

CHAPTER 401

EDUCATION - POSTSECONDARY

SENATE BILL 19-007

BY SENATOR(S) Pettersen and Winter, Bridges, Court, Danielson, Donovan, Fields, Ginal, Lee, Moreno, Rodriguez, Todd, Williams A., Zenzinger;
also REPRESENTATIVE(S) McLachlan and Buckner, Bird, Buentello, Caraveo, Cutter, Duran, Esgar, Froelich, Galindo, Gonzales-Gutierrez, Gray, Hansen, Herod, Hooton, Jackson, Jaquez Lewis, Kennedy, Kipp, Lontine, McCluskie, Melton, Michaelson Jenet, Roberts, Sandridge, Singer, Sirota, Snyder, Sullivan, Tipper, Titone, Valdez A., Valdez D., Weissman.

AN ACT

CONCERNING THE PREVENTION OF SEXUAL MISCONDUCT ON HIGHER EDUCATION CAMPUSES.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** 23-5-146 and 23-5-147 as follows:

23-5-146. Sexual misconduct - policies - confidential resources - training - reports - definitions. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "CLERY ACT" MEANS THE FEDERAL "JEANNE CLERY DISCLOSURE OF CAMPUS SECURITY POLICY AND CAMPUS CRIME STATISTICS ACT" OR "CLERY ACT", 20 U.S.C. SEC. 1092(f).

(b) "COMPLAINANT" MEANS A PERSON WHO IS SUBJECT TO ALLEGED SEXUAL MISCONDUCT UNDER AN INSTITUTION'S SEXUAL MISCONDUCT POLICY.

(c) "DEPARTMENT" MEANS THE DEPARTMENT OF HIGHER EDUCATION CREATED AND EXISTING PURSUANT TO SECTION 24-1-114.

(d) "INSTITUTION OF HIGHER EDUCATION" OR "INSTITUTION" MEANS A STATE INSTITUTION OF HIGHER EDUCATION, AS DEFINED IN SECTION 23-18-102 (10)(b), OR ANY ACCREDITED CAMPUS OF A STATE INSTITUTION OF HIGHER EDUCATION; A PARTICIPATING PRIVATE INSTITUTION OF HIGHER EDUCATION, AS DEFINED IN SECTION 23-18-102 (8); A LOCAL DISTRICT COLLEGE, AS DEFINED IN SECTION 23-71-102

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(1)(a); AND AN AREA TECHNICAL COLLEGE, AS DEFINED IN SECTION 23-60-103 (1).

(e) "REPORTING PARTY" MEANS AN INDIVIDUAL WHO REPORTS AN ALLEGED INCIDENT OF SEXUAL MISCONDUCT UNDER AN INSTITUTION'S SEXUAL MISCONDUCT POLICY.

(f) "RESPONDING PARTY" MEANS AN INDIVIDUAL WHO HAS BEEN ACCUSED OF SEXUAL MISCONDUCT UNDER AN INSTITUTION'S SEXUAL MISCONDUCT POLICY.

(g) "TITLE IX" MEANS TITLE IX OF THE FEDERAL EDUCATION AMENDMENTS OF 1972, AS AMENDED, 20 U.S.C. SECS. 1681 TO 1688.

(h) "VIOLENCE AGAINST WOMEN ACT" MEANS THE ACT CODIFIED IN PART AT 42 U.S.C. SECS. 13701 TO 14040.

(2)(a) ON OR BEFORE AUGUST 1, 2020, EACH INSTITUTION OF HIGHER EDUCATION SHALL ADOPT A SEXUAL MISCONDUCT POLICY FOR ENROLLED STUDENTS. EACH INSTITUTION SHALL PERIODICALLY REVIEW AND UPDATE THE POLICY.

(b) NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, IF THERE IS A CONFLICT BETWEEN THIS SECTION AND ANY FEDERAL LAW OR REGULATION AND BASED ON THAT CONFLICT AN INSTITUTION OF HIGHER EDUCATION IS AT RISK OF LOSING FEDERAL MONEY FOR ITSELF OR ITS STUDENTS, THE INSTITUTION SHALL FOLLOW FEDERAL LAW AND SHALL NOT BE LIABLE FOR ANY VIOLATION OF THIS SECTION BASED ON THAT ACTION.

