S T A T E O F N E W Y O R K

5965

2015-2016 Regular Sessions

I N S E N A T E

June 14, 2015

Introduced by Sen. LAVALLE -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the education law, in relation to the implementation by colleges and universities of sexual assault, dating violence, domestic violence and stalking prevention and response policies and procedures; and to amend the civil practice law and rules, in relation to privacy of name in certain legal challenges to college/university disciplinary findings; and making appropriations therefor

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The education law is amended by adding a new article 129-B to read as follows:

ARTICLE 129-B

IMPLEMENTATION BY COLLEGES AND UNIVERSITIES OF SEXUAL ASSAULT, DATING VIOLENCE, DOMESTIC VIOLENCE AND STALKING PREVENTION AND RESPONSE POLICIES AND PROCEDURES

SECTION 6439. DEFINITIONS.
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6446. OPTIONS FOR CONFIDENTIAL DISCLOSURE.
6447. STUDENT ONBOARDING AND ONGOING EDUCATION.
6448. PRIVACY IN LEGAL CHALLENGES.
6449. REPORTING AGGREGATE DATA TO THE DEPARTMENT.

S 6439. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING TERMS HAVE THE FOLLOWING MEANINGS:

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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1. "INSTITUTION" SHALL MEAN ANY COLLEGE OR UNIVERSITY CHARTERED BY THE REGENTS OR INCORPORATED BY SPECIAL ACT OF THE LEGISLATURE THAT MAINTAINS A CAMPUS IN NEW YORK.

2. "TITLE IX COORDINATOR" SHALL MEAN THE TITLE IX COORDINATOR AND/OR HIS OR HER DESIGNEE OR DESIGNEES.

3. "BYSTANDER" SHALL MEAN A PERSON WHO OBSERVES A CRIME, IMPENDING CRIME, CONFLICT, POTENTIALLY VIOLENT OR VIOLENT BEHAVIOR, OR CONDUCT THAT IS IN VIOLATION OF RULES OR POLICIES OF AN INSTITUTION.

4. "CODE OF CONDUCT" SHALL MEAN THE WRITTEN POLICIES ADOPTED BY AN INSTITUTION GOVERNING STUDENT BEHAVIOR, RIGHTS, AND RESPONSIBILITIES WHILE SUCH STUDENT IS MATRICULATED IN THE INSTITUTION.

5. "CONFIDENTIALITY" MAY BE OFFERED BY AN INDIVIDUAL WHO IS NOT REQUIRED BY LAW TO REPORT KNOWN INCIDENTS OF SEXUAL ASSAULT OR OTHER CRIMES TO INSTITUTION OFFICIALS, IN A MANNER CONSISTENT WITH STATE AND FEDERAL LAW, INCLUDING BUT NOT LIMITED TO 20 U.S.C. 1092(F) AND 20 U.S.C. 1681(A). LICENSED MENTAL HEALTH COUNSELORS, MEDICAL PROVIDERS AND PASTORAL COUNSELORS ARE EXAMPLES OF INSTITUTION EMPLOYEES WHO MAY OFFER CONFIDENTIALITY.

6. "PRIVACY" MAY BE OFFERED BY AN INDIVIDUAL WHEN SUCH INDIVIDUAL IS UNABLE TO OFFER CONFIDENTIALITY UNDER THE LAW BUT SHALL STILL NOT DISCLOSE INFORMATION LEARNED FROM A REPORTING INDIVIDUAL OR BYSTANDER TO A CRIME OR INCIDENT MORE THAN NECESSARY TO COMPLY WITH THIS AND OTHER APPLICABLE LAWS, INCLUDING INFORMING APPROPRIATE INSTITUTION OFFICIALS. INSTITUTIONS MAY SUBSTITUTE ANOTHER RELEVANT TERM HAVING THE SAME MEANING, AS APPROPRIATE TO THE POLICIES OF THE INSTITUTION.

7. "ACCUSED" SHALL MEAN A PERSON ACCUSED OF A VIOLATION WHO HAS NOT YET ENTERED AN INSTITUTION'S JUDICIAL OR CONDUCT PROCESS.

8. "RESPONDENT" SHALL MEAN A PERSON ACCUSED OF A VIOLATION WHO HAS ENTERED AN INSTITUTION'S JUDICIAL OR CONDUCT PROCESS.

9. "REPORTING INDIVIDUAL" SHALL ENCOMPASS THE TERMS VICTIM, SURVIVOR, COMPLAINANT, CLAIMANT, WITNESS WITH VICTIM STATUS, AND ANY OTHER TERM USED BY AN INSTITUTION TO REFERENCE AN INDIVIDUAL WHO BRINGS FORTH A REPORT OF A VIOLATION.

10. "SEXUAL ACTIVITY" SHALL HAVE THE SAME MEANING AS "SEXUAL ACT" AND "SEXUAL CONTACT" AS PROVIDED IN 18 U.S.C. 2246(2) AND 18 U.S.C. 2246(3).

11. "DOMESTIC VIOLENCE", "DATING VIOLENCE", "STALKING" AND "SEXUAL ASSAULT" SHALL BE DEFINED BY EACH INSTITUTION IN ITS CODE OF CONDUCT IN A MANNER CONSISTENT WITH APPLICABLE FEDERAL DEFINITIONS.

S 6440. GENERAL PROVISIONS. 1. EVERY INSTITUTION SHALL:

A. ADOPT WRITTEN RULES IMPLEMENTING THIS ARTICLE BY AMENDING ITS CODE OF CONDUCT OR OTHER COMPARABLE POLICIES;

B. ANNUALLY FILE WITH THE DEPARTMENT ON OR BEFORE THE FIRST DAY OF JULY, BEGINNING IN TWO THOUSAND SIXTEEN, A CERTIFICATE OF COMPLIANCE WITH THE PROVISIONS OF THIS ARTICLE; AND

C. FILE A COPY OF ALL WRITTEN RULES AND POLICIES ADOPTED AS REQUIRED IN THIS ARTICLE WITH THE DEPARTMENT ON OR BEFORE THE FIRST DAY OF JULY, TWO THOUSAND SIXTEEN, AND ONCE EVERY TEN YEARS THEREAFTER, EXCEPT THAT THE SECOND FILING SHALL COINCIDE WITH THE REQUIRED FILING UNDER ARTICLE ONE HUNDRED TWENTY-NINE-A OF THIS CHAPTER, AND CONTINUE ON THE SAME CYCLE THEREAFTER.

2. ALL INSTITUTIONAL SERVICES AND PROTECTIONS AFFORDED TO REPORTING INDIVIDUALS UNDER THIS ARTICLE SHALL BE AVAILABLE TO ALL STUDENTS AND APPLICABLE TO CONDUCT THAT HAS A REASONABLE CONNECTION TO THAT INSTITUTION. WHEN SUCH CONDUCT INVOLVES STUDENTS OR EMPLOYEES FROM TWO OR MORE INSTITUTIONS, SUCH INSTITUTIONS MAY WORK COLLABORATIVELY TO ADDRESS THE CONDUCT PROVIDED THAT SUCH COLLABORATION COMPLIES WITH THE FAMILY EDUCA-

TIONAL RIGHTS AND PRIVACY ACT CODIFIED AT 20 U.S.C. 1232G; 34 C.F.R. PART 99.

3. IF AN INSTITUTION FAILS TO FILE A CERTIFICATE OF COMPLIANCE ON OR BEFORE SEPTEMBER FIRST BEGINNING IN TWO THOUSAND SIXTEEN, SUCH INSTITUTION SHALL BE INELIGIBLE TO RECEIVE STATE AID OR ASSISTANCE UNTIL IT FILES SUCH A CERTIFICATE. THE DEPARTMENT SHALL CONDUCT AUDITS OF INSTITUTIONS BY RANDOM SELECTION, AT ANY TIME AFTER SEPTEMBER FIRST, TWO THOUSAND SIXTEEN, TO ENSURE COMPLIANCE WITH THE PROVISIONS OF THIS ARTICLE, AND SHALL POST INFORMATION AND STATISTICS REGARDING COMPLIANCE WITH THIS ARTICLE ON THE DEPARTMENT'S WEBSITE.

4. A COPY OF SUCH RULES AND POLICIES SHALL BE PROVIDED BY EACH INSTITUTION TO ALL STUDENTS ENROLLED IN SAID INSTITUTION USING A METHOD AND MANNER APPROPRIATE TO ITS INSTITUTIONAL CULTURE. EACH INSTITUTION SHALL ALSO POST SUCH RULES AND POLICIES ON ITS WEBSITE IN AN EASILY ACCESSIBLE MANNER TO THE PUBLIC.

5. THE PROTECTIONS IN THIS ARTICLE APPLY REGARDLESS OF RACE, COLOR, NATIONAL ORIGIN, RELIGION, CREED, AGE, DISABILITY, SEX, GENDER IDENTITY OR EXPRESSION, SEXUAL ORIENTATION, FAMILIAL STATUS, PREGNANCY, PREDISPOSING GENETIC CHARACTERISTICS, MILITARY STATUS, DOMESTIC VIOLENCE VICTIM STATUS, OR CRIMINAL CONVICTION.

6. THE PROVISIONS OF THIS ARTICLE SHALL APPLY REGARDLESS OF WHETHER THE VIOLATION OCCURS ON CAMPUS, OFF CAMPUS, OR WHILE STUDYING ABROAD.

