

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 947 Sexual Misconduct Information in Public K-20 Education

SPONSOR(S): Postsecondary Education & Workforce Subcommittee, Bartleman

TIED BILLS: None. **IDEN./SIM. BILLS:** SB 1270

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Postsecondary Education & Workforce Subcommittee	18 Y, 0 N, As CS	Collins	Kiner
2) Higher Education Appropriations Subcommittee			
3) Education & Employment Committee			

SUMMARY ANALYSIS

The bill requires each school district to provide to parents, students, and school employees the contact information of the Title IX Coordinator, the process for placing and filing a sexual misconduct complaint, and support measures for a person who files a sexual misconduct complaint.

The bill requires Florida College System institutions and state universities to create a policy related to sexual harassment, sexual assault, dating violence, and stalking. This policy must be included in the institution and university's student handbook and personnel handbook. A link to the institution's and university's webpage concerning sexual harassment, sexual assault, dating violence, and stalking policy website must be easily accessible on the institution or university's website homepage.

Additionally, the bill requires Florida College System institutions and state universities to create and implement a comprehensive prevention and outreach program on sexual harassment, sexual assault, dating violence, and stalking. The program must address a range of strategies to prevent sexual harassment, sexual assault, dating violence, and stalking, including a victim empowerment program, a public awareness campaign, primary prevention strategies, bystander intervention strategies, and risk reduction strategies. The bill requires all students during student orientations and at the beginning of each semester to be provided information concerning these programs; the protocols for reporting an incident of sexual harassment, sexual assault, dating violence, or stalking; and the contact information for the Title IX coordinator.

This bill does not appear to have a fiscal impact. See fiscal comments.

This bill has an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

School Districts

Each school district shall be the unit of control, organization, and administration of schools. The responsibility for the actual operation and administration of all schools needed within the districts in conformity with rules and minimum standards prescribed by the state. The responsibility for providing any desirable and practicable opportunities authorized by law beyond those required by the state, are delegated to the school officials of the respective districts.¹ A district school system includes all public schools, including alternative site schools for disruptive or violent students, and all services and activities directly related to education in that district which are under the direction of the district school officials.² School districts may determine policies and programs consistent with state law.³ Each district school board shall, in consultation with parents, teachers, and administrators, develop and adopt a policy to promote parental involvement in the public school system.⁴

State Board of Education

The State Board of Education (SBE)⁵ is the “chief implementing and coordinating body of public education in Florida, except for the State University System” and is authorized to adopt rules to implement the provisions of law conferring duties upon the SBE to improve the state system of K-20 public education, except for the state university system.⁶ As such, the SBE has authority over the Florida College System (FCS) institutions, and is authorized to delegate the SBE’s general powers to the Commissioner of Education (commissioner) or the directors of the divisions of the Florida Department of Education (DOE or department).⁷ The Florida College System (FCS) is comprised of 28 FCS institutions, and the regional service areas for such institutions are specified in law.⁸ Currently, the FCS serves 560,984 students.⁹

Department of Education

The DOE is the administrative and supervisory agency under the implementation direction of the SBE.¹⁰ The commissioner is appointed by the SBE and serves as the executive director of the department.¹¹

¹ Section 1001.30, F.S.

² Section 1001.31, F.S.

³ Section 1001.41, F.S.

⁴ Section 1014.05, F.S.

⁵ The State Board of Education is established as “a body corporate and have such supervision of the system of free public education as is provided by law.” Art. IX, s. 2, Fla. Const.

⁶ Section 1001.02(1), F.S.

⁷ *Id.*

⁸ The 28 Florida College System (FCS) institutions are Broward College, College of Central Florida, Chipola College, Daytona State College, Eastern Florida State College, Florida SouthWestern State College, Florida State College at Jacksonville, Florida Keys Community College, Gulf Coast State College, Hillsborough Community College, Indian River State College, Florida Gateway College, Lake-Sumter State College, State College of Florida, Manatee-Sarasota, Miami Dade College, North Florida Community College, Northwest Florida State College, Palm Beach State College, Pasco-Hernando State College, Pensacola State College, Polk State College, St. Johns River State College, St. Petersburg College, Santa Fe College, Seminole State College of Florida, South Florida State College, Tallahassee Community College, and Valencia College. Section 1000.21(3), F.S.

⁹ Florida Department of Education, Policy Reports & Data, *FCS Resident and Nonresident Enrollment Report 2022-2023*, <https://www.fldoe.org/core/fileparse.php/5659/urlt/23-hr3f29c.xls> (last visited Jan. 24, 2024).

¹⁰ Section 1001.20(1), F.S.

¹¹ Section 20.15(2), F.S.