(3) AT A MINIMUM, EACH SEXUAL MISCONDUCT POLICY MUST INCLUDE:

(a) DEFINITIONS OF FORMS OF SEXUAL MISCONDUCT CONSISTENT WITH FEDERAL AND STATE LAW AND POLICY;

(b) CONFIDENTIAL AND NONCONFIDENTIAL REPORTING OPTIONS FOR SEXUAL MISCONDUCT;

(c) AN EXPLANATION OF THE ROLE OF THE INSTITUTION IN THE RESPONSE TO:

(I) A VIOLATION OF THE SEXUAL MISCONDUCT POLICY; OR

(II) A REPORT OF AN INCIDENT OF SEXUAL MISCONDUCT;

(d) PROCEDURES FOR INVESTIGATING REPORTS OF SEXUAL MISCONDUCT, WHICH MUST:

(I) BE FAIR, IMPARTIAL, AND PROMPT, AND THE INSTITUTION MUST MAKE A GOOD FAITH EFFORT TO COMPLETE AN INVESTIGATION OR ADJUDICATIVE PROCESS, EXCLUDING ANY APPEALS, WITHIN AN AVERAGE OF SIXTY TO NINETY DAYS, WITHOUT JEOPARDIZING THE RIGHTS OF A COMPLAINANT OR RESPONDING PARTY. THE PROCEDURE MAY INCLUDE A PROCESS THAT ALLOWS FOR THE EXTENSION OF THESE TIME FRAMES FOR GOOD CAUSE WITH PRIOR WRITTEN NOTICE OF THE DELAY AND THE REASON FOR THE DELAY TO THE COMPLAINANT AND THE RESPONDING PARTY.

(II) INCLUDE THE PREPONDERANCE OF THE EVIDENCE AS THE EVIDENTIARY STANDARD WHEN A STUDENT IS THE RESPONDENT, NOTWITHSTANDING ANY OTHER EVIDENTIARY STANDARD IN ANY OTHER POLICY OF THE INSTITUTION;

(III) OUTLINE THE PROCEDURES TO BE FOLLOWED IN THE INVESTIGATION AND ADJUDICATION PROCESS, WHICH MUST SPECIFY THAT ALL QUESTIONS GO THROUGH THE OFFICIAL INDIVIDUAL OR INDIVIDUALS CONDUCTING OR PARTICIPATING IN THE INVESTIGATION PROCESS;

(IV) PROVIDE THE COMPLAINANT AND THE RESPONDING PARTY WITH THE SAME OPPORTUNITIES TO HAVE AN ADVISOR OR OTHER PERSON PRESENT DURING ANY PART OF THE PROCEEDING; EXCEPT THAT THE ADVISOR OR OTHER PERSON IS NOT ALLOWED TO SPEAK ON BEHALF OF THE COMPLAINANT OR RESPONDING PARTY DURING THE COURSE OF THE PROCEEDINGS;

(V) PROVIDE REGULAR WRITTEN UPDATES ON THE STATUS OF THE INVESTIGATION OR PROCEEDING TO THE COMPLAINANT AND RESPONDING PARTY THROUGHOUT THE PROCESS UNTIL CONCLUSION; AND

(VI) PROVIDE FOR CONCURRENT NOTIFICATION OF THE OUTCOME OF THE INVESTIGATION OR PROCEEDING TO THE COMPLAINANT AND THE RESPONDING PARTY;

(e) PROHIBITIONS ON:

(I) THE CONSIDERATION OF PRIOR, IRRELEVANT SEXUAL CONDUCT, EXCEPT RELATING TO A PRIOR RELATIONSHIP OR HISTORY BETWEEN THE PARTIES IF RELEVANT TO SOME MATERIAL ISSUE IN THE PROCESS; AND

(II) ANY ACTION THAT WOULD BE RETALIATORY UNDER TITLE IX;

(f) PROTECTION FROM DISCIPLINARY ACTION AGAINST A COMPLAINANT, REPORTING PARTY, OR WITNESS FOR HIS OR HER PARTICIPATION IN THE REPORTING OR INVESTIGATION AND FROM POLICY VIOLATIONS RELATED TO THE INCIDENT, SUCH AS, AT A MINIMUM, PERSONAL CONSUMPTION OF ALCOHOL OR DRUGS; AND

(g) THAT ALL PROVISIONS OF THE SEXUAL MISCONDUCT POLICY, INCLUDING ANY APPEAL PROCESS THAT MAY BE PROVIDED, BE APPLIED EQUALLY TO BOTH THE COMPLAINANT AND THE RESPONDING PARTY.