7. INSTITUTIONS SHALL, WHERE APPROPRIATE, UTILIZE APPLICABLE STATE AND FEDERAL LAW, REGULATIONS, AND GUIDANCE IN WRITING THE POLICIES REQUIRED PURSUANT TO THIS ARTICLE.

8. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO LIMIT IN ANY WAY THE PROVISIONS OF THE PENAL LAW THAT APPLY TO THE CRIMINAL ACTION ANALOGOUS TO THE STUDENT CONDUCT CODE VIOLATIONS REFERENCED HEREIN. ACTION PURSUED THROUGH THE CRIMINAL JUSTICE PROCESS SHALL BE GOVERNED BY THE PENAL LAW AND THE CRIMINAL PROCEDURE LAW.

9. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO CREATE A NEW PRIVATE RIGHT OF ACTION FOR ANY PERSON.

10. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO PREVENT AN INSTITUTION FROM CONTINUING AN INVESTIGATION WHEN REQUIRED BY LAW TO CONTINUE SUCH INVESTIGATION.

S 6441. AFFIRMATIVE CONSENT TO SEXUAL ACTIVITY. 1. EVERY INSTITUTION SHALL ADOPT THE FOLLOWING DEFINITION OF AFFIRMATIVE CONSENT AS PART OF ITS CODE OF CONDUCT: "AFFIRMATIVE CONSENT IS A KNOWING, VOLUNTARY, AND MUTUAL DECISION AMONG ALL PARTICIPANTS TO ENGAGE IN SEXUAL ACTIVITY. CONSENT CAN BE GIVEN BY WORDS OR ACTIONS, AS LONG AS THOSE WORDS OR ACTIONS CREATE CLEAR PERMISSION REGARDING WILLINGNESS TO ENGAGE IN THE SEXUAL ACTIVITY. SILENCE OR LACK OF RESISTANCE, IN AND OF ITSELF, DOES NOT DEMONSTRATE CONSENT. THE DEFINITION OF CONSENT DOES NOT VARY BASED UPON A PARTICIPANT'S SEX, SEXUAL ORIENTATION, GENDER IDENTITY, OR GENDER EXPRESSION."

2. EACH INSTITUTION'S CODE OF CONDUCT SHALL REFLECT THE FOLLOWING PRINCIPLES AS GUIDANCE FOR THE INSTITUTION'S COMMUNITY:

A. CONSENT TO ANY SEXUAL ACT OR PRIOR CONSENSUAL SEXUAL ACTIVITY BETWEEN OR WITH ANY PARTY DOES NOT NECESSARILY CONSTITUTE CONSENT TO ANY OTHER SEXUAL ACT.

B. CONSENT IS REQUIRED REGARDLESS OF WHETHER THE PERSON INITIATING THE ACT IS UNDER THE INFLUENCE OF DRUGS AND/OR ALCOHOL.

C. CONSENT MAY BE INITIALLY GIVEN BUT WITHDRAWN AT ANY TIME.

D. CONSENT CANNOT BE GIVEN WHEN A PERSON IS INCAPACITATED, WHICH OCCURS WHEN AN INDIVIDUAL LACKS THE ABILITY TO KNOWINGLY CHOOSE TO PARTICIPATE IN SEXUAL ACTIVITY. INCAPACITATION MAY BE CAUSED BY THE LACK

OF CONSCIOUSNESS OR BEING ASLEEP, BEING INVOLUNTARILY RESTRAINED, OR IF AN INDIVIDUAL OTHERWISE CANNOT CONSENT. DEPENDING ON THE DEGREE OF INTOXICATION, SOMEONE WHO IS UNDER THE INFLUENCE OF ALCOHOL, DRUGS, OR OTHER INTOXICANTS MAY BE INCAPACITATED AND THEREFORE UNABLE TO CONSENT.

E. CONSENT CANNOT BE GIVEN WHEN IT IS THE RESULT OF ANY COERCION, INTIMIDATION, FORCE, OR THREAT OF HARM.

F. WHEN CONSENT IS WITHDRAWN OR CAN NO LONGER BE GIVEN, SEXUAL ACTIVITY MUST STOP.

S 6442. POLICY FOR ALCOHOL AND/OR DRUG USE AMNESTY. 1. EVERY INSTITUTION SHALL ADOPT AND IMPLEMENT THE FOLLOWING POLICY AS PART OF ITS CODE OF CONDUCT: "THE HEALTH AND SAFETY OF EVERY STUDENT AT THE {INSTITUTION} IS OF UTMOST IMPORTANCE. {INSTITUTION} RECOGNIZES THAT STUDENTS WHO HAVE BEEN DRINKING AND/OR USING DRUGS (WHETHER SUCH USE IS VOLUNTARY OR INVOLUNTARY) AT THE TIME THAT VIOLENCE, INCLUDING BUT NOT LIMITED TO DOMESTIC VIOLENCE, DATING VIOLENCE, STALKING, OR SEXUAL ASSAULT OCCURS MAY BE HESITANT TO REPORT SUCH INCIDENTS DUE TO FEAR OF POTENTIAL CONSEQUENCES FOR THEIR OWN CONDUCT. {INSTITUTION} STRONGLY ENCOURAGES STUDENTS TO REPORT DOMESTIC VIOLENCE, DATING VIOLENCE, STALKING, OR SEXUAL ASSAULT TO INSTITUTION OFFICIALS. A BYSTANDER ACTING IN GOOD FAITH OR A REPORTING INDIVIDUAL ACTING IN GOOD FAITH THAT DISCLOSES ANY INCIDENT OF DOMESTIC VIOLENCE, DATING VIOLENCE, STALKING, OR SEXUAL ASSAULT TO {INSTITUTION'S} OFFICIALS OR LAW ENFORCEMENT WILL NOT BE SUBJECT TO {INSTITUTION'S} CODE OF CONDUCT ACTION FOR VIOLATIONS OF ALCOHOL AND/OR DRUG USE POLICIES OCCURRING AT OR NEAR THE TIME OF THE COMMISSION OF THE DOMESTIC VIOLENCE, DATING VIOLENCE, STALKING, OR SEXUAL ASSAULT."

2. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT AN INSTITUTION'S ABILITY TO PROVIDE AMNESTY IN ADDITIONAL CIRCUMSTANCES.

S 6443. STUDENTS' BILL OF RIGHTS. EVERY INSTITUTION SHALL ADOPT AND IMPLEMENT THE FOLLOWING "STUDENTS' BILL OF RIGHTS" AS PART OF ITS CODE OF CONDUCT WHICH SHALL BE DISTRIBUTED ANNUALLY TO STUDENTS, MADE AVAILABLE ON EACH INSTITUTION'S WEBSITE, POSTED IN CAMPUS RESIDENCE HALLS AND CAMPUS CENTERS, AND SHALL INCLUDE LINKS OR INFORMATION TO FILE A REPORT AND SEEK A RESPONSE, PURSUANT TO SECTION SIXTY-FOUR HUNDRED FORTY-FOUR OF THIS ARTICLE, AND THE OPTIONS FOR CONFIDENTIAL DISCLOSURE PURSUANT TO SECTION SIXTY-FOUR HUNDRED FORTY-SIX OF THIS ARTICLE: "ALL STUDENTS HAVE THE RIGHT TO: 1. MAKE A REPORT TO LOCAL LAW ENFORCEMENT AND/OR STATE POLICE; 2. HAVE DISCLOSURES OF DOMESTIC VIOLENCE, DATING VIOLENCE, STALKING, AND SEXUAL ASSAULT TREATED SERIOUSLY; 3. MAKE A DECISION ABOUT WHETHER OR NOT TO DISCLOSE A CRIME OR VIOLATION AND PARTICIPATE IN THE JUDICIAL OR CONDUCT PROCESS AND/OR CRIMINAL JUSTICE PROCESS FREE FROM PRESSURE BY THE INSTITUTION; 4. PARTICIPATE IN A PROCESS THAT IS FAIR, IMPARTIAL, AND PROVIDES ADEQUATE NOTICE AND A MEANINGFUL OPPORTUNITY TO BE HEARD; 5. BE TREATED WITH DIGNITY AND TO RECEIVE FROM THE INSTITUTION COURTEOUS, FAIR, AND RESPECTFUL HEALTH CARE AND COUNSELING SERVICES, WHERE AVAILABLE; 6. BE FREE FROM ANY SUGGESTION THAT THE REPORTING INDIVIDUAL IS AT FAULT WHEN THESE CRIMES AND VIOLATIONS ARE COMMITTED, OR SHOULD HAVE ACTED IN A DIFFERENT MANNER TO AVOID SUCH CRIMES OR VIOLATIONS; 7. DESCRIBE THE INCIDENT TO AS FEW INSTITUTION REPRESENTATIVES AS PRACTICABLE AND NOT BE REQUIRED TO UNNECESSARILY REPEAT A DESCRIPTION OF THE INCIDENT; 8. BE PROTECTED FROM RETALIATION BY THE INSTITUTION, ANY STUDENT, THE ACCUSED AND/OR THE RESPONDENT, AND/OR THEIR FRIENDS, FAMILY AND ACQUAINTANCES WITHIN THE JURISDICTION OF THE INSTITUTION; 9. ACCESS TO AT LEAST ONE LEVEL OF APPEAL OF A DETERMINATION; 10. BE ACCOMPANIED BY AN ADVISOR OF CHOICE WHO MAY ASSIST AND ADVISE A REPORTING INDIVIDUAL, ACCUSED, OR RESPONDENT THROUGHOUT THE

JUDICIAL OR CONDUCT PROCESS INCLUDING DURING ALL MEETINGS AND HEARINGS RELATED TO SUCH PROCESS; AND 11. EXERCISE CIVIL RIGHTS AND PRACTICE OF RELIGION WITHOUT INTERFERENCE BY THE INVESTIGATIVE, CRIMINAL JUSTICE, OR JUDICIAL OR CONDUCT PROCESS OF THE INSTITUTION."

