AN ACT concerning postsecondary educational institutions; relating to
student safety; requiring postsecondary educational institutions to
implement sexual violence policies and protocols in order to receive
certain state appropriations.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) As used in this section:
(1) "Affirmative consent" means affirmative, conscious and voluntary
agreement to engage in sexual activity. "Affirmative consent" does not
mean silence or a lack of protest or resistance.
(2) "Postsecondary educational institution" means the same as
provided in K.S.A. 74-3201b, and amendments thereto.
(3) "Sexual assault," "domestic violence," "dating violence" and
"stalking" mean the same as such terms are defined in the federal higher

(b) (1) For fiscal year 2021, and each fiscal year thereafter, the
director of accounts and reports shall not disburse any moneys
appropriated to a postsecondary educational institution for grants or
scholarships if the state board of regents has determined that such
postsecondary educational institution is not in compliance with the
requirements of this section.
(2) (A) The state board of regents shall adopt rules and regulations to
establish a reporting system to accurately determine on an annual basis
whether each postsecondary educational institution is in compliance with
the requirements of this section.
(B) Upon a determination that a postsecondary educational institution
is not in compliance with the requirements of this section, the state board
of regents shall send the director of accounts and reports notice of such
noncompliance.
(c) Each postsecondary educational institution shall adopt a policy
concerning sexual assault, domestic violence, dating violence and stalking
involving students, both on and off campus. The policy shall include the
following:
(1) An affirmative consent standard that can be used to determine
whether consent was given by all parties to a sexual activity. Such
affirmative consent standard shall be based on, but not be limited to, the
following principles:

(A) It is the responsibility of each individual involved in a sexual activity to ensure that each such individual has the affirmative consent of the other or others to engage in the sexual activity;

(B) affirmative consent shall be ongoing throughout a sexual activity and may be revoked at any time; and

(C) the existence of a dating relationship between the individuals involved, or the existence of past sexual relations between the individuals, should not be assumed to be an indicator of affirmative consent;

(2) a provision stating that a lack of affirmative consent shall not be excused during any disciplinary proceeding resulting from a complaint if the accused believed that the complainant consented to a sexual activity, or if the accused knew or reasonably should have known that the complainant was unable to consent to a sexual activity, under any of the following circumstances:

(A) The accused's belief in affirmative consent arose from the intoxication or recklessness of the accused;

(B) the accused did not take reasonable steps, in the circumstances known to the accused at the time, to ascertain whether the complainant affirmatively consented;

(C) the complainant was asleep or unconscious;

(D) the complainant was incapacitated due to the influence of drugs, alcohol or medication, so that the complainant could not understand the fact, nature or extent of the sexual activity; or

(E) the complainant was unable to communicate due to a mental or physical condition; and

(3) a provision stating that the standard of proof of preponderance of the evidence shall be used in determining whether the elements of the complaint against the accused have been demonstrated.

(d) Each postsecondary educational institution shall adopt detailed and victim-centered protocols regarding sexual assault, domestic violence, dating violence and stalking involving students. Such protocols shall comport with best practices and current professional standards and shall include, but not be limited to, the following:

(1) A requirement that the postsecondary educational institution's personnel shall provide appropriate protections for the privacy of individuals involved, including confidentiality;

(2) requirements concerning the initial response by the postsecondary educational institution's personnel to any report of an incident, including requirements specific to assisting the complainant, providing information in writing to the complainant about the importance of preserving evidence and identifying and locating witnesses;

(3) procedures for conducting preliminary complainant interviews
and follow-up complainant interviews, as appropriate;

(4) procedures for contacting and interviewing the accused and
witnesses;

(5) procedures for providing written notification to the complainant
about the availability of, and contact information for, on-campus and off-
campus resources and services, and coordination with law enforcement, as
appropriate;

(6) a requirement that the postsecondary educational institution
provide advocates and other supporting individuals to the complainant and
the accused throughout the investigation and adjudication process;

(7) procedures for investigating allegations that alcohol or drugs were
involved in the incident;

(8) procedures that ensure an individual who participates as a
complainant or witness in an investigation of sexual assault, domestic
violence, dating violence or stalking shall not be subject to disciplinary
sanctions for a violation of the institution’s student conduct policy at or
near the time of the incident, unless the institution determines that the
violation was egregious, including, but not limited to, an action that places
the health or safety of any other individual at risk or involves plagiarism,
cheating or academic dishonesty; and

(9) a comprehensive, trauma-informed training program for
postsecondary educational institution personnel who are involved in
investigating, adjudicating or otherwise supervising cases of sexual
assault, domestic violence, dating violence and stalking.

(e) Each postsecondary educational institution shall, to the extent
feasible, enter into memoranda of understanding, agreements or
collaborative partnerships with existing on-campus and community-based
organizations, including rape-crisis centers, to refer students for assistance
or make services available to students, including, but not limited to, the
accused. Such services shall include counseling, health, mental health,
victim advocacy and legal assistance resources.

(f) Each postsecondary educational institution shall implement
comprehensive prevention and outreach programs addressing sexual
assault, domestic violence, dating violence and stalking.

(1) A comprehensive prevention program shall include a range of
prevention strategies, including, but not limited to, empowerment
programming for victim prevention, awareness-raising campaigns, primary
prevention, bystander intervention and risk reduction.

(2) Comprehensive outreach programs shall be provided to current
students and shall also be included as part of every incoming student’s
orientation. Comprehensive outreach programs shall include, but not be
limited to, informing students about the following:

(A) The rights and responsibilities of students under the institution’s
policy on sexual assault, domestic violence, dating violence and stalking,
including the practical implications of the institution's affirmative consent
standard;
(B) the process for contacting and informing the student body,
campus organizations, athletic programs and student groups about the
institution's policy on sexual assault, domestic violence, dating violence
and stalking;
(C) on-campus and off-campus resources relating to sexual assault,
domestic violence, dating violence and stalking;
(D) prevention and bystander intervention training focused on sexual
assault, domestic violence, dating violence and stalking; and
(E) the warning signs of intimate partner and dating violence,
including information concerning the violence that can occur between
individuals in a current or previous intimate or dating relationship.
(g) The state board of regents may adopt rules and regulations as
necessary to administer the provisions of this section.
Sec. 2. This act shall take effect and be in force from and after its
publication in the statute book.