

B-Engrossed
House Bill 3456

Ordered by the House June 12
Including House Amendments dated April 10 and June 12

Sponsored by Representatives HARTMAN, GAMBA; Representatives BOWMAN, GRAYBER, HELM, HOLVEY, HUDSON, NGUYEN H, PHAM K, REYNOLDS

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Establishes Sexual Misconduct Survey Council. Requires council to biennially distribute base sexual misconduct climate survey and recommendations regarding use of study to each institution of higher education.

Requires each institution of higher education in state to biennially use base survey from council to conduct sexual misconduct climate survey of all students enrolled at institution. Requires each institution to submit aggregate summary of survey results to Higher Education Coordinating Commission and post copy of summary and other reports on institution's website.

Requires each institution of higher education to hire certified advocate. Lists exceptions for when hiring not required. Details duties of certified advocate.

Requires each institution of higher education to enter into and maintain memorandum of understanding with community-based domestic and sexual violence advocacy agency in same county as institution. Establishes exception for smaller satellite or branch campuses. Details requirements of memorandum of understanding.

Prohibits institution of higher education from punishing students who report incidents of sexual misconduct due to stated violations of institution's policies that are discovered during investigation into misconduct.

Requires each institution of higher education to prepare and deliver sexual misconduct primary prevention and awareness training that must be attended annually by each student and employee of institution. Details requirements of training.

Requires each institution of higher education to waive certain academic or any disciplinary record requirements required to demonstrate academic success that are part of institution-provided program or activity identified by institution for students who experience sexual misconduct and obtain waiver in specified manner.

Requires each institution of higher education to provide annual report to Legislative Assembly, Higher Education Coordinating Commission and Director of Human Services detailing specified aspects of reported sexual misconduct and institution responses during previous academic year.

Requires Higher Education Coordinating Commission to submit annual report to interim committees of Legislative Assembly related to higher education identifying each instance during previous academic year in which institution of higher education either violated provision of Act or failed to carry out provision of Act.

Appropriates moneys to Higher Education Coordinating Commission for duties relating to Sexual Misconduct Survey Council.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to sexual misconduct at institutions of higher education; and declaring an emergency.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. As used in sections 1 to 12 of this 2023 Act:**

5 (1) "Certified advocate" and "qualified victim services program" have the meanings given
6 those terms in ORS 40.264.

7 (2) "Institution of higher education" has the meaning given that term in ORS 350.253.

8 (3) "Reporting party" means a student or employee at an institution of higher education
9 who reports having experienced an incident of sexual misconduct to the institution.

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (4) “Sexual misconduct” means an incident of sexual harassment, sexual violence, inti-
2 mate partner violence, domestic violence, sexual exploitation, stalking, harassment or vi-
3 olence based on sexual orientation or gender identity or expression, or other gender-based
4 harassment or violence.

5 (5) “Student” means an individual who:

6 (a) Is enrolled or who is seeking to enroll in a credit-bearing program at an institution
7 of higher education, whether part-time, full-time or as an extension student; or

8 (b) Who has taken a leave of absence or withdrawn from the institution of higher edu-
9 cation after reporting an incident of sexual misconduct to the Title IX coordinator at the
10 institution.

11 (6) “Trauma-informed response” means a response involving an understanding of the
12 complexities of intimate partner violence, domestic violence, sexual assault and stalking
13 through training centered on the neurobiological impact of trauma, the influence of societal
14 myths and stereotypes surrounding the causes and impacts of trauma, an understanding of
15 perpetration methodology and knowledge of how to conduct an effective investigation.

16 **SECTION 2.** (1) The Sexual Misconduct Survey Council is established, consisting of 19
17 voting members and four nonvoting members.

18 (2) The four nonvoting members of the council shall be appointed as follows:

19 (a) The President of the Senate shall appoint two nonvoting members from among
20 members of the Senate; and

21 (b) The Speaker of the House of Representatives shall appoint two nonvoting members
22 from among members of the House of Representatives.