S 6444. RESPONSE TO REPORTS. 1. EVERY INSTITUTION SHALL ENSURE THAT REPORTING INDIVIDUALS ARE ADVISED OF THEIR RIGHT TO:

A. NOTIFY UNIVERSITY POLICE OR CAMPUS SECURITY, LOCAL LAW ENFORCEMENT, AND/OR STATE POLICE;

B. HAVE EMERGENCY ACCESS TO A TITLE IX COORDINATOR OR OTHER APPROPRIATE OFFICIAL TRAINED IN INTERVIEWING VICTIMS OF SEXUAL ASSAULT WHO SHALL BE AVAILABLE UPON THE FIRST INSTANCE OF DISCLOSURE BY A REPORTING INDIVIDUAL TO PROVIDE INFORMATION REGARDING OPTIONS TO PROCEED, AND, WHERE APPLICABLE, THE IMPORTANCE OF PRESERVING EVIDENCE AND OBTAINING A SEXUAL ASSAULT FORENSIC EXAMINATION AS SOON AS POSSIBLE, AND DETAILING THAT THE CRIMINAL JUSTICE PROCESS UTILIZES DIFFERENT STANDARDS OF PROOF AND EVIDENCE AND THAT ANY QUESTIONS ABOUT WHETHER A SPECIFIC INCIDENT VIOLATED THE PENAL LAW SHOULD BE ADDRESSED TO LAW ENFORCEMENT OR TO THE DISTRICT ATTORNEY. SUCH OFFICIAL SHALL ALSO EXPLAIN WHETHER HE OR SHE IS AUTHORIZED TO OFFER THE REPORTING INDIVIDUAL CONFIDENTIALITY OR PRIVACY, AND SHALL INFORM THE REPORTING INDIVIDUAL OF OTHER REPORTING OPTIONS;

C. DISCLOSE CONFIDENTIALLY THE INCIDENT TO INSTITUTION REPRESENTATIVES, WHO MAY OFFER CONFIDENTIALITY PURSUANT TO APPLICABLE LAWS AND CAN ASSIST IN OBTAINING SERVICES FOR REPORTING INDIVIDUALS;

D. DISCLOSE CONFIDENTIALLY THE INCIDENT AND OBTAIN SERVICES FROM THE STATE OR LOCAL GOVERNMENT;

E. DISCLOSE THE INCIDENT TO INSTITUTION REPRESENTATIVES WHO CAN OFFER PRIVACY OR CONFIDENTIALITY, AS APPROPRIATE, AND CAN ASSIST IN OBTAINING RESOURCES FOR REPORTING INDIVIDUALS;

F. FILE A REPORT OF SEXUAL ASSAULT, DOMESTIC VIOLENCE, DATING VIOLENCE, AND/OR STALKING AND THE RIGHT TO CONSULT THE TITLE IX COORDINATOR AND OTHER APPROPRIATE INSTITUTION REPRESENTATIVES FOR INFORMATION AND ASSISTANCE. REPORTS SHALL BE INVESTIGATED IN ACCORDANCE WITH INSTITUTION POLICY AND A REPORTING INDIVIDUAL'S IDENTITY SHALL REMAIN PRIVATE AT ALL TIMES IF SAID REPORTING INDIVIDUAL WISHES TO MAINTAIN PRIVACY;

G. DISCLOSE, IF THE ACCUSED IS AN EMPLOYEE OF THE INSTITUTION, THE INCIDENT TO THE INSTITUTION'S HUMAN RESOURCES AUTHORITY OR THE RIGHT TO REQUEST THAT A CONFIDENTIAL OR PRIVATE EMPLOYEE ASSIST IN REPORTING TO THE APPROPRIATE HUMAN RESOURCES AUTHORITY;

H. RECEIVE ASSISTANCE FROM APPROPRIATE INSTITUTION REPRESENTATIVES IN INITIATING LEGAL PROCEEDINGS IN FAMILY COURT OR CIVIL COURT; AND

I. WITHDRAW A COMPLAINT OR INVOLVEMENT FROM THE INSTITUTION PROCESS AT ANY TIME.

2. EVERY INSTITUTION SHALL ENSURE THAT, AT A MINIMUM, AT THE FIRST INSTANCE OF DISCLOSURE BY A REPORTING INDIVIDUAL TO AN INSTITUTION REPRESENTATIVE, THE FOLLOWING INFORMATION SHALL BE PRESENTED TO THE REPORTING INDIVIDUAL: "YOU HAVE THE RIGHT TO MAKE A REPORT TO UNIVERSITY POLICE OR CAMPUS SECURITY, LOCAL LAW ENFORCEMENT, AND/OR STATE POLICE OR CHOOSE NOT TO REPORT; TO REPORT THE INCIDENT TO YOUR INSTITUTION; TO BE PROTECTED BY THE INSTITUTION FROM RETALIATION FOR REPORTING AN INCIDENT; AND TO RECEIVE ASSISTANCE AND RESOURCES FROM YOUR INSTITUTION."

3. EVERY INSTITUTION SHALL ENSURE THAT REPORTING INDIVIDUALS HAVE INFORMATION ABOUT RESOURCES, INCLUDING INTERVENTION, MENTAL HEALTH COUNSELING, AND MEDICAL SERVICES, WHICH SHALL INCLUDE INFORMATION ON WHETHER SUCH RESOURCES ARE AVAILABLE AT NO COST OR FOR A FEE. EVERY INSTITUTION SHALL ALSO PROVIDE INFORMATION ON SEXUALLY TRANSMITTED INFECTIONS, SEXUAL ASSAULT FORENSIC EXAMINATIONS, AND RESOURCES AVAILABLE THROUGH THE

NEW YORK STATE OFFICE OF VICTIM SERVICES, ESTABLISHED PURSUANT TO SECTION SIX HUNDRED TWENTY-TWO OF THE EXECUTIVE LAW.

4. EVERY INSTITUTION SHALL ENSURE THAT INDIVIDUALS ARE PROVIDED THE FOLLOWING PROTECTIONS AND ACCOMMODATIONS:

A. WHEN THE ACCUSED OR RESPONDENT IS A STUDENT, TO HAVE THE INSTITUTION ISSUE A "NO CONTACT ORDER" CONSISTENT WITH INSTITUTION POLICIES AND PROCEDURES, WHEREBY CONTINUED INTENTIONAL CONTACT WITH THE REPORTING INDIVIDUAL WOULD BE A VIOLATION OF INSTITUTION POLICY SUBJECT TO ADDITIONAL CONDUCT CHARGES; IF THE ACCUSED OR RESPONDENT AND A REPORTING INDIVIDUAL OBSERVE EACH OTHER IN A PUBLIC PLACE, IT SHALL BE THE RESPONSIBILITY OF THE ACCUSED OR RESPONDENT TO LEAVE THE AREA IMMEDIATELY AND WITHOUT DIRECTLY CONTACTING THE REPORTING INDIVIDUAL. BOTH THE ACCUSED OR RESPONDENT AND THE REPORTING INDIVIDUAL SHALL, UPON REQUEST AND CONSISTENT WITH INSTITUTION POLICIES AND PROCEDURES, BE AFFORDED A PROMPT REVIEW, REASONABLE UNDER THE CIRCUMSTANCES, OF THE NEED FOR AND TERMS OF A NO CONTACT ORDER, INCLUDING POTENTIAL MODIFICATION, AND SHALL BE ALLOWED TO SUBMIT EVIDENCE IN SUPPORT OF HIS OR HER REQUEST. INSTITUTIONS MAY ESTABLISH AN APPROPRIATE SCHEDULE FOR THE ACCUSED AND RESPONDENTS TO ACCESS APPLICABLE INSTITUTION BUILDINGS AND PROPERTY AT A TIME WHEN SUCH BUILDINGS AND PROPERTY ARE NOT BEING ACCESSED BY THE REPORTING INDIVIDUAL;

B. TO BE ASSISTED BY THE INSTITUTION'S POLICE OR SECURITY FORCES, IF APPLICABLE, OR OTHER OFFICIALS IN OBTAINING AN ORDER OF PROTECTION OR, IF OUTSIDE OF NEW YORK STATE, AN EQUIVALENT PROTECTIVE OR RESTRAINING ORDER;