(4) (a) COMMENCING ON OR BEFORE AUGUST 1, 2020, EACH INSTITUTION SHALL PROVIDE INFORMATION TO STUDENTS ON HOW TO RECEIVE SUPPORT REGARDING SEXUAL MISCONDUCT. THE INSTITUTION MAY DESIGNATE FACULTY OR STAFF MEMBERS TO FILL THIS ROLE; EXCEPT THAT THE INSTITUTION'S TITLE IX COORDINATOR SHALL NOT BE SUCH AN INDIVIDUAL. AN INSTITUTION MAY ALSO DESIGNATE AN OUTSIDE ENTITY OR SERVICE TO SERVE THIS PURPOSE. IF AN INSTITUTION USES AN OUTSIDE ENTITY OR SERVICE, IT SHALL MAKE ITS SEXUAL MISCONDUCT POLICY AVAILABLE TO THE ENTITY OR SERVICE. AN INSTITUTION THAT ENROLLS FEWER THAN ONE THOUSAND STUDENTS MAY PARTNER WITH ANOTHER INSTITUTION IN THE REGION OR WITHIN THE STATE TO PROVIDE SERVICES PURSUANT TO THIS SUBSECTION (4).

(b) IF AN INDIVIDUAL DESCRIBED IN SUBSECTION (4)(a) OF THIS SECTION MEETS THE REQUIREMENTS OF SECTION 13-90-107 (1)(k)(II) OR SECTION 12-43-218, THE INDIVIDUAL HAS THE PROTECTIONS FOR CONFIDENTIALITY OR PRIVILEGES ESTABLISHED PURSUANT TO THOSE SECTIONS.

(5) (a) COMMENCING ON OR BEFORE AUGUST 1, 2020, EACH INSTITUTION OF HIGHER EDUCATION SHALL PROMOTE:

- (I) AWARENESS AND PREVENTION OF SEXUAL MISCONDUCT; AND
- (II) THE INSTITUTION'S SEXUAL MISCONDUCT POLICY.

(b) EACH INSTITUTION SHALL PROMOTE THE INFORMATION DESCRIBED IN SUBSECTION (5)(a) OF THIS SECTION BY:

(I) PROMINENTLY DISPLAYING ON ITS WEBSITE:

- (A) THE INSTITUTION'S SEXUAL MISCONDUCT POLICY; AND
- (B) THE TELEPHONE NUMBER AND WEBSITE FOR AN INSTITUTIONAL, LOCAL, STATE, OR NATIONAL TWENTY-FOUR-HOUR HOTLINE THAT PROVIDES INFORMATION ON SEXUAL MISCONDUCT; AND
- (II) ANNUALLY DISTRIBUTING THROUGH ELECTRONIC OR OTHER MEANS OF COMMUNICATION THE INSTITUTION'S SEXUAL MISCONDUCT POLICY.

(6) (a) COMMENCING ON OR BEFORE AUGUST 1, 2020, EACH INSTITUTION OF HIGHER EDUCATION SHALL OFFER TRAINING:

- (I) TO PROMOTE AWARENESS AND PREVENTION OF SEXUAL MISCONDUCT; AND
- (II) ON THE INSTITUTION'S SEXUAL MISCONDUCT POLICY.

