

REFERENCE TITLE: universities; community colleges; sexual misconduct

State of Arizona
Senate
Fifty-fifth Legislature
Second Regular Session
2022

SB 1626

Introduced by
Senator Mesnard

AN ACT

AMENDING TITLE 15, CHAPTER 14, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 9.2; RELATING TO INSTITUTIONS OF HIGHER EDUCATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 15, chapter 14, Arizona Revised Statutes, is
3 amended by adding article 9.2, to read:

4 ARTICLE 9.2. SEXUAL MISCONDUCT

5 15-1893. Definitions

6 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

7 1. "EMPLOYEE" MEANS AN INDIVIDUAL WHO IS EMPLOYED FULL TIME OR PART
8 TIME AT AN INSTITUTION.

9 2. "INSTITUTION" MEANS ANY UNIVERSITY UNDER THE JURISDICTION OF THE
10 ARIZONA BOARD OF REGENTS OR COMMUNITY COLLEGE AS DEFINED IN SECTION
11 15-1401.

12 3. "REPORTING PARTY" MEANS A STUDENT OR EMPLOYEE WHO REPORTS HAVING
13 EXPERIENCED AN INCIDENT OF SEXUAL MISCONDUCT TO THE INSTITUTION.

14 4. "RESPONDING PARTY" MEANS A STUDENT OR EMPLOYEE WHO HAS BEEN
15 ACCUSED OF COMMITTING AN ALLEGED INCIDENT OF SEXUAL MISCONDUCT.

16 5. "SEXUAL MISCONDUCT" MEANS AN INCIDENT OF ANY OF THE FOLLOWING:

17 (a) SEXUAL HARASSMENT. FOR THE PURPOSES OF THIS SUBDIVISION,
18 "SEXUAL HARASSMENT" MEANS SEXUAL HARASSING AS DEFINED IN SECTION 32-3251,
19 PARAGRAPH 16, SUBDIVISION (aa).

20 (b) SEXUAL VIOLENCE. FOR THE PURPOSES OF THIS SUBDIVISION, "SEXUAL
21 VIOLENCE" MEANS A PHYSICAL SEXUAL ACT PERPETRATED AGAINST A PERSON'S WILL
22 OR FOR WHICH A PERSON IS INCAPABLE OF GIVING CONSENT.

23 (c) DOMESTIC VIOLENCE AS DEFINED IN SECTION 13-3601.

24 (d) STALKING AS PRESCRIBED IN SECTION 13-2923.

25 (e) HARASSMENT OR VIOLENCE BASED ON SEXUAL ORIENTATION OR GENDER.

26 (f) ANY OTHER SEX-BASED HARASSMENT OR VIOLENCE.

27 6. "STUDENT" MEANS AN INDIVIDUAL WHO IS PARTICIPATING OR SEEKING TO
28 PARTICIPATE IN A CREDIT-BEARING PROGRAM THROUGH AN INSTITUTION, WHETHER
29 PART TIME OR FULL TIME OR AS AN EXTENSION STUDENT, OR WHO HAS TAKEN A
30 LEAVE OF ABSENCE OR WITHDRAWN FROM THE INSTITUTION DUE TO BEING A VICTIM
31 OF SEXUAL MISCONDUCT.

32 15-1893.01. Prevention of sexual misconduct on campus task
33 force; membership; duties; base survey

34 A. THE PREVENTION OF SEXUAL MISCONDUCT ON CAMPUS TASK FORCE IS
35 ESTABLISHED CONSISTING OF THE FOLLOWING MEMBERS:

36 1. A LICENSED CLINICAL SOCIAL WORKER WHO HAS EXPERIENCE IN
37 ASSISTING VICTIMS OF RAPE AND DOMESTIC VIOLENCE AND WHO IS APPOINTED BY
38 THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

39 2. AN ATTORNEY WHO IS LICENSED IN THIS STATE, WHO SPECIALIZES
40 EITHER IN SEXUAL ASSAULT AND DOMESTIC VIOLENCE OR IN WOMEN'S ADVOCACY AND
41 WHO IS APPOINTED BY THE PRESIDENT OF THE SENATE.