C. TO RECEIVE A COPY OF THE ORDER OF PROTECTION OR EQUIVALENT WHEN RECEIVED BY AN INSTITUTION AND HAVE AN OPPORTUNITY TO MEET OR SPEAK WITH AN INSTITUTION REPRESENTATIVE, OR OTHER APPROPRIATE INDIVIDUAL, WHO CAN EXPLAIN THE ORDER AND ANSWER QUESTIONS ABOUT IT, INCLUDING INFORMATION FROM THE ORDER ABOUT THE ACCUSED'S RESPONSIBILITY TO STAY AWAY FROM THE PROTECTED PERSON OR PERSONS;

D. TO AN EXPLANATION OF THE CONSEQUENCES FOR VIOLATING THESE ORDERS, INCLUDING BUT NOT LIMITED TO ARREST, ADDITIONAL CONDUCT CHARGES, AND INTERIM SUSPENSION;

E. TO RECEIVE ASSISTANCE FROM UNIVERSITY POLICE OR CAMPUS SECURITY IN EFFECTING AN ARREST WHEN AN INDIVIDUAL VIOLATES AN ORDER OF PROTECTION OR, IF UNIVERSITY POLICE OR CAMPUS SECURITY DOES NOT POSSESS ARRESTING POWERS, THEN TO CALL ON AND ASSIST LOCAL LAW ENFORCEMENT IN EFFECTING AN ARREST FOR VIOLATING SUCH AN ORDER, PROVIDED THAT NOTHING IN THIS ARTICLE SHALL LIMIT CURRENT LAW ENFORCEMENT JURISDICTION AND PROCEDURES;

F. WHEN THE ACCUSED OR RESPONDENT IS A STUDENT DETERMINED TO PRESENT A CONTINUING THREAT TO THE HEALTH AND SAFETY OF THE COMMUNITY, TO SUBJECT THE ACCUSED OR RESPONDENT TO INTERIM SUSPENSION PENDING THE OUTCOME OF A JUDICIAL OR CONDUCT PROCESS CONSISTENT WITH THIS ARTICLE AND THE INSTITUTION'S POLICIES AND PROCEDURES. BOTH THE ACCUSED OR RESPONDENT AND THE REPORTING INDIVIDUAL SHALL, UPON REQUEST AND CONSISTENT WITH THE INSTITUTION'S POLICIES AND PROCEDURES, BE AFFORDED A PROMPT REVIEW, REASONABLE UNDER THE CIRCUMSTANCES, OF THE NEED FOR AND TERMS OF AN INTERIM SUSPENSION, INCLUDING POTENTIAL MODIFICATION, AND SHALL BE ALLOWED TO SUBMIT EVIDENCE IN SUPPORT OF HIS OR HER REQUEST;

G. WHEN THE ACCUSED IS NOT A STUDENT BUT IS A MEMBER OF THE INSTITUTION'S COMMUNITY AND PRESENTS A CONTINUING THREAT TO THE HEALTH AND SAFETY OF THE COMMUNITY, TO SUBJECT THE ACCUSED TO INTERIM MEASURES IN ACCORDANCE WITH APPLICABLE COLLECTIVE BARGAINING AGREEMENTS, EMPLOYEE HANDBOOKS, AND RULES AND POLICIES OF THE INSTITUTION;

H. TO OBTAIN REASONABLE AND AVAILABLE INTERIM MEASURES AND ACCOMMODATIONS THAT EFFECT A CHANGE IN ACADEMIC, HOUSING, EMPLOYMENT, TRANSPORTATION OR OTHER APPLICABLE ARRANGEMENTS IN ORDER TO HELP ENSURE SAFETY, PREVENT RETALIATION AND AVOID AN ONGOING HOSTILE ENVIRONMENT, CONSISTENT WITH THE INSTITUTION'S POLICIES AND PROCEDURES. BOTH THE ACCUSED OR RESPONDENT AND THE REPORTING INDIVIDUAL SHALL, UPON REQUEST AND CONSISTENT WITH THE INSTITUTION'S POLICIES AND PROCEDURES, BE AFFORDED A PROMPT REVIEW, REASONABLE UNDER THE CIRCUMSTANCES, OF THE NEED FOR AND TERMS OF ANY SUCH INTERIM MEASURE AND ACCOMMODATION THAT DIRECTLY AFFECTS HIM OR HER, AND SHALL BE ALLOWED TO SUBMIT EVIDENCE IN SUPPORT OF HIS OR HER REQUEST.

5. EVERY INSTITUTION SHALL ENSURE THAT EVERY STUDENT BE AFFORDED THE FOLLOWING RIGHTS:

A. THE RIGHT TO REQUEST THAT STUDENT CONDUCT CHARGES BE FILED AGAINST THE ACCUSED IN PROCEEDINGS GOVERNED BY THIS ARTICLE AND THE PROCEDURES ESTABLISHED BY THE INSTITUTION'S RULES.

B. THE RIGHT TO A PROCESS IN ALL STUDENT JUDICIAL OR CONDUCT CASES, WHERE A STUDENT IS ACCUSED OF SEXUAL ASSAULT, DOMESTIC VIOLENCE, DATING VIOLENCE, STALKING, OR SEXUAL ACTIVITY THAT MAY OTHERWISE VIOLATE THE INSTITUTION'S CODE OF CONDUCT, THAT INCLUDES, AT A MINIMUM: (I) NOTICE TO A RESPONDENT DESCRIBING THE DATE, TIME, LOCATION AND FACTUAL ALLEGATIONS CONCERNING THE VIOLATION, A REFERENCE TO THE SPECIFIC CODE OF CONDUCT PROVISIONS ALLEGED TO HAVE BEEN VIOLATED, AND POSSIBLE SANCTIONS; (II) AN OPPORTUNITY TO OFFER EVIDENCE DURING AN INVESTIGATION, AND TO PRESENT EVIDENCE AND TESTIMONY AT A HEARING, WHERE APPROPRIATE, AND HAVE ACCESS TO A FULL AND FAIR RECORD OF ANY SUCH HEARING, WHICH SHALL BE PRESERVED AND MAINTAINED FOR AT LEAST FIVE YEARS FROM SUCH A HEARING AND MAY INCLUDE A TRANSCRIPT, RECORDING OR OTHER APPROPRIATE RECORD; AND (III) ACCESS TO AT LEAST ONE LEVEL OF APPEAL OF A DETERMINATION BEFORE A PANEL, WHICH MAY INCLUDE ONE OR MORE STUDENTS, THAT IS FAIR AND IMPARTIAL AND DOES NOT INCLUDE INDIVIDUALS WITH A CONFLICT OF INTEREST. IN ORDER TO EFFECTUATE AN APPEAL, A RESPONDENT AND REPORTING INDIVIDUAL IN SUCH CASES SHALL RECEIVE WRITTEN NOTICE OF THE FINDINGS OF FACT, THE DECISION AND THE SANCTION, IF ANY, AS WELL AS THE RATIONALE FOR THE DECISION AND SANCTION. IN SUCH CASES, ANY RIGHTS PROVIDED TO A REPORTING INDIVIDUAL MUST BE SIMILARLY PROVIDED TO A RESPONDENT AND ANY RIGHTS PROVIDED TO A RESPONDENT MUST BE SIMILARLY PROVIDED TO A REPORTING INDIVIDUAL.

C. THROUGHOUT PROCEEDINGS INVOLVING SUCH AN ACCUSATION OF SEXUAL ASSAULT, DOMESTIC VIOLENCE, DATING VIOLENCE, STALKING, OR SEXUAL ACTIVITY THAT MAY OTHERWISE VIOLATE THE INSTITUTION'S CODE OF CONDUCT, THE RIGHT:

I. FOR THE RESPONDENT, ACCUSED, AND REPORTING INDIVIDUAL TO BE ACCOMPANIED BY AN ADVISOR OF CHOICE WHO MAY ASSIST AND ADVISE A REPORTING INDIVIDUAL, ACCUSED, OR RESPONDENT THROUGHOUT THE JUDICIAL OR CONDUCT PROCESS INCLUDING DURING ALL MEETINGS AND HEARINGS RELATED TO SUCH PROCESS. RULES FOR PARTICIPATION OF SUCH ADVISOR SHALL BE ESTABLISHED IN THE CODE OF CONDUCT.

II. TO A PROMPT RESPONSE TO ANY COMPLAINT AND TO HAVE THE COMPLAINT INVESTIGATED AND ADJUDICATED IN AN IMPARTIAL, TIMELY, AND THOROUGH MANNER BY INDIVIDUALS WHO RECEIVE ANNUAL TRAINING IN CONDUCTING INVESTIGATIONS OF SEXUAL VIOLENCE, THE EFFECTS OF TRAUMA, IMPARTIALITY, THE RIGHTS OF THE RESPONDENT, INCLUDING THE RIGHT TO A PRESUMPTION THAT THE RESPONDENT IS "NOT RESPONSIBLE" UNTIL A FINDING OF RESPONSIBILITY IS MADE PURSUANT TO THE PROVISIONS OF THIS ARTICLE AND THE INSTITUTION'S

POLICIES AND PROCEDURES, AND OTHER ISSUES INCLUDING, BUT NOT LIMITED TO DOMESTIC VIOLENCE, DATING VIOLENCE, STALKING OR SEXUAL ASSAULT.

III. TO AN INVESTIGATION AND PROCESS THAT IS FAIR, IMPARTIAL AND PROVIDES A MEANINGFUL OPPORTUNITY TO BE HEARD, AND THAT IS NOT CONDUCTED BY INDIVIDUALS WITH A CONFLICT OF INTEREST.