(b) THE TRAINING MUST BE OFFERED ANNUALLY TO ALL INCOMING STUDENTS AND NEWLY EMPLOYED FACULTY AND STAFF AND, WHEN APPLICABLE, TO ALL STUDENTS, FACULTY, AND STAFF IF THE SEXUAL MISCONDUCT POLICY IS SUBSTANTIALLY UPDATED. ANY INDIVIDUAL DESIGNATED AS RESPONSIBLE FOR INVESTIGATING OR ADJUDICATING COMPLAINTS UNDER THE SEXUAL MISCONDUCT POLICY MUST BE TRAINED ON THE POLICY IN EFFECT AT THE TIME OF THE INVESTIGATION OR ADJUDICATION.

(c) THE TRAINING REQUIRED BY THIS SUBSECTION (6) MAY INCLUDE BUT IS NOT LIMITED TO:

- (I) HOW TO PROMOTE AWARENESS AND PREVENTION OF SEXUAL MISCONDUCT;
- (II) AN EXPLANATION OF THE INSTITUTION'S SEXUAL MISCONDUCT POLICY;
- (III) AN EXPLANATION OF RELEVANT STATE AND FEDERAL LAWS CONCERNING SEXUAL MISCONDUCT;

(IV) AN EXPLANATION OF TYPES OF CONDUCT THAT WOULD CONSTITUTE A VIOLATION OF THE INSTITUTION'S SEXUAL MISCONDUCT POLICY;

(V) THE ROLE OF THE INSTITUTION IN ENSURING A COORDINATED RESPONSE TO AN ALLEGATION OF SEXUAL MISCONDUCT;

(VI) THE DEFINITION OF "CONSENT" IN THE CONTEXT OF SEXUAL ACTIVITY;

(VII) OPTIONS FOR BYSTANDER INTERVENTION;

(VIII) OPTIONS FOR INVOLVING LAW ENFORCEMENT IN RESPONDING TO SEXUAL MISCONDUCT;

(IX) THE IMPORTANCE OF TREATING AND HOW TO TREAT OTHERS WITH DIGNITY AND RESPECT; AND

(X) THE EFFECTS OF TRAUMA ON REPORTING PARTIES OR COMPLAINANTS WHO HAVE EXPERIENCED SEXUAL MISCONDUCT THAT MAY INCLUDE:

(A) INFORMATION ON WORKING WITH AND INTERVIEWING PERSONS WHO HAVE EXPERIENCED SEXUAL MISCONDUCT;

(B) WAYS TO COMMUNICATE SENSITIVELY AND COMPASSIONATELY WITH A REPORTING PARTY OR COMPLAINANT; AND

(C) INFORMATION REGARDING HOW SEXUAL MISCONDUCT MAY IMPACT STUDENTS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES.

(7) (a) ON OR BEFORE OCTOBER 1, 2020, EACH INSTITUTION OF HIGHER EDUCATION SHALL PROVIDE TO THE DEPARTMENT, TO BE POSTED ON THE DEPARTMENT'S WEBSITE:

(I) A COPY OF THE INSTITUTION'S SEXUAL MISCONDUCT POLICY;

(II) A STATEMENT AS TO HOW THE INSTITUTION IS PROVIDING INFORMATION TO STUDENTS ON HOW TO RECEIVE SUPPORT REGARDING SEXUAL MISCONDUCT AS REQUIRED BY SUBSECTION (4) OF THIS SECTION AND HOW IT IS PROMOTING THE INFORMATION REQUIRED BY SUBSECTION (5) OF THIS SECTION; AND

(III) A DESCRIPTION OF THE SEXUAL MISCONDUCT TRAINING PROVIDED BY THE INSTITUTION AS REQUIRED BY SUBSECTION (6) OF THIS SECTION.

(b) ON OR BEFORE OCTOBER 1, 2021, AND ON OR BEFORE EACH JANUARY 1 THEREAFTER, EACH INSTITUTION OF HIGHER EDUCATION SHALL PROVIDE TO THE DEPARTMENT, TO BE POSTED ON THE DEPARTMENT'S WEBSITE:

(I) A COPY OF ANY UPDATED INSTITUTIONAL SEXUAL MISCONDUCT POLICY ADOPTED DURING THE PREVIOUS CALENDAR YEAR;

(II) A STATEMENT AS TO ANY CHANGES IN THE MANNER IN WHICH THE INSTITUTION PROVIDES OR PROMOTES THE INFORMATION REQUIRED BY SUBSECTION

(4) OR (5) OF THIS SECTION; AND

(III) A DESCRIPTION OF THE SEXUAL MISCONDUCT TRAINING PROVIDED BY THE INSTITUTION AS REQUIRED BY SUBSECTION (6) OF THIS SECTION.