23 (3)(a) The executive director of the Higher Education Coordinating Commission, in con-
24 sultation with the Attorney General’s Sexual Assault Task Force and the Oregon Coalition
25 Against Domestic and Sexual Violence, shall appoint the following 17 voting members of the
26 council:

27 (A) One individual who represents a public university listed in ORS 352.002;

28 (B) One individual who represents a private institution of higher education;

29 (C) One individual who represents a community college operated under ORS chapter 341;

30 (D) One Title IX coordinator from an institution of higher education that awards
31 bachelor’s degrees;

32 (E) One individual from the Oregon Coalition Against Domestic and Sexual Violence;

33 (F) One representative from the Attorney General’s Sexual Assault Task Force;

34 (G) One individual from a national coalition focused on ending campus sexual violence,
35 including but not limited to the Every Voice Coalition;

36 (H) Two students who are enrolled at a public university listed in ORS 352.002 and who
37 are affiliated with a group or organization that advocates for multicultural, diversity or
38 antidiscrimination training;

39 (I) Two students who are enrolled at a private institution of higher education and who
40 are affiliated with a group or organization that advocates for multicultural, diversity or
41 antidiscrimination training;

42 (J) Two students who are enrolled at a community college operated under ORS chapter
43 341 and who are affiliated with a group or organization that advocates for multicultural, di-
44 versity or antidiscrimination training;

45 (K) One individual who has demonstrated experience in the development and design of

1 sexual misconduct climate surveys;

2 (L) One individual who has demonstrated expertise in statistics, data analytics or
3 econometrics and experience in higher education survey analysis;

4 (M) One individual who is a medical or mental health care professional with experience
5 working with victims of trauma at a health services program at an institution of higher ed-
6 ucation; and

7 (N) One individual from a community-based domestic and sexual violence advocacy
8 agency.

9 (b) An individual appointed under paragraph (a)(E) to (G) of this subsection may appoint
10 a designee to serve on the council in place of the individual appointed.

11 (4) In addition to the individuals described in subsections (2) and (3) of this section, the
12 Attorney General and the executive director of the commission, or the designee of the At-
13 torney General or the executive director of the commission, shall serve as voting members
14 of the council.

15 (5) In appointing members to the council, the appointing authorities shall:

16 (a) Seek to ensure that membership on the council is reflective of the gender, racial and
17 geographic diversity of Oregon; and

18 (b) Seek to appoint individuals with a background, education or experience in the fields
19 of public health, survey design or Title IX of the Education Amendments Act of 1972, 20
20 U.S.C. 1681 to 1688, as amended.

21 (6)(a) The term of office of each individual appointed to the council under subsections (2)
22 and (3) of this section is two years. Before the expiration of the term of a member, the ap-
23 pointing authority shall appoint a successor. A member is eligible for reappointment.

24 (b) If there is a vacancy for any cause, the appointing authority shall make an appoint-
25 ment to become immediately effective for the unfinished term.

26 (7) The council shall select one or more of its voting members as chairperson or as
27 cochairpersons.

28 (8) A majority of the voting members of the council constitutes a quorum for the trans-
29 action of business.

30 (9) The Higher Education Coordinating Commission shall provide staff support to the
31 council.

32 (10)(a) Except as provided in paragraphs (b) and (c) of this subsection, members of the
33 council are not entitled to compensation for their service on the council.

34 (b) To the extent moneys are available, members of the council who are not members
35 of the Legislative Assembly shall be reimbursed for actual and necessary travel and other
36 expenses incurred by the members in the performance of official duties in the manner and
37 amount as provided in ORS 292.495.

38 (c) Legislative members of the council shall be entitled to payment of compensation and
39 expense reimbursement under ORS 171.072, payable from funds appropriated to the Legisla-
40 tive Assembly.

41 **SECTION 3.** (1) At least once every two years, the Sexual Misconduct Survey Council
42 established under section 2 of this 2023 Act shall:

43 (a) Develop a base survey for distribution to institutions of higher education; and

44 (b) Provide each institution of higher education with any recommendations regarding use
45 of the survey, including but not limited to additional content that could be added, the timing

1 for conducting the survey, recommendations for achieving statistically valid response rates
2 and how the survey results should be interpreted.

3 (2) In developing the base survey required under subsection (1) of this section, the
4 council shall:

5 (a) Utilize best practices from peer-reviewed research and consult with individuals with
6 expertise in the development and use of sexual misconduct climate surveys by post-secondary
7 institutions of education;

8 (b) Review sexual misconduct climate surveys that have been developed and previously
9 used by post-secondary institutions of education;

10 (c) Provide opportunities for written comment from organizations that work directly with
11 victims of sexual misconduct in order to ensure the adequacy and appropriateness of the
12 proposed content;

13 (d) Consult with institutions of higher education on strategies for optimizing the effec-
14 tiveness of the survey;

15 (e) Account for the diverse needs and differences of institutions of higher education;

16 (f) Provide opportunities for student feedback through optional comment boxes at the
17 end of the survey and by providing a time and space for students to comment to the council
18 on what could be done to improve the sexual misconduct climate survey described in section
19 4 of this 2023 Act so that the results of the survey convey an accurate representation of
20 happenings on campus; and

21 (g) Use a trauma-informed framework.