IV. TO HAVE THE INSTITUTION'S JUDICIAL OR CONDUCT PROCESS RUN CONCURRENTLY WITH A CRIMINAL JUSTICE INVESTIGATION AND PROCEEDING, EXCEPT FOR TEMPORARY DELAYS AS REQUESTED BY EXTERNAL MUNICIPAL ENTITIES WHILE LAW ENFORCEMENT GATHERS EVIDENCE. TEMPORARY DELAYS SHOULD NOT LAST MORE THAN TEN DAYS EXCEPT WHEN LAW ENFORCEMENT SPECIFICALLY REQUESTS AND JUSTIFIES A LONGER DELAY.

V. TO REVIEW AND PRESENT AVAILABLE EVIDENCE IN THE CASE FILE, OR OTHERWISE IN THE POSSESSION OR CONTROL OF THE INSTITUTION, AND RELEVANT TO THE CONDUCT CASE, CONSISTENT WITH INSTITUTION POLICIES AND PROCEDURES.

VI. TO EXCLUDE THEIR OWN PRIOR SEXUAL HISTORY WITH PERSONS OTHER THAN THE OTHER PARTY IN THE JUDICIAL OR CONDUCT PROCESS OR THEIR OWN MENTAL HEALTH DIAGNOSIS AND/OR TREATMENT FROM ADMITTANCE IN THE INSTITUTION DISCIPLINARY STAGE THAT DETERMINES RESPONSIBILITY. PAST FINDINGS OF DOMESTIC VIOLENCE, DATING VIOLENCE, STALKING, OR SEXUAL ASSAULT MAY BE ADMISSIBLE IN THE DISCIPLINARY STAGE THAT DETERMINES SANCTION.

VII. TO RECEIVE WRITTEN OR ELECTRONIC NOTICE, PROVIDED IN ADVANCE PURSUANT TO THE COLLEGE OR UNIVERSITY POLICY AND REASONABLE UNDER THE CIRCUMSTANCES, OF ANY MEETING THEY ARE REQUIRED TO OR ARE ELIGIBLE TO ATTEND, OF THE SPECIFIC RULE, RULES OR LAWS ALLEGED TO HAVE BEEN VIOLATED AND IN WHAT MANNER, AND THE SANCTION OR SANCTIONS THAT MAY BE IMPOSED ON THE RESPONDENT BASED UPON THE OUTCOME OF THE JUDICIAL OR CONDUCT PROCESS, AT WHICH TIME THE DESIGNATED HEARING OR INVESTIGATORY OFFICER OR PANEL SHALL PROVIDE A WRITTEN STATEMENT DETAILING THE FACTUAL FINDINGS SUPPORTING THE DETERMINATION AND THE RATIONALE FOR THE SANCTION IMPOSED.

VIII. TO MAKE AN IMPACT STATEMENT DURING THE POINT OF THE PROCEEDING WHERE THE DECISION MAKER IS DELIBERATING ON APPROPRIATE SANCTIONS.

IX. TO SIMULTANEOUS (AMONG THE PARTIES) WRITTEN OR ELECTRONIC NOTIFICATION OF THE OUTCOME OF A JUDICIAL OR CONDUCT PROCESS, INCLUDING THE SANCTION OR SANCTIONS.

X. TO BE INFORMED OF THE SANCTION OR SANCTIONS THAT MAY BE IMPOSED ON THE RESPONDENT BASED UPON THE OUTCOME OF THE JUDICIAL OR CONDUCT PROCESS AND THE RATIONALE FOR THE ACTUAL SANCTION IMPOSED.

XI. TO CHOOSE WHETHER TO DISCLOSE OR DISCUSS THE OUTCOME OF A CONDUCT OR JUDICIAL PROCESS.

XII. TO HAVE ALL INFORMATION OBTAINED DURING THE COURSE OF THE CONDUCT OR JUDICIAL PROCESS BE PROTECTED FROM PUBLIC RELEASE UNTIL THE APPEALS PANEL MAKES A FINAL DETERMINATION UNLESS OTHERWISE REQUIRED BY LAW.

6. FOR CRIMES OF VIOLENCE, INCLUDING, BUT NOT LIMITED TO SEXUAL VIOLENCE, DEFINED AS CRIMES THAT MEET THE REPORTING REQUIREMENTS PURSUANT TO THE FEDERAL CLERY ACT ESTABLISHED IN 20 U.S.C. 1092(F)(1)(F)(I)(I)-(VIII), INSTITUTIONS SHALL MAKE A NOTATION ON THE TRANSCRIPT OF STUDENTS FOUND RESPONSIBLE AFTER A CONDUCT PROCESS THAT THEY WERE "SUSPENDED AFTER A FINDING OF RESPONSIBILITY FOR A CODE OF CONDUCT VIOLATION" OR "EXPELLED AFTER A FINDING OF RESPONSIBILITY FOR A CODE OF CONDUCT VIOLATION." FOR THE RESPONDENT WHO WITHDRAWS FROM THE INSTITUTION WHILE SUCH CONDUCT CHARGES ARE PENDING, AND DECLINES TO COMPLETE THE DISCIPLINARY PROCESS, INSTITUTIONS SHALL MAKE A NOTATION ON THE TRANSCRIPT OF SUCH STUDENTS THAT THEY "WITHDREW WITH CONDUCT CHARGES PENDING." EACH INSTITUTION SHALL PUBLISH A POLICY ON TRANSCRIPT

NOTATIONS AND APPEALS SEEKING REMOVAL OF A TRANSCRIPT NOTATION FOR A SUSPENSION, PROVIDED THAT SUCH NOTATION SHALL NOT BE REMOVED PRIOR TO ONE YEAR AFTER CONCLUSION OF THE SUSPENSION, WHILE NOTATIONS FOR EXPULSION SHALL NOT BE REMOVED. IF A FINDING OF RESPONSIBILITY IS VACATED FOR ANY REASON, ANY SUCH TRANSCRIPT NOTATION SHALL BE REMOVED.

7. INSTITUTIONS THAT LACK APPROPRIATE ON-CAMPUS RESOURCES OR SERVICES SHALL, TO THE EXTENT PRACTICABLE, ENTER INTO MEMORANDA OF UNDERSTANDING, AGREEMENTS OR COLLABORATIVE PARTNERSHIPS WITH EXISTING COMMUNITY-BASED ORGANIZATIONS, INCLUDING RAPE-CRISIS CENTERS AND DOMESTIC VIOLENCE SHELTERS AND ASSISTANCE ORGANIZATIONS, TO REFER STUDENTS FOR ASSISTANCE OR MAKE SERVICES AVAILABLE TO STUDENTS, INCLUDING COUNSELING, HEALTH, MENTAL HEALTH, VICTIM ADVOCACY, AND LEGAL ASSISTANCE, WHICH MAY ALSO INCLUDE RESOURCES AND SERVICES FOR THE RESPONDENT.

8. INSTITUTIONS SHALL, TO THE EXTENT PRACTICABLE, ENSURE THAT STUDENTS HAVE ACCESS TO A SEXUAL ASSAULT FORENSIC EXAMINATION BY EMPLOYING THE USE OF A SEXUAL ASSAULT NURSE EXAMINER IN THEIR CAMPUS HEALTH CENTER OR ENTERING INTO MEMORANDA OF UNDERSTANDING OR AGREEMENTS WITH AT LEAST ONE LOCAL HEALTH CARE FACILITY TO PROVIDE SUCH A SERVICE.

9. NOTHING IN THIS ARTICLE SHALL BE DEEMED TO DIMINISH THE RIGHTS OF ANY MEMBER OF THE INSTITUTION'S COMMUNITY UNDER ANY APPLICABLE COLLECTIVE BARGAINING AGREEMENT.

S 6445. CAMPUS CLIMATE ASSESSMENTS. 1. EVERY INSTITUTION SHALL CONDUCT, NO LESS THAN EVERY OTHER YEAR, A CAMPUS CLIMATE ASSESSMENT TO ASCERTAIN GENERAL AWARENESS AND KNOWLEDGE OF THE PROVISIONS OF THIS ARTICLE, INCLUDING STUDENT EXPERIENCE WITH AND KNOWLEDGE OF REPORTING AND COLLEGE ADJUDICATORY PROCESSES, WHICH SHALL BE DEVELOPED USING STANDARD AND COMMONLY RECOGNIZED RESEARCH METHODS.