42 3. AN ATTORNEY WHO IS LICENSED IN THIS STATE, WHO SPECIALIZES IN
43 DEFENDING THOSE ACCUSED OF SEXUAL MISCONDUCT AND WHO IS APPOINTED BY THE
44 SPEAKER OF THE HOUSE OF REPRESENTATIVES.

1 4. A MEMBER OF THE SENATE WHO IS APPOINTED BY THE PRESIDENT OF THE
2 SENATE.

3 5. A MEMBER OF THE HOUSE OF REPRESENTATIVES WHO IS APPOINTED BY THE
4 SPEAKER OF THE HOUSE OF REPRESENTATIVES.

5 6. A REPRESENTATIVE FROM THE ARIZONA BOARD OF REGENTS WHO IS
6 APPOINTED BY THE PRESIDENT OF THE SENATE.

7 7. AN EXECUTIVE REPRESENTATIVE FROM EACH UNIVERSITY UNDER THE
8 JURISDICTION OF THE ARIZONA BOARD OF REGENTS, EACH OF WHOM IS APPOINTED BY
9 THE GOVERNOR.

10 8. AN EXECUTIVE REPRESENTATIVE FROM A COMMUNITY COLLEGE DISTRICT IN
11 A COUNTY WITH A POPULATION OF FIVE HUNDRED THOUSAND OR MORE PERSONS WHO IS
12 APPOINTED BY THE GOVERNOR.

13 9. AN EXECUTIVE REPRESENTATIVE FROM A COMMUNITY COLLEGE DISTRICT IN
14 A COUNTY WITH A POPULATION OF LESS THAN FIVE HUNDRED THOUSAND PERSONS WHO
15 IS APPOINTED BY THE GOVERNOR.

16 10. A TITLE IX COORDINATOR FROM AN INSTITUTION WHO IS APPOINTED BY
17 THE GOVERNOR. FOR THE PURPOSES OF THIS PARAGRAPH, "TITLE IX" MEANS TITLE
18 IX OF THE EDUCATION AMENDMENTS ACT OF 1972.

19 11. A RESIDENT OF THIS STATE WHO IS EMPLOYED BY A PUBLIC OR PRIVATE
20 NONPROFIT ORGANIZATION THAT SERVES VICTIMS OF SEXUAL VIOLENCE AND WHO IS
21 APPOINTED BY THE GOVERNOR.

22 12. A RESIDENT OF THIS STATE WHO IS A RESEARCHER WITH EXPERIENCE IN
23 DEVELOPING AND DESIGNING SEXUAL MISCONDUCT CLIMATE SURVEYS AND WHO IS
24 APPOINTED BY THE GOVERNOR.

25 13. A RESIDENT OF THIS STATE WHO IS A RESEARCHER WITH EXPERIENCE IN
26 STATISTICS, DATA ANALYTICS OR ECONOMETRICS AND WHO IS APPOINTED BY THE
27 GOVERNOR.

28 B. THE TASK FORCE SHALL ELECT A CHAIRPERSON FROM AMONG THE MEMBERS
29 APPOINTED PURSUANT TO SUBSECTION A OF THIS SECTION.

30 C. THE TASK FORCE SHALL DO ALL OF THE FOLLOWING:

31 1. REVIEW ANNUAL REPORTS SUBMITTED PURSUANT TO SECTION 15-1893.03.

32 2. REVIEW POLICIES PROHIBITING SEXUAL MISCONDUCT THAT ARE IN PLACE
33 AT INSTITUTIONS.

