

Illinois Preventing Sexual Violence in Higher Education Act Takes Effect

On August 21, 2015 Governor Rauner signed into law the new Illinois Preventing Sexual Violence in Higher Education Act, **Public Act 099-0426** (the Act). The new law imposes a number of requirements on higher education institutions related to their policies, procedures, provision of services, and responses to sexual violence on campus between students. While most of the Act's requirements mirror the federal law requirements under Title IX of the Education Amendments of 1972 and the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, the new Illinois law also places several additional requirements on public universities, public community colleges, and independent not-for-profit or for-profit higher education institutions.

To summarize key, additional requirements, the Act requires Illinois higher education institutions to (i) incorporate particular timeframes into their procedures for notifying parties of key stages of the proceedings; (ii) adopt a definition of consent that includes particular components; (iii) have an option for students to report electronically, anonymously, and confidentially; (iv) provide a minimum number of hours of training to particular individuals involved in addressing or resolving issues of sexual violence; (v) designate and train specific confidential advisors available to provide emergency and ongoing support to students; (vi) include an amnesty provision in the institution's policy that provides immunity to any student who reports in good faith a policy violation from receiving any disciplinary sanctions that are revealed in the course of such a report; and (vii) include an appeal process that contains particular grounds for appeal as set forth in the Act.

While the law takes effect immediately, most of the Act's requirements do not apply until on or after August 1, 2016. Additional requirements under the Act with which higher education institutions must comply include:

- By August 1, 2016, adopt a comprehensive policy concerning sexual violence, domestic violence, dating violence and stalking consistent with federal and state law, as well as one procedure to resolve complaints of alleged student violations of the policy, that include particular components as set forth in the Act.
- By August 1, 2016, provide survivors of sexual violence with a concise notification of the survivor's rights and options containing the particular requirements set forth in the Act.
- Effective immediately, provide students with access to specifically trained, confidential advisors to provide specific emergency and ongoing support to survivors of sexual violence as set forth in the Act. Such advisors may not be designated "responsible employees" under Title IX, and the institution may partner with a community-based sexual assault crisis center to provide such confidential advisors.
- By August 1, 2016, publish specific information on the institution's website related to its comprehensive policy and provision of services as set forth in the Act.
- Beginning with the 2016-17 academic year, provide specific sexual violence primary prevention and awareness programming, including annual training, for all students who attend one or more

classes on campus as set forth in the Act, and provide each student with copies of its comprehensive policy, procedures, and related protocols.

- Beginning with the 2016-17 academic year, provide annual survivor-centered and trauma-informed response training to employees involved in implementing the school's policies as set forth in the Act.

The Act also amends the Illinois Campus Security Enhancement Act to require each higher education institution, by August 1, 2016, to establish a campus-wide task force or participate in a regional task force that shall work toward improving coordination between community leaders and service providers to prevent sexual violence, domestic violence, dating violence, and stalking, as required by the Act. The Act also amends the Board of Higher Education Act to require each public higher education institution to report annually to the Illinois Department of Human Rights (IDHR) and the Attorney General on each adjudicated case in which there is a finding of sexual harassment (or racial, ethnic, or religious intimidation). The Act further requires each public or private higher education institution, by November 1, 2017, and every November 1 thereafter, to provide an annual report to IDHR and the Attorney General containing specific components regarding its policy and incidents of sexual violence, domestic violence, dating violence, and stalking.

Finally, the Act also amends the Code of Civil Procedure to protect communications between a confidential advisor and a survivor of sexual violence from being disclosed without a survivor's consent, except in limited circumstances.

Most institutions in Illinois have likely already implemented many of the requirements of the Act, but perhaps not with the specificity required by the new law. Other requirements go beyond those already in place and implemented at most institutions during the past few years. Even institutions that have recently updated applicable policies to incorporate additional requirements imposed by the Violence Against Women Reauthorization Act (VAWA) will want to review and revise their policies as soon as possible, and certainly well in advance of August 1, 2016.