22 (3) The base survey shall gather data on topics including but not limited to:

23 (a) The number and type of incidents, both reported and unreported, of sexual miscon-
24 duct at the institution of higher education;

25 (b) When incidents of sexual misconduct occurred, without requiring a specific date or
26 time;

27 (c) Whether incidents of sexual misconduct occurred on campus, off campus, overseas
28 or virtually;

29 (d) If the sexual misconduct was perpetrated by a student, faculty member, nonfaculty
30 staff member, third-party vendor to the institution of higher education or other individual;

31 (e) How aware students are of institutional policies and procedures related to campus
32 sexual misconduct;

33 (f) Whether a student reported sexual misconduct, with specific follow-up questions re-
34 garding:

35 (A) For students who reported sexual misconduct, whether the report was made to a
36 campus resource or law enforcement agency; and

37 (B) For students who did not report sexual misconduct, why the student chose not to
38 make a report;

39 (g) Whether students who experienced sexual misconduct disclosed the sexual miscon-
40 duct to a friend, peer, family member, faculty or nonfaculty staff member, campus resource
41 or law enforcement official;

42 (h) For a student who reported sexual misconduct:

43 (A) Whether the student was informed of or referred to local, state, campus or other
44 resources, or to victim support services, including but not limited to appropriate medical
45 care, mental health counseling and legal services; and

1 (B) Whether the student was provided with protection from retaliation, access to
2 institution-based supportive measures or institution-based accommodations and criminal
3 justice remedies;

4 (i) For a student who experienced assault, the types of contextual factors that were
5 present during the assault, including but not limited to the involvement of force, incapacitation,
6 coercion, drugs or alcohol;

7 (j) Demographic information that could be used to identify at-risk groups, including but
8 not limited to sex, race, ethnicity, national origin, economic status, disability status, gender
9 identity, immigration status and sexual orientation;

10 (k) Perceptions of campus safety among members of the campus community;

11 (L) Student confidence in the institution's ability to protect against and respond to inci-
12 dents of sexual misconduct;

13 (m) Whether students who reported sexual misconduct took a leave of absence from the
14 institution, or considered transferring to another institution or withdrawing;

15 (n) Whether students who experienced sexual misconduct withdrew from any classes or
16 were placed on academic probation;

17 (o) Whether students experienced any financial impacts from sexual misconduct or the
18 institution's response to a report of sexual misconduct;

19 (p) Whether students experienced any negative health impacts from sexual misconduct
20 or the institution's response to a report of sexual misconduct, including but not limited to
21 post-traumatic stress disorder, anxiety, depression, chronic pain or eating disorders;

22 (q) Community attitudes towards sexual misconduct, including but not limited to
23 students' willingness to intervene as bystanders; and

24 (r) Any other questions the council determines would be beneficial.

25 (4) A base survey developed under this section:

26 (a) Shall:

27 (A) Include a "decline to state" and "not applicable" option for each question;

28 (B) Be offered to all students enrolled at the institution of higher education, including
29 students who are on a leave of absence or studying abroad;

30 (C) Be created taking into account all reasonable measures to ensure that an adequate,
31 random and representative sample of students complete the survey; and

32 (D) Be administered online, with reasonable accommodations provided to all students in
33 order to ensure accessibility; and

34 (b) May not require the disclosure of any personally identifiable information.

35 **SECTION 4.** (1) At least once every two years, each institution of higher education shall
36 conduct a sexual misconduct climate survey of all students enrolled at the institution.

37 (2)(a) A survey conducted under this section shall include:

38 (A) The most recent base survey provided by the Sexual Misconduct Survey Council un-
39 der section 3 of this 2023 Act; and

40 (B) Any additional campus-specific questions chosen by the institution, provided that the
41 additional questions do not:

42 (i) Require the disclosure of any personally identifiable information; and

43 (ii) Are not objectively traumatizing for victims of sexual misconduct.