2. THE ASSESSMENT SHALL INCLUDE QUESTIONS COVERING, BUT NOT BE LIMITED TO, THE FOLLOWING:

A. THE TITLE IX COORDINATOR'S ROLE;

B. CAMPUS POLICIES AND PROCEDURES ADDRESSING SEXUAL ASSAULT;

C. HOW AND WHERE TO REPORT DOMESTIC VIOLENCE, DATING VIOLENCE, STALKING OR SEXUAL ASSAULT AS A VICTIM, SURVIVOR OR WITNESS;

D. THE AVAILABILITY OF RESOURCES ON AND OFF CAMPUS, SUCH AS COUNSELING, HEALTH AND ACADEMIC ASSISTANCE;

E. THE PREVALENCE OF VICTIMIZATION AND PERPETRATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, STALKING, OR SEXUAL ASSAULT ON AND OFF CAMPUS DURING A SET TIME PERIOD;

F. BYSTANDER ATTITUDES AND BEHAVIOR;

G. WHETHER REPORTING INDIVIDUALS DISCLOSED TO THE INSTITUTION AND/OR LAW ENFORCEMENT, EXPERIENCES WITH REPORTING AND INSTITUTION PROCESSES, AND REASONS WHY THEY DID OR DID NOT REPORT;

H. THE GENERAL AWARENESS OF THE DIFFERENCE, IF ANY, BETWEEN THE INSTITUTION'S POLICIES AND THE PENAL LAW; AND

I. GENERAL AWARENESS OF THE DEFINITION OF AFFIRMATIVE CONSENT.

3. EVERY INSTITUTION SHALL TAKE STEPS TO ENSURE THAT ANSWERS TO SUCH ASSESSMENTS REMAIN ANONYMOUS AND THAT NO INDIVIDUAL IS IDENTIFIED. INSTITUTIONS SHALL PUBLISH RESULTS OF THE SURVEYS ON THEIR WEBSITE PROVIDED THAT NO PERSONALLY IDENTIFIABLE INFORMATION OR INFORMATION WHICH CAN REASONABLY LEAD A READER TO IDENTIFY AN INDIVIDUAL SHALL BE SHARED.

4. INFORMATION DISCOVERED OR PRODUCED AS A RESULT OF COMPLYING WITH THIS SECTION SHALL NOT BE SUBJECT TO DISCOVERY OR ADMITTED INTO EVIDENCE IN ANY FEDERAL OR STATE COURT PROCEEDING OR CONSIDERED FOR OTHER PURPOSES IN ANY ACTION FOR DAMAGES BROUGHT BY A PRIVATE PARTY AGAINST AN

INSTITUTION, UNLESS, IN THE DISCRETION OF THE COURT, ANY SUCH INFORMATION IS DEEMED TO BE MATERIAL TO THE UNDERLYING CLAIM OR DEFENSE.

S 6446. OPTIONS FOR CONFIDENTIAL DISCLOSURE. 1. IN ACCORDANCE WITH THIS ARTICLE, EVERY INSTITUTION SHALL ENSURE THAT REPORTING INDIVIDUALS HAVE THE FOLLOWING:

A. INFORMATION REGARDING PRIVILEGED AND CONFIDENTIAL RESOURCES THEY MAY CONTACT REGARDING DOMESTIC VIOLENCE, DATING VIOLENCE, STALKING OR SEXUAL ASSAULT;

B. INFORMATION ABOUT COUNSELORS AND ADVOCATES THEY MAY CONTACT REGARDING DOMESTIC VIOLENCE, DATING VIOLENCE, STALKING, OR SEXUAL ASSAULT;

C. A PLAIN LANGUAGE EXPLANATION OF CONFIDENTIALITY WHICH SHALL, AT A MINIMUM, INCLUDE THE FOLLOWING PROVISION: "EVEN {INSTITUTION} OFFICES AND EMPLOYEES WHO CANNOT GUARANTEE CONFIDENTIALITY WILL MAINTAIN YOUR PRIVACY TO THE GREATEST EXTENT POSSIBLE. THE INFORMATION YOU PROVIDE TO A NON-CONFIDENTIAL RESOURCE WILL BE RELAYED ONLY AS NECESSARY FOR THE TITLE IX COORDINATOR TO INVESTIGATE AND/OR SEEK A RESOLUTION.";

D. INFORMATION ABOUT HOW THE INSTITUTION SHALL WEIGH A REQUEST FOR CONFIDENTIALITY AND RESPOND TO SUCH A REQUEST. SUCH INFORMATION SHALL, AT A MINIMUM, INCLUDE THAT IF A REPORTING INDIVIDUAL DISCLOSES AN INCIDENT TO AN INSTITUTION EMPLOYEE WHO IS RESPONSIBLE FOR RESPONDING TO OR REPORTING DOMESTIC VIOLENCE, DATING VIOLENCE, STALKING, OR SEXUAL ASSAULT BUT WISHES TO MAINTAIN CONFIDENTIALITY OR DOES NOT CONSENT TO THE INSTITUTION'S REQUEST TO INITIATE AN INVESTIGATION, THE TITLE IX COORDINATOR MUST WEIGH THE REQUEST AGAINST THE INSTITUTION'S OBLIGATION TO PROVIDE A SAFE, NON-DISCRIMINATORY ENVIRONMENT FOR ALL MEMBERS OF ITS COMMUNITY. THE INSTITUTION SHALL ASSIST WITH ACADEMIC, HOUSING, TRANSPORTATION, EMPLOYMENT, AND OTHER REASONABLE AND AVAILABLE ACCOMMODATIONS REGARDLESS OF REPORTING CHOICES;

E. INFORMATION ABOUT PUBLIC AWARENESS AND ADVOCACY EVENTS, INCLUDING GUARANTEES THAT IF AN INDIVIDUAL DISCLOSES INFORMATION THROUGH A PUBLIC AWARENESS EVENT SUCH AS CANDLELIGHT VIGILS, PROTESTS, OR OTHER PUBLIC EVENT, THE INSTITUTION IS NOT OBLIGATED TO BEGIN AN INVESTIGATION BASED ON SUCH INFORMATION. THE INSTITUTION MAY USE THE INFORMATION PROVIDED AT SUCH AN EVENT TO INFORM ITS EFFORTS FOR ADDITIONAL EDUCATION AND PREVENTION EFFORTS;

F. INFORMATION ABOUT EXISTING AND AVAILABLE METHODS TO ANONYMOUSLY DISCLOSE INCLUDING, BUT NOT LIMITED TO INFORMATION ON RELEVANT CONFIDENTIAL HOTLINES PROVIDED BY NEW YORK STATE AGENCIES AND NOT-FOR-PROFIT ENTITIES;

G. INFORMATION REGARDING INSTITUTIONAL CRIME REPORTING INCLUDING, BUT NOT LIMITED TO: REPORTS OF CERTAIN CRIMES OCCURRING IN SPECIFIC GEOGRAPHIC LOCATIONS THAT SHALL BE INCLUDED IN THE INSTITUTION'S ANNUAL SECURITY REPORT PURSUANT TO THE CLERY ACT, 20 U.S.C. 1092(F), IN AN ANONYMIZED MANNER THAT IDENTIFIES NEITHER THE SPECIFICS OF THE CRIME NOR THE IDENTITY OF THE REPORTING INDIVIDUAL; THAT THE INSTITUTION IS OBLIGATED TO ISSUE TIMELY WARNINGS OF CRIMES ENUMERATED IN THE CLERY ACT OCCURRING WITHIN RELEVANT GEOGRAPHY THAT REPRESENT A SERIOUS OR CONTINUING THREAT TO STUDENTS AND EMPLOYEES, EXCEPT IN THOSE CIRCUMSTANCES WHERE ISSUING SUCH A WARNING MAY COMPROMISE CURRENT LAW ENFORCEMENT EFFORTS OR WHEN THE WARNING ITSELF COULD POTENTIALLY IDENTIFY THE REPORTING INDIVIDUAL; THAT A REPORTING INDIVIDUAL SHALL NOT BE IDENTIFIED IN A TIMELY WARNING; THAT THE FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT, 20 U.S.C. 1232G, ALLOWS INSTITUTIONS TO SHARE INFORMATION WITH PARENTS WHEN I. THERE IS A HEALTH OR SAFETY EMERGENCY, OR II. WHEN THE STUDENT IS A DEPENDENT ON EITHER PARENT'S PRIOR YEAR FEDERAL INCOME TAX RETURN; AND THAT GENERALLY, THE INSTITUTION SHALL NOT SHARE INFORMATION

ABOUT A REPORT OF DOMESTIC VIOLENCE, DATING VIOLENCE, STALKING, OR SEXUAL ASSAULT WITH PARENTS WITHOUT THE PERMISSION OF THE REPORTING INDIVIDUAL.

2. THE INSTITUTION MAY TAKE PROACTIVE STEPS, SUCH AS TRAINING OR AWARENESS EFFORTS, TO COMBAT DOMESTIC VIOLENCE, DATING VIOLENCE, STALKING OR SEXUAL ASSAULT IN A GENERAL WAY THAT DOES NOT IDENTIFY THOSE WHO DISCLOSE OR THE INFORMATION DISCLOSED.

3. IF THE INSTITUTION DETERMINES THAT AN INVESTIGATION IS REQUIRED, IT SHALL NOTIFY THE REPORTING INDIVIDUALS AND TAKE IMMEDIATE ACTION AS NECESSARY TO PROTECT AND ASSIST THEM.

