

ASSEMBLY, No. 4858

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED OCTOBER 22, 2020

Sponsored by:

Assemblywoman MILA M. JASEY

District 27 (Essex and Morris)

Assemblywoman LINDA S. CARTER

District 22 (Middlesex, Somerset and Union)

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

SYNOPSIS

Requires reporting and investigation of alleged incidents of sexual harassment and sexual violence at institutions of higher education and requires institutions to provide employee training on such reports.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 10/22/2020)

1 **AN ACT** concerning sexual harassment and sexual violence at
2 institutions of higher education and supplementing chapter 3B of
3 Title 18A of the New Jersey Statutes.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. a. An institution of higher education that receives State
9 operating aid shall provide annual training to employees designated
10 by the institution as “responsible employees.” The training shall
11 address how to respond to and report an allegation of sexual
12 harassment or sexual violence made by a student enrolled in the
13 institution. Responsible employees shall include:

14 (1) designated faculty and other instructional staff of the
15 institution;

16 (2) all employees of the campus police and campus security
17 units;

18 (3) all administrators of the institution;

19 (4) all employees of the office of the general counsel of the
20 institution;

21 (5) designated health personnel;

22 (6) all resident advisors; and

23 (7) any other personnel designated by the institution as being
24 likely to witness or receive a report of an act of sexual harassment
25 or sexual violence made by a student enrolled in the institution.

26 b. The training required pursuant to subsection a. of this
27 section shall provide a responsible employee with information on:

28 (1) the duty of the responsible employee to promptly disclose
29 the limits of the employee’s confidentiality to a victim who initiates
30 a report of an act of sexual harassment or sexual violence;

31 (2) how to respond appropriately to a report of an act of sexual
32 harassment or sexual violence; and

33 (3) the responsible employee’s duty to report an act of sexual
34 harassment or sexual violence to the appropriate institutional
35 authorities.

36 c. A responsible employee shall report an alleged act of sexual
37 harassment or sexual violence to the appropriate institution
38 authorities. A responsible employee shall report an alleged act that
39 occurred:

40 (1) on campus;

41 (2) at off-campus locations where significant institution
42 activities take place, including private housing, study abroad and
43 other remote educational programs, campus transportation vehicles
44 and facilities, or at classes, programs, or events sponsored by the
45 institution; or

46 (3) via electronic communication, including texting and the use
47 of social media platforms, during class or institution activities.

1 d. Nothing in this section shall be construed to restrict a
2 student's rights under the "Campus Sexual Assault Victim's Bill of
3 Rights," established pursuant to P.L.1994, c.160 (C.18A:61E-
4 1 et seq.).

5 e. In the event that an institution of higher education that
6 receives State operating aid receives a report of an act of sexual
7 harassment or sexual violence made by a student enrolled in the
8 institution, the institution shall investigate to determine what
9 occurred and take appropriate steps to resolve the situation.

10 f. As used in this section:

11 "Sexual harassment" means unwelcome conduct of a sexual
12 nature, including unwelcome sexual advances, requests for sexual
13 favors, and other verbal, nonverbal, or physical conduct of a sexual
14 nature.

15 "Sexual violence" means physical sexual acts perpetrated against
16 a person's will or where a person is incapable of giving consent due
17 to the person's age or use of drugs or alcohol, or because an
18 intellectual or other disability prevents the student from having the
19 capacity to give consent.

20
21 2. This act shall take effect immediately and shall first apply to
22 the first full academic year following the date of enactment.
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24

25 STATEMENT

26
27 On May 6, 2020, the United States Department of Education
28 released rules on the reporting and investigation of sexual
29 harassment and sexual violence in educational institutions. These
30 rules withdrew the guidance documents on the subject from
31 President Barack Obama's administration. Among numerous other
32 changes, the new federal rules limited who in the higher education
33 community is required to report an observation or allegation of an
34 incident of sexual harassment or sexual violence that would trigger
35 an investigation by an institution of higher education. This bill will
36 place greater responsibility on an institution of higher education
37 that receives State operating aid to report and respond to incidents
38 of sexual harassment or sexual violence in a manner similar to the
39 requirements under the Obama-era guidance documents.

40 This bill requires an institution of higher education that receives
41 State operating aid to provide annual training to employees
42 designated by the institution as "responsible employees." Under the
43 bill, the training will address how to respond to and report an
44 allegation of sexual harassment or sexual violence made by a
45 student enrolled in the institution. Under the bill, responsible
46 employees include: designated faculty and other instructional staff
47 of the institution; all employees of the campus police and campus
48 security units; all administrators of the institution; all employees of

1 the office of the general counsel of the institution; designated health
2 personnel; all resident advisors; and any other institution personnel
3 designated as being likely to witness or receive a report of an act of
4 sexual harassment or sexual violence made by a student enrolled in
5 the institution.

6 Under the bill, the required training will provide responsible
7 employees with information on:

- 8 • the duty of the responsible employees to promptly disclose
9 the limits of their confidentiality to a victim who initiates a
10 report of an act of sexual harassment or sexual violence;
- 11 • how to respond appropriately to a report of an act of sexual
12 harassment or sexual violence; and
- 13 • the duty to report an act of sexual harassment or sexual
14 violence to the appropriate institution authorities.

15 The bill requires a responsible employee to report an alleged act
16 of sexual harassment or sexual violence to the appropriate
17 institution authorities. Under the bill, a responsible employee is
18 required to report an alleged act that occurred on campus, off
19 campus, or via electronic communication.

20 The bill further requires that, in the event that an institution of
21 higher education that receives State operating aid receives a report
22 of an act of sexual harassment or sexual violence made by a student,
23 the institution must investigate to determine what occurred and take
24 appropriate steps to resolve the situation.