44 (b) The council may review any questions that are added by an institution under para-
45 graph (a)(B) of this subsection to ensure that the questions do not violate the requirements

1 set forth in paragraphs (a)(B)(i) or (ii) of this subsection. If the council determines that an
2 institution has included questions that violate paragraphs (a)(B)(i) or (ii) of this subsection
3 the council, and any appropriate experts appointed by the council, shall assist the institution
4 in developing appropriate campus-specific questions.

5 (3) No later than 120 days after completing a survey under this section, each institution
6 of higher education shall:

7 (a) Submit an aggregate summary of the results to the Higher Education Coordinating
8 Commission; and

9 (b) Post on the institution's website in an easily accessible manner:

10 (A) A summary of the results of the survey;

11 (B) Any annual security reports required to be reported under federal law, including but
12 not limited to the Annual Security Report required to be reported under the Clery Act of 1990
13 (P.L. 101-542), as amended; and

14 (C) A link to the data repository for summaries of sexual misconduct climate surveys
15 established by the commission under section 5 of this 2023 Act.

16 **SECTION 5.** (1) The Higher Education Coordinating Commission shall establish a data
17 repository for all summaries of sexual misconduct climate surveys conducted by institutions
18 of higher education and submitted to the commission under section 4 of this 2023 Act.

19 (2) The data repository established under this section must:

20 (a) Be made available to the public in an easily accessible manner on the website of the
21 commission; and

22 (b) Except as provided in subsection (3) of this section, include all sexual misconduct
23 climate survey data received by the commission.

24 (3) Prior to making the data of any sexual misconduct climate survey the commission
25 receives publicly available, the commission shall ensure that the data is anonymized and does
26 not contain any personally identifiable information. The commission may alter the data it
27 receives to the degree necessary to ensure conformity with this subsection.

28 (4) The commission shall adopt rules for the dissemination and collection of sexual mis-
29 conduct climate surveys at institutions of higher education. In adopting these rules, the
30 commission shall seek to promote effective solicitation that will achieve the highest practi-
31 cable response rate, collection and publication of statistical information from institutions of
32 higher education.

33 **SECTION 6.** (1)(a) Except as provided in paragraph (b) of this subsection, each institution
34 of higher education shall employ at least one certified advocate as part of a institution-based
35 qualified victim services program.

36 (b) An institution of higher education is not required to employ a certified advocate if the
37 institution:

38 (A)(i) Does not have an institution-based qualified victim services program; or

39 (ii) Has fewer than 1,000 enrolled students who reside on campus; and

40 (B)(i) Partners with a local victim advocacy organization to provide a certified advocate;

41 (ii) Ensures that the certified advocate has on-campus office hours; and

42 (iii) Ensures that the services of the certified advocate are provided without charge to
43 enrolled students.

44 (2) A certified advocate employed by an institution of higher education under this section
45 shall be appointed based on the individual's experience and demonstrated ability to effectively

1 provide victim services related to sexual misconduct and:

2 (a) May not:

3 (A) Be a student of the institution;

4 (B) Be a Title IX coordinator for the institution;

5 (C) Be an authorized administrator of disciplinary processes on behalf of the institution;

6 (D) Be a member of campus police or law enforcement; or

7 (E) Have any additional job responsibilities that could create a conflict of interest, in-
8 cluding but not limited to being a general counsel, director of athletics, dean of students,
9 clergy member, or any employee who serves on a judicial or hearing board or to whom an
10 appeal regarding an allegation of sexual misconduct may be made; and

11 (b) Shall receive training:

12 (A) Required to be a certified advocate;

13 (B) On the requirements of Title IX of the Education Amendments Act of 1972, 20 U.S.C.
14 1681 to 1688, as amended;

15 (C) On the policies of the institution of higher education relating to sexual misconduct;
16 and

17 (D) On trauma-informed response.