4. THE INSTITUTION SHOULD SEEK CONSENT FROM REPORTING INDIVIDUALS PRIOR TO CONDUCTING AN INVESTIGATION. DECLINING TO CONSENT TO AN INVESTIGATION SHALL BE HONORED UNLESS THE INSTITUTION DETERMINES IN GOOD FAITH THAT FAILURE TO INVESTIGATE DOES NOT ADEQUATELY MITIGATE A POTENTIAL RISK OF HARM TO THE REPORTING INDIVIDUAL OR OTHER MEMBERS OF THE COMMUNITY. HONORING SUCH A REQUEST MAY LIMIT THE INSTITUTION'S ABILITY TO MEANINGFULLY INVESTIGATE AND PURSUE CONDUCT ACTION AGAINST AN ACCUSED INDIVIDUAL. FACTORS USED TO DETERMINE WHETHER TO HONOR SUCH A REQUEST INCLUDE, BUT ARE NOT LIMITED TO:

A. WHETHER THE ACCUSED HAS A HISTORY OF VIOLENT BEHAVIOR OR IS A REPEAT OFFENDER;

B. WHETHER THE INCIDENT REPRESENTS ESCALATION IN UNLAWFUL CONDUCT ON BEHALF OF THE ACCUSED FROM PREVIOUSLY NOTED BEHAVIOR;

C. THE INCREASED RISK THAT THE ACCUSED WILL COMMIT ADDITIONAL ACTS OF VIOLENCE;

D. WHETHER THE ACCUSED USED A WEAPON OR FORCE;

E. WHETHER THE REPORTING INDIVIDUAL IS A MINOR; AND

F. WHETHER THE INSTITUTION POSSESSES OTHER MEANS TO OBTAIN EVIDENCE SUCH AS SECURITY FOOTAGE, AND WHETHER AVAILABLE INFORMATION REVEALS A PATTERN OF PERPETRATION AT A GIVEN LOCATION OR BY A PARTICULAR GROUP.

S 6447. STUDENT ONBOARDING AND ONGOING EDUCATION. 1. EVERY INSTITUTION SHALL ADOPT A COMPREHENSIVE STUDENT ONBOARDING AND ONGOING EDUCATION CAMPAIGN TO EDUCATE MEMBERS OF THE INSTITUTION'S COMMUNITY ABOUT DOMESTIC VIOLENCE, DATING VIOLENCE, STALKING, AND SEXUAL ASSAULT, IN COMPLIANCE WITH APPLICABLE FEDERAL LAWS, INCLUDING THE CLERY ACT AS AMENDED BY THE VIOLENCE AGAINST WOMEN ACT REAUTHORIZATION OF 2013, 20 U.S.C. 1092(F).

2. INCLUDED IN THIS CAMPAIGN SHALL BE A REQUIREMENT THAT ALL NEW FIRST-YEAR AND TRANSFER STUDENTS SHALL, DURING THE COURSE OF THEIR ONBOARDING TO THEIR RESPECTIVE INSTITUTION, RECEIVE TRAINING ON THE FOLLOWING TOPICS, USING A METHOD AND MANNER APPROPRIATE TO THE INSTITUTIONAL CULTURE OF EACH INSTITUTION:

A. THE INSTITUTION PROHIBITS SEXUAL AND INTERPERSONAL VIOLENCE AND WILL OFFER RESOURCES TO ANY VICTIMS AND SURVIVORS OF SUCH VIOLENCE WHILE TAKING ADMINISTRATIVE AND CONDUCT ACTION REGARDING ANY ACCUSED INDIVIDUAL WITHIN THE JURISDICTION OF THE INSTITUTION;

B. RELEVANT DEFINITIONS INCLUDING, BUT NOT LIMITED TO, THE DEFINITIONS OF SEXUAL ASSAULT, DOMESTIC VIOLENCE, DATING VIOLENCE, STALKING, CONFIDENTIALITY, PRIVACY, AND CONSENT;

C. POLICIES APPLY EQUALLY TO ALL STUDENTS REGARDLESS OF SEXUAL ORIENTATION, GENDER IDENTITY, OR GENDER EXPRESSION;

D. THE ROLE OF THE TITLE IX COORDINATOR, UNIVERSITY POLICE OR CAMPUS SECURITY, AND OTHER RELEVANT OFFICES THAT ADDRESS DOMESTIC VIOLENCE, DATING VIOLENCE, STALKING, AND SEXUAL ASSAULT PREVENTION AND RESPONSE;

E. AWARENESS OF VIOLENCE, ITS IMPACT ON VICTIMS AND SURVIVORS AND THEIR FRIENDS AND FAMILY, AND ITS LONG-TERM IMPACT;

F. BYSTANDER INTERVENTION AND THE IMPORTANCE OF TAKING ACTION TO PREVENT VIOLENCE WHEN ONE CAN SAFELY DO SO;

G. RISK ASSESSMENT AND REDUCTION INCLUDING, BUT NOT LIMITED TO, STEPS THAT POTENTIAL VICTIMS, PERPETRATORS, AND BYSTANDERS CAN TAKE TO LOWER THE INCIDENCE OF VIOLATIONS, WHICH MAY CONTAIN INFORMATION ABOUT THE DANGERS OF DRUG AND ALCOHOL USE, INCLUDING UNDERAGE DRINKING AND BINGE DRINKING, INVOLUNTARY CONSUMPTION OF INCAPACITATING DRUGS AND THE DANGER OF MISLABELED DRUGS AND ALCOHOL, THE IMPORTANCE OF COMMUNICATION WITH TRUSTED FRIENDS AND FAMILY WHETHER ON CAMPUS OR OFF CAMPUS, AND THE AVAILABILITY OF INSTITUTION OFFICIALS WHO CAN ANSWER GENERAL OR SPECIFIC QUESTIONS ABOUT RISK REDUCTION; AND

H. CONSEQUENCES AND SANCTIONS FOR INDIVIDUALS WHO COMMIT THESE CRIMES AND CODE OF CONDUCT VIOLATIONS.

3. EVERY INSTITUTION SHALL TRAIN ALL NEW STUDENTS, WHETHER FIRST-YEAR OR TRANSFER, UNDERGRADUATE, GRADUATE, OR PROFESSIONAL.

4. EVERY INSTITUTION SHALL USE MULTIPLE METHODS TO EDUCATE STUDENTS ABOUT VIOLENCE PREVENTION AND SHALL SHARE INFORMATION ON DOMESTIC VIOLENCE, DATING VIOLENCE, STALKING AND SEXUAL ASSAULT PREVENTION WITH PARENTS OF ENROLLING STUDENTS.

5. EVERY INSTITUTION SHALL OFFER TO ALL STUDENTS GENERAL AND SPECIFIC TRAINING IN DOMESTIC VIOLENCE, DATING VIOLENCE, STALKING AND SEXUAL ASSAULT PREVENTION AND SHALL CONDUCT A CAMPAIGN THAT COMPLIES WITH THE VIOLENCE AGAINST WOMEN ACT, 20 U.S.C. 1092(F), TO EDUCATE THE STUDENT POPULATION. THEY SHALL, AS APPROPRIATE, PROVIDE OR EXPAND SPECIFIC TRAINING TO INCLUDE GROUPS SUCH AS INTERNATIONAL STUDENTS, STUDENTS THAT ARE ALSO EMPLOYEES, LEADERS AND OFFICERS OF REGISTERED OR RECOGNIZED STUDENT ORGANIZATIONS, AND ONLINE AND DISTANCE EDUCATION STUDENTS. THEY SHALL ALSO PROVIDE SPECIFIC TRAINING TO MEMBERS OF GROUPS THAT THE INSTITUTION IDENTIFIES AS HIGH-RISK POPULATIONS.

6. EVERY INSTITUTION SHALL REQUIRE THAT EACH STUDENT LEADER AND OFFICER OF STUDENT ORGANIZATIONS RECOGNIZED BY OR REGISTERED WITH THE INSTITUTION, AS WELL AS THOSE SEEKING RECOGNITION BY THE INSTITUTION, COMPLETE TRAINING ON DOMESTIC VIOLENCE, DATING VIOLENCE, STALKING, OR SEXUAL ASSAULT PREVENTION PRIOR TO RECEIVING RECOGNITION OR REGISTRATION, AND EACH INSTITUTION SHALL REQUIRE THAT EACH STUDENT-ATHLETE COMPLETE TRAINING ON DOMESTIC VIOLENCE, DATING VIOLENCE, STALKING, OR SEXUAL ASSAULT PREVENTION PRIOR TO PARTICIPATING IN INTERCOLLEGIATE ATHLETIC COMPETITION.

7. EVERY INSTITUTION MUST REGULARLY ASSESS PROGRAMS AND POLICIES ESTABLISHED PURSUANT TO THIS ARTICLE TO DETERMINE EFFECTIVENESS AND RELEVANCE FOR STUDENTS.

S 6448. PRIVACY IN LEGAL CHALLENGES. PURSUANT TO SUBDIVISION (I) OF RULE THREE THOUSAND SIXTEEN OF THE CIVIL PRACTICE LAW AND RULES, IN ANY PROCEEDING BROUGHT AGAINST AN INSTITUTION WHICH SEEKS TO VACATE OR MODIFY A FINDING THAT A STUDENT WAS RESPONSIBLE FOR VIOLATING AN INSTITUTION'S RULES REGARDING A VIOLATION COVERED BY THIS ARTICLE, THE NAME AND IDENTIFYING BIOGRAPHICAL INFORMATION OF ANY STUDENT SHALL BE PRESUMPTIVELY CONFIDENTIAL AND SHALL NOT BE INCLUDED IN THE PLEADINGS AND OTHER PAPERS FROM SUCH PROCEEDING ABSENT A WAIVER OR CAUSE SHOWN AS DETERMINED BY THE COURT. SUCH WITNESSES SHALL BE IDENTIFIED ONLY AS NUMBERED WITNESSES. IF SUCH A NAME OR IDENTIFYING BIOGRAPHICAL INFORMATION APPEARS IN A PLEADING OR PAPER FILED IN SUCH A PROCEEDING, THE COURT, ABSENT SUCH A WAIVER OR CAUSE SHOWN, SHALL DIRECT THE CLERK OF THE COURT TO REDACT SUCH NAME AND IDENTIFYING BIOGRAPHICAL INFORMATION AND SO ADVISE THE PARTIES.

