

§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).

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