18 (3) A certified advocate who is employed under this section shall:

19 (a) Provide confidential services to students and inform students of all information re-
20 quired to be provided under ORS 350.253 and 350.255;

21 (b) Provide written notification to all institution staff involved in providing or enforcing
22 supportive measures or accommodations of the respective duties of these staff members;

23 (c) If directed by a student, assist the student in contacting campus police or local law
24 enforcement agencies to make a report;

25 (d) Notify students of their rights, and the responsibilities of the institution, regarding
26 protection orders, no contact orders and any other lawful ordered issued by the institution
27 or by a criminal, civil or tribal court;

28 (e) Be subject to privilege as a certified advocate under ORS 40.264;

29 (f) Coordinate with on-campus sexual misconduct response resources and any
30 community-based domestic and sexual violence advocacy agency with which the institution
31 has entered into a memorandum of understanding under section 7 of this 2023 Act within a
32 reasonable time after being designated as a certified advocate; and

33 (g) If requested by signed written consent from a student, assist the student with coor-
34 dinating on-campus supports and supports available with any community-based domestic and
35 sexual violence advocacy agency with which the institution has entered into a memorandum
36 of understanding under section 7 of this 2023 Act.

37 (4) A certified advocate employed under this section:

38 (a) If requested by a student, may attend an administrative or institution-based adjudi-
39 cation proceeding as the advocate or support person for the student;

40 (b) May not:

41 (A) Be required to report an incident to the institution or a law enforcement agency
42 unless otherwise required to do so by state or federal law;

43 (B) Disclose confidential information, including but not limited to the name, contact in-
44 formation or any personally identifiable information of a student or any information on the
45 sexual misconduct, without the prior written consent of the student who provided the in-

1 formation to the certified advocate;

2 (C) Provide services to both the reporting party and the responding party of the same
3 sexual misconduct incident; or

4 (D) Act as a counselor or therapist.

5 (5) Nothing in this section may be construed to limit either party's right of cross exam-
6 ination of the certified advocate in a criminal or civil proceeding if the advocate testifies
7 after written consent has been given.

8 (6) Providing notice to a certified advocate of an alleged act of sexual misconduct or an
9 advocate's performance of a service under this section may not be considered actual or
10 constructive notice to the institution of higher education of the alleged act.

11 (7) If a conflict of interest arises for an institution of higher education in which a certi-
12 fied advocate is advocating for a student's need for sexual misconduct crisis services or for
13 campus resources or law enforcement services, the institution may not discipline, penalize
14 or otherwise retaliate against the certified advocate for representing the interest of the re-
15 porting party.

16 **SECTION 7.** (1) Except as provided in subsection (4) of this section, each institution of
17 higher education shall enter into and maintain a memorandum of understanding with a
18 community-based domestic and sexual violence advocacy agency that is in the same county
19 as the institution.

20 (2) The memorandum of understanding entered into under this section shall ensure that
21 the community-based domestic and sexual violence advocacy agency will:

22 (a) Assist in developing the institution's policies, programming and training regarding
23 sexual misconduct that involves students and employees;

24 (b) Provide an accessible off-campus alternative where students and employees of the
25 institution can receive free and confidential sexual misconduct crisis services, including but
26 not limited to access to a sexual assault nurse examiner, if available, and to domestic vi-
27 olence crisis services in response to sexual misconduct;

28 (c) Ensure that a student or employee of the institution can access free and confidential
29 counseling and advocacy services either on campus or off campus; and

30 (d) Ensure cooperation and training between the institution and the community-based
31 domestic and sexual violence advocacy agency to ensure an understanding of the roles that
32 the institution or center should play in responding to reports and disclosures of sexual mis-
33 conduct against students and employees of the institution and the institution's protocols for
34 providing support and services to students and employees who have been the victims of
35 sexual misconduct.

36 (3)(a) A memorandum of understanding entered into under this section may include an
37 agreement, including a fee structure, between the community-based domestic and sexual vi-
38 olence advocacy agency and the institution of higher education for the provision of confi-
39 dential victim services.

40 (b) As used in this subsection, "confidential victim services" means case consultation and
41 training fees for certified advocates, consultation fees for the development and implementa-
42 tion of student education and prevention programs, the development of staff training and
43 prevention curriculum and confidential on-site office space for a representative from a
44 community-based domestic and sexual violence advocacy agency to meet with students or
45 employees of the institution of higher education.

1 (4) Notwithstanding subsection (1) of this section:

2 (a) The Higher Education Coordinating Commission may waive the requirements of this
3 section if the commission determines that, despite reasonable efforts, an institution of
4 higher education was unable to enter into a memorandum of understanding with a
5 community-based domestic and sexual violence advocacy agency.

6 (b) This section does not apply to a satellite campus or branch campus of an institution
7 of higher education if the satellite campus or branch campus has 1,000 or fewer enrolled
8 students who reside on campus.