(8) BEGINNING IN 2020, AND EVERY YEAR THEREAFTER, THE DEPARTMENT SHALL INCLUDE AS PART OF ITS "STATE MEASUREMENT FOR ACCOUNTABLE, RESPONSIVE, AND TRANSPARENT (SMART) GOVERNMENT ACT" HEARING REQUIRED BY SECTION 2-7-203 INFORMATION CONCERNING THE REPORTS SUBMITTED BY INSTITUTIONS PURSUANT TO SUBSECTION (7)(a) OF THIS SECTION.

(9) (a) COMMENCING ON OR BEFORE AUGUST 1, 2020, SUBJECT TO AVAILABLE APPROPRIATIONS, THE DEPARTMENT SHALL HOST BIENNIAL SUMMITS ON SEXUAL MISCONDUCT ON INSTITUTION CAMPUSES FOR STAKEHOLDERS, ADVOCATES, STUDENTS, FACULTY, AND OTHER INTERESTED PERSONS TO FACILITATE COMMUNICATION, SHARE INFORMATION, AND HEAR FROM EXPERTS, AND OTHER EFFORTS TO PROMOTE AWARENESS AND PREVENTION OF SEXUAL MISCONDUCT ON COLORADO'S INSTITUTION CAMPUSES.

(b) PRIOR TO EACH BIENNIAL SUMMIT, THE DEPARTMENT SHALL CONVENE A PLANNING COMMITTEE COMPOSED OF:

(I) A REPRESENTATIVE OF A PUBLIC FOUR-YEAR INSTITUTION, APPOINTED BY THE GOVERNING BOARDS OF PUBLIC FOUR-YEAR INSTITUTIONS;

(II) A REPRESENTATIVE OF A PUBLIC TWO-YEAR COLLEGE, APPOINTED BY THE GOVERNING BOARDS OF PUBLIC TWO-YEAR COLLEGES;

(III) A REPRESENTATIVE OF A PUBLIC RURAL COLLEGE, AS DEFINED BY THE DEPARTMENT, APPOINTED BY THE GOVERNING BOARDS OF PUBLIC RURAL COLLEGES;

(IV) A REPRESENTATIVE OF A PUBLIC AREA TECHNICAL COLLEGE, APPOINTED BY THE GOVERNING BOARDS OF PUBLIC AREA TECHNICAL COLLEGES;

(V) A REPRESENTATIVE OF A PRIVATE FOUR-YEAR INSTITUTION, APPOINTED BY THE GOVERNING BOARDS OF THE PRIVATE FOUR-YEAR INSTITUTIONS;

(VI) TWO STUDENTS, ONE FROM A PUBLIC FOUR-YEAR INSTITUTION AND ONE FROM A PUBLIC TWO-YEAR COLLEGE, APPOINTED BY A STATEWIDE ORGANIZATION OF PUBLIC STUDENT GOVERNMENTS;

(VII) A REPRESENTATIVE OF A CAMPUS-BASED ORGANIZATION THAT REPRESENTS VICTIMS OF SEXUAL MISCONDUCT FROM AN INSTITUTION NOT OTHERWISE REPRESENTED ON THE COMMITTEE, APPOINTED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT;

(VIII) A REPRESENTATIVE OF A STATEWIDE COMMUNITY-BASED ADVOCACY ORGANIZATION THAT REPRESENTS VICTIMS OF SEXUAL MISCONDUCT, APPOINTED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT; AND

(IX) A VICTIM OF SEXUAL MISCONDUCT AT AN INSTITUTION, APPOINTED JOINTLY

BY THE REPRESENTATIVES APPOINTED PURSUANT TO SUBSECTIONS (9)(b)(VII) AND (9)(b)(VIII) OF THIS SECTION.

