

cultural background and providing services to or assisting in locating services for the reporting party; [PL 2021, c. 733, §2 (NEW).]

G. Training and information regarding how sexual violence, intimate partner violence and stalking may affect students with developmental or intellectual disabilities; and [PL 2021, c. 733, §2 (NEW).]

H. Methods of communicating sensitively with a responding party, including an awareness of the emotional impact of an allegation of sexual violence, intimate partner violence and stalking. [PL 2021, c. 733, §2 (NEW).]

[PL 2021, c. 733, §2 (NEW).]

#### SECTION HISTORY

PL 2021, c. 733, §2 (NEW).

#### **§12989. Reporting**

**1. Report.** By October 1, 2023 and annually thereafter, an institution of higher education shall prepare and submit to the commissioner, the Commissioner of Health and Human Services and the joint standing committee of the Legislature having jurisdiction over higher education matters the annual security report required under the federal Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, 20 United States Code, Section 1092(f).

[PL 2021, c. 733, §2 (NEW).]

#### SECTION HISTORY

PL 2021, c. 733, §2 (NEW).

#### **§12990. Immunity**

A reporting party or a witness who requests an investigation of sexual violence, intimate partner violence or stalking may not be subject to a disciplinary proceeding or sanction or penalty for a violation of the institution's student conduct policy related to drug or alcohol use, trespassing or unauthorized entry of the institution's facilities that comes to the attention of the institution as part of that report or investigation of sexual violence, intimate partner violence or stalking unless the institution determines that the report was not made in good faith or that the violation was egregious. An egregious violation must include, but not be limited to, taking an action that places the health and safety of another person at risk. This section may not be construed to limit the ability of an institution to establish an immunity policy for student conduct violations not mentioned in this section. [PL 2021, c. 733, §2 (NEW).]

#### SECTION HISTORY

PL 2021, c. 733, §2 (NEW).

#### **§12991. Memoranda of understanding**

**1. Requirement.** No later than July 1, 2023, an institution of higher education shall enter into and maintain a memorandum of understanding with a sexual assault support center and domestic violence resource center that is funded by the Department of Health and Human Services to:

A. Provide an off-campus option for students and employees of the institution to receive free and confidential sexual assault crisis services, including access to a sexual assault nurse examiner, if available, or free and confidential domestic violence crisis services; [PL 2021, c. 733, §2 (NEW).]

B. Ensure that a student or employee of the institution may access free and confidential advocacy services either on campus or off campus related to sexual violence, intimate partner violence or stalking; [PL 2021, c. 733, §2 (NEW).]

C. Ensure cooperation and training between the institution and the sexual assault support center or domestic violence resource center regarding the roles that the institution, sexual assault support center and domestic violence resource center should play in responding to reports and disclosures of sexual violence, intimate partner violence and stalking against students and employees of the institution and the institution's protocols for providing support and services to such students and employees; [PL 2021, c. 733, §2 (NEW).]

D. Ensure that a student or employee of the institution has access to mental health services, either on campus or off campus, relating to sexual violence, intimate partner violence or stalking; and [PL 2021, c. 733, §2 (NEW).]

E. Make referrals for civil legal representation to assist with civil protections, including but not limited to those related to protections under Title IX of the federal Education Amendments of 1972, Public Law 92-318, as amended, or protection from abuse orders. [PL 2021, c. 733, §2 (NEW).] [PL 2021, c. 733, §2 (NEW).]

**2. Confidential victim services; fees.** A memorandum of understanding may include an agreement, including a fee structure, between the sexual assault support center or domestic violence resource center under subsection 1 and the institution of higher education to provide confidential victim services. Confidential victim services may include case consultation and training fees for confidential resource advisors, consultation fees for the development and implementation of sexual violence, intimate partner violence and stalking education and prevention programs for students, the development of trauma-informed response staff training and prevention curricula and private on-site office space for an advocate from the sexual assault support center and domestic violence resource center to meet with students or employees. [PL 2021, c. 733, §2 (NEW).]

#### SECTION HISTORY

PL 2021, c. 733, §2 (NEW).

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