9 **SECTION 8.** (1)(a) A reporting party or a witness who requests an investigation of sexual
10 misconduct may not be subjected to a disciplinary proceeding or sanction for violating the
11 institution of higher education's student conduct policy related to drug or alcohol use, tres-
12 passing or unauthorized entry of school facilities or other violations of a school policy or
13 code of conduct that is discovered in connection with the alleged sexual misconduct unless
14 the institution determines that the report was not made in good faith or that the violation
15 of the policy was an egregious violation.

16 (b) As used in this subsection, an "egregious violation" includes but is not limited to
17 taking an action that places the health and safety of another individual at risk.

18 (2) If the code of conduct of an institution of higher education prohibits sexual activity
19 or certain forms of sexual activity, including but not limited to same-gender relationships
20 or sexual activity, the institution may not take disciplinary action against:

21 (a) Individuals who report sexual misconduct or nonharassing sexual activity related to
22 sexual misconduct that is discovered during an investigation into reported sexual miscon-
23 duct; or

24 (b) Other nonharassing sexual activity that is discovered during an investigation into an
25 allegation of sexual misconduct.

26 (3) In any instance in which disciplinary action is taken against an individual who has
27 reported sexual misconduct, the institution of higher education shall review the disciplinary
28 action to determine if there is a link between the disclosed sexual misconduct and the mis-
29 conduct that led to the reporting party's being disciplined.

30 **SECTION 9.** (1) In addition to any requirements set forth in ORS 350.253 and 350.255, each
31 institution of higher education shall:

32 (a) Receive guidance from the Title IX coordinator of the institution, local law enforce-
33 ment, violence prevention specialists, public health specialists, other individuals with expe-
34 rience identifying protective and risk factors related to violence and the community-based
35 domestic and sexual violence advocacy agency with which the institution entered into a
36 memorandum of understanding under section 7 of this 2023 Act; and

37 (b) Use the guidance received under paragraph (a) of this subsection to establish a
38 trauma-informed, gender-inclusive sexual misconduct primary prevention and awareness
39 training that must be attended annually by each student and employee of the institution.

40 (2) Trainings provided under this section:

41 (a) Must be accessible to individuals with a disability;

42 (b) Must be culturally responsive and address the unique experiences and challenges
43 faced by students based on race, color, ethnicity, national origin, religion, economic status,
44 disability status, immigration status, sexual orientation, gender identity and pregnancy or
45 parenting status; and

1 (c) **Must include:**

2 (A) **An explanation of consent as it applies to sexual activity and sexual relationships;**

3 (B) **The role drugs and alcohol play in an individual's ability to consent;**

4 (C) **Information on options relating to the reporting of an incident of sexual misconduct,**
5 **the effects of each option presented and the methods to report an incident of sexual mis-**
6 **conduct, including confidential and anonymous disclosure;**

7 (D) **Information on the institution's procedures for resolving sexual misconduct reports**
8 **and the range of sanctions or penalties the institution may impose on students and employ-**
9 **ees responsible for a violation;**

10 (E) **The name, contact information and role of the certified advocate employed by the**
11 **institution;**

12 (F) **Strategies for bystander intervention and risk reduction; and**

13 (G) **Opportunities for ongoing sexual misconduct prevention and awareness training and**
14 **programming.**

15 (3) **Notwithstanding section 1 (5) of this 2023 Act, as used in this section, "student"**
16 **means an individual who is enrolled at least half-time in an academic credit-bearing program**
17 **at an institution of higher education.**

18 **SECTION 10. (1) Each institution of higher education shall waive any requirements re-**
19 **lating to a minimum required grade point average or disciplinary record requirements re-**
20 **quired to demonstrate academic success that are part of an institution-sponsored program**
21 **or activity identified by the institution under subsection (2) of this section for any participant**
22 **who:**

23 (a) **Has experienced sexual misconduct; and**

24 (b) **Has received a waiver in the manner described in subsection (3) of this section.**

25 (2)(a) **Each institution of higher education shall identify the institution-sponsored pro-**
26 **grams or activities that a waiver granted under this section shall apply to.**

27 (b) **A student must obtain a separate waiver under this section for each institution-**
28 **sponsored program or activity.**

29 (3) **A student may obtain a waiver under this section from the certified advocate em-**
30 **ployed by the institution, the Title IX coordinator at the institution, a student basic needs**
31 **coordinator at the institution, any law enforcement personnel at the institution, the**
32 **student's academic advisor at the institution or any disability resource center personnel.**