34 3. ADVISE THE ARIZONA BOARD OF REGENTS AND INSTITUTIONS ON ACTIONS
35 RELATING TO THE PREVENTION OF SEXUAL MISCONDUCT TO BE TAKEN BY
36 INSTITUTIONS.

37 4. DEVELOP AND ANNUALLY UPDATE A BASE SURVEY TO BE USED BY
38 INSTITUTIONS AND PROVIDE THE INSTITUTIONS WITH RECOMMENDATIONS REGARDING
39 THE CONTENT, TIMING AND DISTRIBUTION OF THE SURVEY. THE BASE SURVEY MUST
40 BE ABLE TO BE DISTRIBUTED ONLINE. IN DEVELOPING THE BASE SURVEY, THE TASK
41 FORCE SHALL USE BEST PRACTICES FROM PEER-REVIEWED RESEARCH AND CONSULT
42 WITH INDIVIDUALS WITH EXPERTISE IN DEVELOPING SEXUAL MISCONDUCT CLIMATE
43 SURVEYS.

44 D. THE BASE SURVEY DEVELOPED UNDER SUBSECTION C, PARAGRAPH 4 OF
45 THIS SECTION MUST GATHER AT LEAST THE FOLLOWING INFORMATION:

1 1. THE NUMBER AND TYPE OF INCIDENTS, WHETHER OFFICIALLY REPORTED OR
2 UNREPORTED, OF SEXUAL MISCONDUCT AT THE INSTITUTION.

3 2. WHEN EACH INCIDENT OF SEXUAL MISCONDUCT OCCURRED. THE SURVEY
4 MAY NOT REQUIRE THE DISCLOSURE OF A SPECIFIC DATE OR TIME OF AN INCIDENT.

5 3. WHERE, IN GENERAL TERMS, EACH INCIDENT OF SEXUAL MISCONDUCT
6 OCCURRED. THE SURVEY MAY NOT REQUIRE THE DISCLOSURE OF THE SPECIFIC
7 LOCATION OF AN INCIDENT.

8 4. WHO PERPETRATED THE SEXUAL MISCONDUCT, SUCH AS STUDENT, EMPLOYEE
9 OR THIRD-PARTY VENDOR OR SOMEONE ELSE.

10 5. STUDENT AND EMPLOYEE AWARENESS OF THE INSTITUTION'S POLICIES AND
11 PROCEDURES RELATED TO SEXUAL MISCONDUCT.

12 6. IF AN INCIDENT OF SEXUAL MISCONDUCT WAS REPORTED TO THE
13 INSTITUTION, TO WHOM IT WAS REPORTED.

14 7. IF AN INCIDENT OF SEXUAL MISCONDUCT WAS NOT REPORTED TO THE
15 INSTITUTION, WHY THE INDIVIDUAL CHOSE NOT TO REPORT.

16 8. WHETHER AN INCIDENT OF SEXUAL MISCONDUCT WAS REPORTED TO A
17 TEACHER, FRIEND, PEER OR FAMILY MEMBER.

18 9. IF A STUDENT OR EMPLOYEE REPORTED AN INCIDENT OF SEXUAL
19 MISCONDUCT, WHETHER THE INDIVIDUAL WAS INFORMED OF OR REFERRED TO LOCAL,
20 STATE, CAMPUS OR OTHER RESOURCES, OR VICTIM SUPPORT SERVICES, SUCH AS
21 COUNSELING OR MEDICAL CARE.

22 10. DEMOGRAPHIC INFORMATION THAT COULD BE USED TO IDENTIFY GROUPS
23 THAT ARE AT RISK OF SEXUAL MISCONDUCT, INCLUDING RACE, NATIONALITY, SEX,
24 SEXUAL ORIENTATION, DISABILITY STATUS OR IMMIGRATION STATUS.

25 11. WHETHER A STUDENT DECIDED TO WITHDRAW, TRANSFER OR TAKE A LEAVE
26 OF ABSENCE FROM THE INSTITUTION, OR CONSIDERED DOING SO, AS A RESULT OF
27 BEING A REPORTING PARTY.

