

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 857

Introduced by Morfeld, 46.

Read first time January 05, 2018

Committee: Education

- 1 A BILL FOR AN ACT relating to postsecondary education; to adopt the
- 2 Campus Confidentiality Act.
- 3 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 6 of this act shall be known and may be
2 cited as the Campus Confidentiality Act.

3 Sec. 2. For purposes of the Campus Confidentiality Act:

4 (1) Governing board means the Board of Regents of the University of
5 Nebraska, the Board of Trustees of the Nebraska State Colleges, and the
6 board of governors for each community college area; and

7 (2) Institution means a community college, a state college, or the
8 University of Nebraska.

9 Sec. 3. On or before January 1, 2019, each governing board shall
10 develop and adopt a policy providing for confidential advisors to whom
11 students can report sexually-oriented criminal offenses in a confidential
12 and safe environment. Such policy shall contain at least the following
13 provisions:

14 (1) A designation of the individuals who will serve as confidential
15 advisors, such as health care staff, clergy, staff of a women's center,
16 or other such categories. Such designation shall not preclude the
17 institution from partnering with national, state, or local victim
18 services organizations to serve as confidential advisors or to serve in
19 other confidential roles;

20 (2) A confidential advisor shall complete in-person training
21 designed to assist such advisor in carrying out the purposes the Campus
22 Confidentiality Act;

23 (3) Upon meeting with a student victim, the confidential advisor
24 shall inform him or her of the following:

25 (a) The victim's rights under federal and state law and the
26 institution's policies;

27 (b) That the victim's conversation with the confidential adviser,
28 while confidential, is not privileged and may be subject to disclosure in
29 any legal proceeding, unless there is another legal basis for asserting a
30 privilege;

31 (c) The victim's reporting options, including the option to notify

1 the institution and local law enforcement, and any other reporting
2 options;

3 (d) The institution's processes for investigation and discipline;

4 (e) Potential reasonable accommodations that the institution may
5 provide to a victim; and

6 (f) The name and location of the nearest medical facility where a
7 victim may have a rape kit administered by an individual trained in
8 sexual assault forensic medical examination and evidence collection, and
9 information on options for transportation to such facility and the
10 availability of payment for such visit, including from the Sexual Assault
11 Payment Program Cash Fund;

12 (4) If a confidential advisor is directed to do so in writing by a
13 victim who has been fully and accurately informed about what procedures
14 will occur if information is shared, the confidential advisor may, as
15 appropriate:

16 (a) Serve as a liaison between the victim and the institution or
17 local law enforcement; and

18 (b) Assist the victim in contacting and reporting to a responsible
19 employee of the institution or to local law enforcement;

20 (5) A confidential advisor shall be authorized by the institution to
21 liaise with appropriate institution staff to arrange reasonable
22 accommodations through the institution, including accommodations to allow
23 the victim to change living arrangements or class schedules and to obtain
24 accessibility services. A request for such accommodations shall not
25 trigger an investigation by the institution. An institution may offer the
26 same accommodations to the accused individual;

27 (6) When requested to do so by the victim, a confidential advisor
28 shall be authorized to accompany the victim to interviews and other
29 proceedings of the institution's investigation and any disciplinary
30 response;

31 (7) A confidential advisor shall advise the victim of, and provide

1 written information regarding, both the victim's rights and the
2 institution's responsibilities regarding orders of protection, no-contact
3 orders, restraining orders, or similar lawful orders issued by a court or
4 the institution;

5 (8) A confidential advisor shall not be obligated to report crimes
6 to the institution or law enforcement in a way that identifies a victim
7 or an accused individual, unless otherwise required to do so by law; and

8 (9) A confidential advisor shall, to the extent authorized by law,
9 maintain confidentiality when providing services to students.

10 Sec. 4. On or before January 1, 2019, each governing board shall:

11 (1) Develop training requirements and materials for confidential
12 advisors, including online training materials to supplement the training
13 required under section 3 of this act;

14 (2) Determine the number of confidential advisors that will be
15 adequate for each campus under such board's control, based upon the size
16 of such campus; and

17 (3) Appoint such number of confidential advisors.

18 Sec. 5. A campus that enrolls fewer than five thousand students may
19 partner with another campus in its system or region to provide the
20 services described in section 3 of this act. Each campus shall remain
21 separately responsible for complying with the requirements of the Campus
22 Confidentiality Act.

23 Sec. 6. On or before January 1, 2019, each governing board shall
24 adopt an amnesty policy for students who in good faith make reports of
25 sexual violence to the institution. The policy shall provide that such a
26 student shall not be sanctioned by the institution for any nonviolent
27 student conduct violations, such as underage drinking, that are revealed
28 in the course of making or investigating or responding to such a report.