33 (4) **Each institution of higher education shall maintain confidentiality of all materials**
34 **that contain personally identifiable information for individuals who have requested a waiver**
35 **under this section unless disclosure is required specifically for the purpose of making re-**
36 **quired accommodations or if otherwise required by a court of law.**

37 (5) **As used in this section, "institution-sponsored program or activity" includes but is**
38 **not limited to a scholarship provided by an institution of higher education or an institution-**
39 **sponsored academic or extracurricular activity.**

40 **SECTION 11. (1) No later than October 1 of each year, each institution of higher educa-**
41 **tion shall submit a report in the manner provided by ORS 192.245 to:**

42 (a) **The Secretary of the Senate and the Chief Clerk of the House of Representatives;**

43 (b) **The interim committees of the Legislative Assembly relating to higher education;**

44 (c) **The Higher Education Coordinating Commission; and**

45 (d) **The Director of Human Services.**

1 (2) Except as provided in subsection (3) of this section, the report shall include:

2 (a) The total number of allegations of intimate partner violence, domestic violence, sexual
3 assault, sexual harassment and stalking that were reported to the institution's Title IX
4 coordinator by a student or employee of the institution against another student or employee
5 of the institution during the previous academic year;

6 (b) The number of law enforcement investigations known to have been initiated during
7 the previous academic year in response to reports of sexual misconduct that were brought
8 forward by a student or employee of the institution against another student or employee of
9 the institution;

10 (c) The number of students and employees at the institution who were found responsible
11 during the previous academic year for violating the institution's policies prohibiting sexual
12 misconduct;

13 (d) The number of students and employees at the institution who during the previous
14 academic year, faced academic or employment disciplinary action due to having violated the
15 institution's policies prohibiting sexual misconduct;

16 (e) The number of students and employees at the institution who, during the previous
17 academic year, were investigated, but found not responsible for having violated the
18 institution's policies prohibiting sexual misconduct;

19 (f) The number of students at the institution who, during the previous academic year,
20 requested supportive measures;

21 (g) The number of supportive measures requested by each student described in paragraph
22 (f) of this subsection;

23 (h) The number of supported measures granted to each student described in paragraph
24 (f) of this subsection; and

25 (i) The number of students during the previous academic year who took a leave of ab-
26 sence, transferred to a different institution of higher education or withdrew from the insti-
27 tution of higher education.

28 (3) A report submitted by a community college operated under ORS chapter 341 or a ca-
29 reer school as defined in ORS 345.010 is not required to include the information described in
30 subsection (2)(i) of this section.

31 (4) The information provided in the report must be provided in an anonymous and ag-
32 gregate manner that complies with all state and federal privacy laws.

33 **SECTION 12.** (1) No later than September 15 of each year, the Higher Education Coordi-
34 nating Commission shall submit a report in the manner provided by ORS 192.245 to the in-
35 terim committees of the Legislative Assembly related to higher education that identifies each
36 instance during the previous academic year in which an institution of higher education has
37 either violated a provision of sections 1 to 12 of this 2023 Act or failed to carry out a pro-
38 vision of sections 1 to 12 of this 2023 Act.

39 (2) The commission may adopt rules necessary to implement sections 1 to 12 of this 2023
40 Act.

41 **SECTION 13.** The Sexual Misconduct Survey Council must submit the first base survey
42 and related recommendations, including but not limited to recommendations on achieving
43 statistically valid response rates, to each institution of higher education no later than Jan-
44 uary 1, 2024.

45 **SECTION 14.** Sections 1 to 12 of this 2023 Act first apply to the 2023-2024 academic year.

1 **SECTION 15.** It is the intent of the Legislative Assembly that all parts of this 2023 Act
2 are independent and that if any part of this 2023 Act is held unconstitutional, all remaining
3 parts shall remain in force.

4 **SECTION 16.** In addition to and not in lieu of any other appropriation, there is appro-
5 priated to the Higher Education Coordinating Commission, for the biennium beginning July
6 1, 2023, out of the General Fund, the amount of \$1,122,544, to establish and provide staff
7 support to the Sexual Misconduct Survey Council, and to conduct rulemaking for the col-
8 lection, analysis and distribution of the sexual misconduct climate survey results.

9 **SECTION 17.** This 2023 Act being necessary for the immediate preservation of the public
10 peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect
11 on its passage.

12 _____