

Campus Sexual Assault: NJCASA Responds to S2478

Recently introduced S2478, requires institutions of higher education to adopt an affirmative consent standard and numerous other policies regarding sexual assault, domestic violence, dating violence, and stalking. NJCASA applauds the intent behind the legislation and commends the Sponsor, state Senator Beach, and the other legislators that have taken a leadership role in addressing the very real issue of campus-based sexual assault.

Of particular interest in S2478 is the requirement that institutions of higher education adopt “affirmative consent standards”. This topic has gained a lot of traction, as other states have officially adopted similar policies.

In New Jersey, 1992 case law determined in *State vs. M.T.S.*, that sexual penetration by “physical force” encompasses any sexual penetration accomplished without the affirmative and freely given permission of the victim. This is similar to what is hoped to be accomplished by what is commonly referred to as “yes means yes” legislation.

As with all policies, the benefit will be influenced by the ways in which campuses promote healthy sexuality and educate students about what it means to give and receive “affirmative consent”. Also in S2478, institutions of higher education will be required to implement comprehensive prevention and outreach programs, which could play an important role in disseminating messages around “affirmative consent” as a primary prevention strategy.

An additional critical piece of this proposed legislation is the requirement that institutions of higher education enter into an intentional partnership with a local sexual violence service organization. This is an important inclusion that NJCASA applauds. New Jersey’s county-based sexual violence service organizations are the front-line experts in supporting survivors of sexual violence. Because many campuses lack the appropriate staff infrastructure necessary to provide comprehensive sexual violence services, expanding partnerships with local service providers will generate better outcomes for survivors throughout New Jersey.

Important to note, however, is that while institutions of higher education that do not comply with these regulations will be subject to financial penalties, this legislation does not include a provision of an *increase* in financial resources to the county-based service organizations. Currently, New Jersey’s budget includes \$1.3M to support the county-based sexual violence service organization’s provision of service 365 days a year, 24 hours a day.

If this legislation has the impact intended, we should expect to see an increase request for services from our sexual violence service organizations. NJCASA encourages legislators to consider the impact this will have on service providers that are already operating with very limited resources.