S 6449. REPORTING AGGREGATE DATA TO THE DEPARTMENT. 1. INSTITUTIONS SHALL ANNUALLY REPORT TO THE DEPARTMENT THE FOLLOWING INFORMATION ABOUT REPORTS OF DOMESTIC VIOLENCE, DATING VIOLENCE, STALKING AND SEXUAL ASSAULT:

A. THE NUMBER OF SUCH INCIDENTS THAT WERE REPORTED TO THE TITLE IX COORDINATOR.

B. OF THOSE INCIDENTS IN PARAGRAPH A OF THIS SUBDIVISION, THE NUMBER OF REPORTING INDIVIDUALS WHO SOUGHT THE INSTITUTION'S JUDICIAL OR CONDUCT PROCESS.

C. OF THOSE REPORTING INDIVIDUALS IN PARAGRAPH B OF THIS SUBDIVISION, THE NUMBER OF CASES PROCESSED THROUGH THE INSTITUTION'S JUDICIAL OR CONDUCT PROCESS.

D. OF THOSE CASES IN PARAGRAPH C OF THIS SUBDIVISION, THE NUMBER OF RESPONDENTS WHO WERE FOUND RESPONSIBLE THROUGH THE INSTITUTION'S JUDICIAL OR CONDUCT PROCESS.

E. OF THOSE CASES IN PARAGRAPH C OF THIS SUBDIVISION, THE NUMBER OF RESPONDENTS WHO WERE FOUND NOT RESPONSIBLE THROUGH THE INSTITUTION'S JUDICIAL OR CONDUCT PROCESS.

F. A DESCRIPTION OF THE FINAL SANCTIONS IMPOSED BY THE INSTITUTION FOR EACH INCIDENT FOR WHICH A RESPONDENT WAS FOUND RESPONSIBLE, AS PROVIDED IN PARAGRAPH D OF THIS SUBDIVISION, THROUGH THE INSTITUTION'S JUDICIAL OR CONDUCT PROCESS.

G. THE NUMBER OF CASES IN THE INSTITUTION'S JUDICIAL OR CONDUCT PROCESS THAT WERE CLOSED PRIOR TO A FINAL DETERMINATION AFTER THE RESPONDENT WITHDREW FROM THE INSTITUTION AND DECLINED TO COMPLETE THE DISCIPLINARY PROCESS.

H. THE NUMBER OF CASES IN THE INSTITUTION'S JUDICIAL OR CONDUCT PROCESS THAT WERE CLOSED BECAUSE THE COMPLAINT WAS WITHDRAWN BY THE REPORTING INDIVIDUAL PRIOR TO A FINAL DETERMINATION.

2. THE DEPARTMENT SHALL CREATE A REPORTING MECHANISM FOR INSTITUTIONS TO EFFICIENTLY AND UNIFORMLY PROVIDE THE INFORMATION OUTLINED IN SUBDIVISION ONE OF THIS SECTION.

3. THE DEPARTMENT SHALL NOT RELEASE THE INFORMATION, AS PROVIDED FOR IN THIS SECTION, IF IT WOULD COMPROMISE THE CONFIDENTIALITY OF REPORTING INDIVIDUALS OR ANY OTHER PARTY IN THE BEST JUDGMENT OF THE DEPARTMENT.

4. WITHIN ONE YEAR OF THE EFFECTIVE DATE OF THIS ARTICLE, THE DEPARTMENT SHALL ISSUE REGULATIONS IN CONSULTATION WITH REPRESENTATIVES FROM THE STATE UNIVERSITY OF NEW YORK, CITY UNIVERSITY OF NEW YORK, AND PRIVATE AND INDEPENDENT COLLEGES AND UNIVERSITIES, AND WITHIN TWO YEARS OF THE EFFECTIVE DATE OF THIS ARTICLE THE DEPARTMENT SHALL ISSUE A REPORT TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY AND THE CHAIRS OF THE HIGHER EDUCATION COMMITTEES IN EACH HOUSE REGARDING THE DATA COLLECTED PURSUANT TO THIS SECTION.

S 2. Rule 3016 of the civil practice law and rules is amended by adding a new subdivision (i) to read as follows:

(I) PRIVACY OF NAME IN CERTAIN LEGAL CHALLENGES TO COLLEGE/UNIVERSITY DISCIPLINARY FINDINGS. IN ANY PROCEEDING BROUGHT AGAINST A COLLEGE OR UNIVERSITY THAT IS CHARTERED BY THE REGENTS OR INCORPORATED BY SPECIAL ACT OF THE LEGISLATURE, WHICH PROCEEDING SEEKS TO VACATE OR MODIFY A FINDING THAT A STUDENT WAS RESPONSIBLE FOR A VIOLATION OF COLLEGE OR UNIVERSITY RULES REGARDING A VIOLATION COVERED BY ARTICLE ONE HUNDRED TWENTY-NINE-B OF THE EDUCATION LAW, THE NAME AND IDENTIFYING BIOGRAPHICAL INFORMATION OF ANY STUDENT SHALL BE PRESUMPTIVELY CONFIDENTIAL AND SHALL NOT BE INCLUDED IN THE PLEADINGS AND OTHER PAPERS FROM SUCH PROCEEDING ABSENT A WAIVER OR CAUSE SHOWN AS DETERMINED BY THE COURT.

SUCH WITNESSES SHALL BE IDENTIFIED ONLY AS NUMBERED WITNESSES. IF SUCH A NAME OR IDENTIFYING BIOGRAPHICAL INFORMATION APPEARS IN A PLEADING OR PAPER FILED IN SUCH A PROCEEDING, THE COURT, ABSENT SUCH A WAIVER OR CAUSE SHOWN, SHALL DIRECT THE CLERK OF THE COURT TO REDACT SUCH NAME AND IDENTIFYING BIOGRAPHICAL INFORMATION AND SO ADVISE THE PARTIES.

S 3. The executive law is amended by adding a new section 232 to read as follows:

S 232. SEXUAL ASSAULT VICTIMS UNIT. THERE IS HEREBY ESTABLISHED WITHIN THE DIVISION OF STATE POLICE THE SEXUAL ASSAULT VICTIMS UNIT, WHICH SHALL BE A SPECIALIZED UNIT HAVING ADVANCED TRAINING IN RESPONDING TO SEXUAL ASSAULTS, INCLUDING CAMPUS SEXUAL ASSAULTS, AND RELATED CRIMES. THE SEXUAL ASSAULT VICTIMS UNIT SHALL PERFORM SUCH TASKS AS DETERMINED BY THE SUPERINTENDENT, WHICH SHALL INCLUDE BUT NOT BE LIMITED TO PROVIDING ASSISTANCE, INCLUDING FORENSIC SUPPORT SERVICES, TO CAMPUS POLICE OR LOCAL POLICE OR SHERIFF'S DEPARTMENTS, AND PROVIDING TRAINING TO COLLEGE CAMPUS COMMUNITIES.

S 4. The sum of four million five hundred thousand dollars ($4,500,000) is hereby appropriated to the division of state police out of any moneys in the state treasury in the general fund to the credit of the state purposes account, not otherwise appropriated, and made immediately available, for the purpose of carrying out the provisions of section 232 of the executive law as added by section three of this act. Such moneys shall be payable on the audit and warrant of the comptroller on vouchers certified or approved by the director of the budget as submitted by the superintendent of state police in the manner prescribed by law.

S 5. The sum of four million five hundred thousand dollars ($4,500,000) is hereby appropriated to miscellaneous aid to localities out of any moneys in the state treasury in the general fund to the credit of the local assistance account, not otherwise appropriated, and made immediately available, for services and expenses of rape crisis centers, including but not limited to prevention, education and victim services on college campuses in the state. Notwithstanding any law to the contrary, the office of victim services and the department of health shall administer the program and allocate funds pursuant to a plan approved by the director of the budget. Such allocation methodology shall be based in part on the following factors: certification status, number of programs, and regional diversity. Funds hereby appropriated may be transferred or suballocated to any state department or agency. Such moneys shall be payable on the audit and warrant of the comptroller on vouchers certified or approved by the director of the budget in the manner prescribed by law.

S 6. The sum of one million dollars ($1,000,000) is hereby appropriated to miscellaneous aid to localities out of any moneys in the state treasury in the general fund to the credit of the local assistance account, not otherwise appropriated, and made immediately available, for services and expenses of college campuses for training and other expenses related to implementation of article 129-b of the education law, pursuant to a plan administered and approved by the director of the budget. Funds hereby appropriated may be transferred or suballocated to any state department or agency. Such moneys shall be payable on the audit and warrant of the comptroller on vouchers certified or approved by the director of the budget in the manner prescribed by law.

S 7. This act shall take effect immediately; provided that sections one, two and three of this act shall take effect on the ninetieth day after it shall have become a law, provided, however, that sections 6445

and 6449 of article 129-B of the education law, as added by section one of this act, shall take effect one year after it shall have become law.