28 12. WHETHER A STUDENT DECIDED TO WITHDRAW, TRANSFER OR TAKE A LEAVE
29 OF ABSENCE FROM THE INSTITUTION, OR CONSIDERED DOING SO, AS A RESULT OF
30 BEING A RESPONDING PARTY.

31 13. COMMUNITY ATTITUDES TOWARD SEXUAL MISCONDUCT, INCLUDING THE
32 WILLINGNESS OF BYSTANDERS TO INTERVENE.

33 E. THE TASK FORCE SHALL DISTRIBUTE THE BASE SURVEY DEVELOPED UNDER
34 SUBSECTION C, PARAGRAPH 4 OF THIS SECTION TO THE INSTITUTIONS FOR USE BY
35 THE INSTITUTIONS. AN INSTITUTION:

36 1. MAY ADD ADDITIONAL QUESTIONS TO THE BASE SURVEY.

37 2. MAY NOT FORCE ANY STUDENT OR EMPLOYEE TO PARTICIPATE IN THE BASE
38 SURVEY.

39 3. SHALL ADMINISTER THE BASE SURVEY OPENLY TO ALL STUDENTS AND
40 EMPLOYEES.

41 4. SHALL NOTIFY ALL STUDENTS AND EMPLOYEES OF AND INVITE THEM TO
42 PARTICIPATE IN THE BASE SURVEY.

43 5. SHALL DISTRIBUTE THE BASE SURVEY ONLINE AND PROVIDE REASONABLE
44 ACCOMMODATIONS TO INDIVIDUALS WITH DISABILITIES TO TAKE THE SURVEY.

1 15-1893.02. Sexual misconduct information: availability to
2 students and employees

3 A. EACH INSTITUTION SHALL MAKE ALL OF THE FOLLOWING INFORMATION
4 REGARDING SEXUAL MISCONDUCT AVAILABLE TO STUDENTS AND EMPLOYEES:

5 1. HOW TO ANONYMOUSLY REPORT INFORMATION ABOUT AN INCIDENT OF
6 SEXUAL MISCONDUCT WITHOUT GIVING SPECIFICS OR FILING AN OFFICIAL REPORT.

7 2. THE INSTITUTION'S POLICIES REGARDING SEXUAL MISCONDUCT AND
8 REPORTING.

9 3. EXISTING LAWS RELATING TO SEXUAL MISCONDUCT AND THE RIGHTS OF
10 REPORTING PARTIES AND RESPONDING PARTIES.

11 4. THE INSTITUTION'S ANNUAL REPORT SUBMITTED PURSUANT TO SECTION
12 15-1893.03.

13 5. WHO TO CONTACT DURING OR IMMEDIATELY FOLLOWING AN EMERGENCY
14 SITUATION INVOLVING SEXUAL MISCONDUCT.

15 6. WHO TO CONTACT TO MAKE A REPORT FOLLOWING AN INCIDENT OF SEXUAL
16 MISCONDUCT.

17 B. EACH INSTITUTION SHALL MAKE THE INFORMATION PRESCRIBED IN
18 SUBSECTION A OF THIS SECTION AVAILABLE BY BOTH:

19 1. POSTING THE INFORMATION IN A CLEAR AND EASILY ACCESSIBLE
20 LOCATION ON THE INSTITUTION'S WEBSITE.

21 2. DISPLAYING IN CONGREGATE AREAS, INCLUDING COMMON SPACES,
22 BATHROOMS AND DORMITORIES, A WEBSITE ADDRESS THAT INCLUDES THE INFORMATION
23 OR DIRECTIONS ON HOW TO ACCESS THE INFORMATION.