(c) THE PLANNING COMMITTEE MAY COLLABORATE WITH OTHER INTERESTED PARTIES, INCLUDING COMMUNITY PARTNERS, TO DEVELOP THE MOST EFFECTIVE EVENT TO FACILITATE THE PURPOSES OF THE SUMMIT AS DESCRIBED IN SUBSECTION (9)(a) OF THIS SECTION.

(d) (I) ON OR BEFORE JANUARY 15 OF THE YEAR FOLLOWING THE SUMMIT, THE PLANNING COMMITTEE SHALL SUBMIT A REPORT TO THE EDUCATION COMMITTEES OF THE SENATE AND THE HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES, INCLUDING A SUMMARY OF THE EVENTS, ATTENDEES, OUTCOMES, AND RECOMMENDATIONS.

(II) NOTWITHSTANDING THE PROVISIONS OF SECTION 24-1-136 (11)(a)(I), THE REQUIREMENT FOR THE REPORT IN SUBSECTION (9)(d)(I) OF THIS SECTION CONTINUES INDEFINITELY.

23-5-147. Sexual misconduct advisory committee - membership - duties - legislative declaration - definitions -repeal. (1) (a) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT IN NOVEMBER OF 2018, THE FEDERAL DEPARTMENT OF EDUCATION ISSUED NEW, PROPOSED RULES ON TITLE IX DEALING WITH SEXUAL MISCONDUCT.

(b) THE DRAFT RULES INCLUDED CHANGES IN HOW EDUCATIONAL INSTITUTIONS WERE TO HANDLE:

(I) ALLEGATIONS OF OFF-CAMPUS SEXUAL MISCONDUCT; AND

(II) CROSS-EXAMINATION OF PARTIES AND WITNESSES DURING HEARINGS.

(c) IN RESPONSE TO THE PROPOSED RULES, THE FEDERAL DEPARTMENT OF EDUCATION RECEIVED NUMEROUS COMMENTS AND HAS NOT YET ADOPTED THE FINAL RULES.

(d) INSTITUTIONS OF HIGHER EDUCATION WILL NEED TO RESPOND TO THE NEW FEDERAL RULES QUICKLY.

(e) THEREFORE, THE STATE SHOULD HAVE IN PLACE AN ADVISORY COMMITTEE TO QUICKLY MAKE RECOMMENDATIONS TO THE GENERAL ASSEMBLY AND INSTITUTIONS OF HIGHER EDUCATION ON THE PROPOSED RULES.

(2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "ADVISORY COMMITTEE" MEANS THE SEXUAL MISCONDUCT ADVISORY COMMITTEE CREATED PURSUANT TO SUBSECTION (3) OF THIS SECTION.

(b) "DEPARTMENT" MEANS THE DEPARTMENT OF HIGHER EDUCATION CREATED AND EXISTING PURSUANT TO SECTION 24-1-114.

(c) "INSTITUTION OF HIGHER EDUCATION" OR "INSTITUTION" MEANS A STATE

INSTITUTION OF HIGHER EDUCATION, AS DEFINED IN SECTION 23-18-102 (7), OR ANY ACCREDITED CAMPUS OF A STATE INSTITUTION OF HIGHER EDUCATION; A PARTICIPATING PRIVATE INSTITUTION OF HIGHER EDUCATION, AS DEFINED IN SECTION 23-18-102 (8); A LOCAL DISTRICT COLLEGE, AS DEFINED IN SECTION 23-71-102 (1)(a); AND AN AREA TECHNICAL COLLEGE, AS DEFINED IN SECTION 23-60-103 (1).

(3) THERE IS CREATED IN THE DEPARTMENT THE SEXUAL MISCONDUCT ADVISORY COMMITTEE TO MAKE RECOMMENDATIONS TO THE GENERAL ASSEMBLY AND TO INSTITUTIONS OF HIGHER EDUCATION CONCERNING SEXUAL MISCONDUCT POLICIES AND METHODS TO REDUCE SEXUAL MISCONDUCT AT INSTITUTIONS OF HIGHER EDUCATION.