Within the DOE, the Division of Florida Colleges (DFC)¹² is directed by the Chancellor of the DFC,¹³ who is appointed by the commissioner.¹⁴

Florida College System Institution

Each FCS institution is governed by a local board of trustees (BOT).¹⁵ The FCS institution BOT members are appointed by the Governor to staggered four-year terms, and confirmed by the Senate.¹⁶ Each FCS institution BOT is responsible for cost-effective policy decisions regarding the FCS institution's mission, the implementation and maintenance of high-quality education programs within law and rules of the SBE, the measurement of performance, the reporting of information, and the provision of input on state policy, budgeting, and education standards.¹⁷ FCS institution BOTs are authorized to adopt rules, procedures, and policies regarding admissions, programs, administration, personnel, contracts, and facilities.¹⁸

State University System Programs

The State University System of Florida serves more than 430,000 students and is comprised of twelve universities.¹⁹ For each university in the State University System of Florida, the Board of Governors is responsible for cost-effective policy decisions appropriate to the university's mission, the implementation and maintenance of high-quality education programs, the measurement of performance, the reporting of information, and the provision of input regarding state policy, budgeting, and education standards.²⁰

The Board of Governors is required to develop a strategic plan specifying goals and objectives for the State University System and each constituent university, including each university's contribution to overall system goals and objectives. The strategic plan is required to:²¹

- Include performance metrics and standards common for all institutions and metrics and standards unique to institutions.
- Consider reports and recommendations of the Florida Talent Development Council and the Articulation Coordinating Committee.
- Include student enrollment and performance data delineated by method of instruction, including, but not limited to, traditional, online, and distance learning instruction.
- Include criteria for designating baccalaureate degree and master's degree programs at specified universities as high-demand programs of emphasis, using the criteria to determine value for and prioritization of degree credentials and degree programs established by the Credentials Review Committee. The Board of Governors must review designated programs of emphasis, at a minimum, every 3 years to ensure alignment with the prioritization of degree credentials and degree programs identified by the Credentials Review Committee.

Title IX and Florida Educational Equity Act

Title IX of the Education Amendments of 1972 (Title IX) addresses sexual harassment, sexual violence, or any gender-based discrimination that may deny a person access to educational benefits and opportunities. Under Title IX, schools must ensure that all students and employees have equal access

¹² *Id.* at (3)(a).

¹³ *Id.* at (4).

¹⁴ Section 20.15(4), F.S.

¹⁵ Sections 1001.60(3), 1001.61(1), and 1004.65(1), F.S. FCS institutions are statutorily designated as political subdivisions of the state. Section 1004.67, F.S.

¹⁶ Section 1001.61(2), F.S.

¹⁷ Section 1001.64(1), F.S.

¹⁸ *Id.* at (4).

¹⁹ The 12 State University System of Florida universities are University of West Florida, Florida State University, Florida A&M University, University of North Florida, University of Florida, University of Central Florida, Florida Polytech, University of South Florida, New College of Florida, Florida Gulf Coast University, Florida Atlantic University, and Florida International University. State University System of Florida, *Home*, <https://www.flbog.edu/> (last visited Jan. 22, 2024).

²⁰ Section 1001.706(1), F.S.

²¹ Section 1001.706(5), F.S.

to education and educational facilities, regardless of sex, sexual orientation, or gender identity. Sexual harassment and sexual violence are forms of gender discrimination that are prohibited by Title IX. When a student or employee has experienced a hostile environment such as sexual assault or severe, pervasive, and objectively offensive sexual harassment, schools must stop the discrimination, prevent its recurrence, and address its effects. This includes retaliation from other students, school administrators, or faculty. Schools must proactively prevent and respond to claims of sexual harassment, sexual violence, and other forms of gender-based violence, retaliation, discrimination, and must have an impartial and prompt process for investigating and adjudicating reported cases.²²

In 2020, Title IX Regulations on Sexual harassment was amended to define sexual harassment to include certain types of unwelcome sexual conduct, sexual assault, dating violence, and stalking.²³ Each educational institution that receives federal funds must designate and authorize at least one employee to be the Title IX coordinator.²⁴ Federal law requires each educational institution to evaluate, modify, and take appropriate remedial steps to eliminate the effects of any discrimination from policies and practices concerning the admission of students, treatment of students, and employment of personnel.²⁵ Any person may report sex discrimination, including sexual harassment, in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Such a report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address, listed for the Title IX Coordinator.²⁶

Under federal law, each recipient of federal financial assistance which operates an education program or activity, must prominently display the contact information required to be listed for the Title IX Coordinator on its website, if any, and in each handbook or catalog that it makes available to persons entitled to a notification.²⁷ Recipients of federal funds must notify applicants for admission and employment, students, parents or legal guardians of elementary and secondary school students, employees, and all unions or professional organizations holding collective bargaining or professional agreements with the recipient, of the name or title, office address, electronic mail address, and telephone number of the employee or employees designated as the Title IX Coordinator pursuant to this paragraph.²⁸