24 15-1893.03. Annual report; posting

25 A. ON OR BEFORE NOVEMBER 1 OF EACH YEAR, EACH INSTITUTION SHALL
26 SUBMIT A REPORT TO THE PRESIDENT OF THE SENATE, THE SPEAKER OF THE HOUSE
27 OF REPRESENTATIVES AND THE PREVENTION OF SEXUAL MISCONDUCT ON CAMPUS TASK
28 FORCE ESTABLISHED BY SECTION 15-1893.01, AND SHALL SUBMIT A COPY OF THE
29 REPORT TO THE SECRETARY OF STATE, THAT INCLUDES ALL OF THE FOLLOWING
30 INFORMATION:

31 1. THE TOTAL NUMBER OF ALLEGATIONS OF SEXUAL MISCONDUCT REPORTED TO
32 THE INSTITUTION'S TITLE IX COORDINATOR BY A STUDENT OR EMPLOYEE OF THE
33 INSTITUTION AGAINST ANOTHER STUDENT OR EMPLOYEE OF THE INSTITUTION. FOR
34 THE PURPOSES OF THIS PARAGRAPH, "TITLE IX" MEANS TITLE IX OF THE EDUCATION
35 AMENDMENTS ACT OF 1972.

36 2. THE NUMBER OF STUDENTS AND EMPLOYEES FOUND TO BE RESPONSIBLE FOR
37 VIOLATING THE INSTITUTION'S POLICIES PROHIBITING SEXUAL MISCONDUCT AND THE
38 NUMBER OF STUDENTS AND EMPLOYEES WHO FACED DISCIPLINARY ACTION.

39 3. THE NUMBER OF STUDENTS AND EMPLOYEES FOUND TO BE NOT RESPONSIBLE
40 FOR VIOLATING THE INSTITUTION'S POLICIES PROHIBITING SEXUAL MISCONDUCT.

41 4. THE NUMBER OF DISCIPLINARY ACTIONS IMPOSED BY THE INSTITUTION AS
42 A RESULT OF A FINDING OF RESPONSIBILITY FOR VIOLATING AN INSTITUTION'S
43 POLICIES PROHIBITING SEXUAL MISCONDUCT. THE REPORT SHALL PROVIDE
44 INFORMATION IN AN ANONYMOUS MANNER THAT COMPLIES WITH STATE AND FEDERAL
45 PRIVACY LAWS.

1 5. THE NUMBER OF LAW ENFORCEMENT INVESTIGATIONS INITIATED IN
2 RESPONSE TO REPORTS OF SEXUAL MISCONDUCT BROUGHT FORWARD BY STUDENTS AND
3 EMPLOYEES OF THE INSTITUTION AGAINST ANOTHER STUDENT OR EMPLOYEE OF THE
4 INSTITUTION, IF KNOWN.

5 6. THE NUMBER OF STUDENTS WHO REPORTED SEXUAL MISCONDUCT AND WHO
6 TOOK A LEAVE OF ABSENCE, TRANSFERRED, WITHDREW OR WERE EXPELLED FROM THE
7 INSTITUTION.

8 7. STEPS THE INSTITUTION HAS TAKEN TO MITIGATE RISKS OF SEXUAL
9 MISCONDUCT, PROVIDE RESOURCES TO AFFECTED STUDENTS AND EMPLOYEES AND
10 COMMUNICATE WITH STUDENTS AND EMPLOYEES.

11 8. THE RESULTS AND FINDINGS OF THE BASE SURVEY ADMINISTERED UNDER
12 SECTION 15-1893.01, SUBSECTION E.

13 9. ANY OTHER RELEVANT INFORMATION THE INSTITUTION WISHES TO
14 PROVIDE.

15 B. THE INSTITUTION MUST POST THE REPORT REQUIRED BY SUBSECTION A OF
16 THIS SECTION ON THE INSTITUTION'S WEBSITE SO THAT IT IS PUBLICLY AVAILABLE
17 AND EASILY ACCESSIBLE TO STUDENTS AND EMPLOYEES.