

# SENATE BILL REPORT

## 2SHB 1522

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As Passed Senate, April 5, 2023

**Title:** An act relating to addressing sexual misconduct at scholarly or professional associations.

**Brief Description:** Addressing sexual misconduct at scholarly or professional associations.

**Sponsors:** House Committee on Appropriations (originally sponsored by Representatives Pollet, Leavitt, Berry and Macri).

**Brief History:** Passed House: 3/8/23, 94-0.

**Committee Activity:** Higher Education & Workforce Development: 3/15/23, 3/22/23 [DP].

**Floor Activity:** Passed Senate: 4/5/23, 48-0.

### Brief Summary of Bill

- Requires institutions to ask and require applicants to sign statements regarding substantiated findings of sexual misconduct at scholarly or professional associations before an official offer of employment.
- Requires institutions to request in writing that relevant scholarly or professional associations disclose information about substantiated findings of sexual misconduct declared by the applicant before an official offer of employment.

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### SENATE COMMITTEE ON HIGHER EDUCATION & WORKFORCE DEVELOPMENT

**Majority Report:** Do pass.

Signed by Senators Randall, Chair; Nobles, Vice Chair; Holy, Ranking Member; Hawkins and Lias.

**Staff:** Alicia Kinne-Clawson (786-7407)

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

**Background:** In 2020, the Legislature enacted a series of requirements relating to sexual misconduct allegations and investigations that must be followed by institutions of higher education during the hiring process.

Before an official offer of employment, a postsecondary educational institution (institution) must request an applicant to sign a statement with three items:

- a declaration of whether the applicant is the subject of any substantiated findings of sexual misconduct in any current or former employment or is currently being investigated for, or left a position during an investigation into, a violation of sexual misconduct, and if so, an explanation of the situation;
- an authorization to permit the applicant's current and past employers to disclose to the hiring institution any sexual misconduct committed by the applicant and to make copies of all documents in the previous employer's personnel, investigative, or other files relating to sexual misconduct by the applicant available to the hiring institution; and
- a release from liability for the applicant's current and past employers, and employees acting on behalf of the employer, for providing the information in items one and two.

Before an official offer of employment, the institution must request the applicant's current and past employers provide copies of all documents, if any, related to sexual misconduct in an employee's personnel file. The request must include a copy of the applicant's declaration and signed statement. The institution must also ask the applicant if they are the subject of any substantiated findings of, is currently being investigated for, or has left a position during an investigation into, sexual misconduct, and if so, an explanation of the situation. The institution may only use the information received for the purpose of evaluating the applicant's qualifications for the position for which the person applied.

An institution that receives a request to disclose information about substantiated findings or investigations into sexual misconduct about a current or previous employee must provide the information requested and make copies of documents related to substantiated sexual misconduct in the applicant's personnel file available to the requesting institution. In addition, an institution must disclose information about substantiated findings of sexual misconduct to any employer conducting reference or background checks on a current or former employee, even if the employer conducting the reference check does not specifically ask for such information.

An institution may not hire an applicant who does not sign the statement attesting to any sexual misconduct findings or investigations.

**Summary of Bill:** The official statement an applicant must sign prior to an official offer of employment must include:

- declaration of whether the applicant is a subject of any substantiated findings of sexual misconduct by a professional association;
- authorization for the applicant's current and past relevant associations to disclose

- sexual misconduct; and
- release of the applicants current and past relevant association from liability for providing disclosure of sexual misconduct.

Prior to an official offer of employment to an applicant, a postsecondary institution must request in writing the applicant's current and past postsecondary educational institution employers or relevant associations, when a finding as been declared by the applicant, provide information about if the applicant is the subject of any substantiated findings of sexual misconduct, is currently being investigated for, or has left a position during an investigation into a violation of any sexual misconduct policy.

The student achievement council must convene a work group and report to the Legislature by November 30, 2024, regarding the ability of institutions to consider if applicants or current employees have committed sexual misconduct at meetings or conferences of academic and professional associations. The work group must consider how institutions and Washington agencies may encourage adoption of policies and procedures regarding sexual misconduct at association events.

"Association" means a scholarly or professional society with a code of conduct forbidding sexual misconduct at association activities or events and an established procedure for allegations the code of conduct has been violated.

"Investigation" and "substantiated findings" are defined to include processes and procedures provided for under Title IX.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: Two years ago this Legislature lead the nation in prohibiting employees of higher education institutions signing non-disclosure agreements and walking away from violations of sexual misconduct. Amending our national leading pass the harasser legislation. Recent research has found that 50 percent of the graduate students or faculty who are harassed or assaulted have had that occur at an association meeting or conference. That is not covered by Title IX policy. This will put pressure on those associations to have proper investigations. The best way to protect survivors of sexual assault and harassment is to prevent it before it happens. This bill helps do that. This bill will help build legitimacy and trust in the system. One in four sexual harassment incidents occur off campus. Title IX offices are not empowered or required to investigate sexual misconduct that occurs off campus at association meetings. The

associations have made significant progress regarding adopting codes of conduct. Students are particularly vulnerable at association events. Only a tiny minority of faculty need to cause a problem to create a big impact. The current version requires only disclosure of substantiated findings and only when the investigation was conducted in alignment with title IX requirements. It is clear that institutions only have to contact associations if the candidate discloses findings and the institution is intending to hire the candidate.

**Persons Testifying:** PRO: Representative Gerry Pollet, Prime Sponsor; Nancy Canales-Montiel, WA Student Association; Amanda Kost, University of Washington; Bernadette Jungblut; Samuel Ligon; Collin Bannister, ASWSU.

**Persons Signed In To Testify But Not Testifying:** No one.