The Florida Educational Equity Act prohibits discrimination on the basis of race, color, national origin, sex, disability, religion, or marital status against a student or an employee in the state system of public K-20 education. No person in Florida shall, on the basis of race, color, national origin, sex, disability, religion, or marital status, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any public K-20 education program or activity, or in any employment conditions or practices, conducted by a public educational institution that receives or benefits from federal or state financial assistance.²⁹

The district must ensure that its educational and employment programs, services and activities are provided without discrimination on the basis of race, color, national origin, sex, age or disability. Any institution receiving federal financial assistance must:

- Designate a person(s) to coordinate compliance efforts for Title IX, Section 504, American with Disabilities Act and the Florida Educational Equity Act.

²² Under federal law, no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance. U.S. Department of Justice, *Title IX of the Education Amendments of 1972*, <https://www.justice.gov/crt/title-ix-education-amendments-1972> (last visited Jan. 22, 2024).

²³ United States Department of Education, *Questions and Answers on the Title IX Regulations on Sexual Harassment (July 2021)(Updated June 28, 2022)*, available at <https://www2.ed.gov/about/offices/list/ocr/docs/202107-qa-titleix.pdf>, at pg. 4.

²⁴ 34 C.F.R. § 106.8 (2024).

²⁵ 34 C.F.R. § 106.3 (2024).

²⁶ 34 C.F.R. § 106.8 (2024).

²⁷ *Id.*

²⁸ *Id.*

²⁹ Section 1000.05(2)(a), F.S.

- Adopt and publish grievance procedures to address complaints of discrimination and harassment. Procedures must include timeframes to allow for prompt and equitable resolution of complaints. Procedure must be available to students, parents, employees and the general public.
- Provide continuous notice to students, parents, employees and the general public that the district prohibits illegal discrimination. It must also provide annual notice of nondiscrimination for its career and technical education programs. The nondiscrimination notices must provide contact information for filing complaints.³⁰

If a state university is not in compliance with Title IX and the Florida Educational Equity act, the Board of Governors must:

- Declare the Florida College System institution ineligible for competitive state grants; and
- Withhold funds sufficient to obtain compliance.³¹

Effect of Proposed Changes

The bill requires each school district to provide parents, students, and school employees the contact information of the Title IX Coordinator, the process for placing and filing a sexual misconduct complaint, and the support measures for a person who files a sexual misconduct complaint.

The bill requires Florida College System institutions and state universities to create a policy related to sexual harassment, sexual assault, dating violence, and stalking. This policy must be included the institution and university's student handbook and personnel handbook. Each institution and university must have a webpage solely dedicated to the institution and university's policy related to sexual harassment, sexual assault, dating violence, and stalking. A link to the institution and university's website concerning sexual harassment, sexual assault, dating violence, and stalking policy must be easily accessibly on the institution or university's website homepage.

Additionally, the bill requires Florida College System institutions and state universities to create and implement a comprehensive prevention and outreach program on sexual harassment, sexual assault, dating violence, and stalking. The program must address a range of strategies to prevent sexual harassment, sexual assault, dating violence, and stalking, including a victim empowerment program, a public awareness campaign, primary prevention strategies, bystander intervention strategies, and risk reduction strategies. The bill requires all students during student orientations and at the beginning of each semester to be provided information concerning these programs; the protocols for reporting an incident of sexual harassment, sexual assault, dating violence, or stalking; and the contact information for the Title IX Coordinator.

B. SECTION DIRECTORY:

Section 1: Amends s. 1001.42, F.S., requiring district school boards to provide certain information relating to Title IX and sexual misconduct complaints to students, parents, and school employees.

Section 2: Creating s. 1004.0972, F.S., requiring Florida College System institutions and state universities to create a sexual harassment, sexual assault, dating violence, and stalking policy; providing requirements for such policy; requiring Florida College System institutions and state universities to create and implement a comprehensive prevention and outreach program on sexual harassment, sexual assault, dating violence, and stalking; providing requirements for the program; requiring Florida College System institutions and state universities to provide certain information to students.

Section 3: Provides an effective date

³⁰ Florida Department of Education, *Equal Education Opportunity Services*, <https://www.fldoe.org/schools/equal-educal-opportunity/services.stml> (last visited Jan. 25, 2024).

³¹ Section 1006.71(2)(a)-(b), F.S.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

This bill does not appear to have a fiscal impact as Florida College System institutions and state universities who receive federal funding are required to have a policy in place.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 30, 2024, the Postsecondary Education & Workforce Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment requires a webpage be dedicated solely to the institution and university's policy related to sexual harassment, sexual assault, dating violence, or stalking and be accessible through a link on the institution or university's website homepage.

The analysis is drafted to the committee substitute adopted by the Postsecondary Education & Workforce Subcommittee.