(4)(a) THE ADVISORY COMMITTEE CONSISTS OF THE FOLLOWING ELEVEN PERSONS APPOINTED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT:

(I) THREE REPRESENTATIVES FROM INSTITUTIONS OF HIGHER EDUCATION;

(II) TWO TITLE IX COORDINATORS FROM INSTITUTIONS OF HIGHER EDUCATION;

(III) THREE PERSONS WHO ARE REPRESENTATIVES OF ORGANIZATIONS THAT ADVOCATE ON BEHALF OF OR PROVIDE SERVICES TO VICTIMS OF SEXUAL MISCONDUCT;

(IV) AN ATTORNEY WHO HAS EXPERIENCE REPRESENTING VICTIMS OF SEXUAL MISCONDUCT AT INSTITUTIONS OF HIGHER EDUCATION;

(V) AN ATTORNEY WHO HAS EXPERIENCE REPRESENTING PERSONS ACCUSED OF SEXUAL MISCONDUCT AT INSTITUTIONS OF HIGHER EDUCATION; AND

(VI) A PERSON WITH EXPERIENCE PROVIDING TRAUMA-INFORMED CARE.

(b) MEMBERS OF THE ADVISORY COMMITTEE SERVE FOUR-YEAR TERMS AND MAY BE REAPPOINTED.

(c) MEMBERS OF THE ADVISORY COMMITTEE SERVE WITHOUT COMPENSATION OR REIMBURSEMENT OF EXPENSES.

(5) AFTER THE FINAL FEDERAL RULES ON TITLE IX SEXUAL MISCONDUCT ARE ADOPTED, THE ADVISORY COMMITTEE SHALL STUDY, EXAMINE BEST PRACTICES, AND MAKE RECOMMENDATIONS TO THE GENERAL ASSEMBLY AND TO INSTITUTIONS OF HIGHER EDUCATION ON ISSUES RELATED TO SEXUAL MISCONDUCT AT INSTITUTIONS OF HIGHER EDUCATION INCLUDING:

(a) HOW TO HANDLE INCIDENTS OF SEXUAL MISCONDUCT THAT OCCUR OUTSIDE OF AN INSTITUTION'S PROGRAMS, ACTIVITIES, OR PROPERTY;

(b) HOW TO CONDUCT CROSS-EXAMINATION OF PARTIES AND WITNESSES AT HEARINGS;

(c) WHETHER A STANDARD OF REASONABLENESS SHOULD BE INCLUDED IN AN INSTITUTION'S SEXUAL MISCONDUCT POLICY; AND

(d) CAN AND SHOULD INSTITUTIONS OF HIGHER EDUCATION HAVE HIGHER STANDARDS THAN ARE REQUIRED BY FEDERAL LAW AND REGULATION.

(6) (a) WITHIN NINETY DAYS AFTER THE FINAL FEDERAL RULES ON TITLE IX SEXUAL MISCONDUCT ARE ADOPTED, THE ADVISORY COMMITTEE SHALL SUBMIT A REPORT TO THE EDUCATION COMMITTEES OF THE SENATE AND HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES, ON SUGGESTED CHANGES TO INSTITUTIONS' POLICIES OF SEXUAL MISCONDUCT DUE TO THE NEW FEDERAL RULES.

(b) ON OR BEFORE JANUARY 15, 2021, AND EACH JANUARY 15 THEREAFTER, THE ADVISORY COMMITTEE SHALL SUBMIT A REPORT TO THE EDUCATION COMMITTEES OF THE SENATE AND HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES, INCLUDING RECOMMENDATIONS FOR CHANGES TO STATUTES AND POLICIES OF INSTITUTIONS OF HIGHER EDUCATION.

(7) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2023. BEFORE THE REPEAL, THIS SECTION IS SCHEDULED FOR REVIEW IN ACCORDANCE WITH SECTION 2-3-1203.

SECTION 2. In Colorado Revised Statutes, 2-3-1203, **add** (14)(a)(XI) as follows:

2-3-1203. Sunset review of advisory committees - legislative declaration - definition - repeal. (14) (a) The following statutory authorizations for the designated advisory committees are scheduled for repeal on September 1, 2023:

(XI) THE SEXUAL MISCONDUCT ADVISORY COMMITTEE CREATED IN SECTION 23-5-147.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 31, 2019