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## Postsecondary Education & Workforce Committee

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### HB 1522

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

**Sponsors:** Representatives Pollet, Leavitt, Berry and Macri.

#### Brief Summary of Bill

- Requires institutions to ask and require applicants to sign statements regarding substantiated findings of, or investigations into, 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 or investigations into sexual misconduct before an official offer of employment.

**Hearing Date:** 1/31/23

**Staff:** Elizabeth Allison (786-7129).

#### 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:

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1. 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;
2. 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
3. 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 1 and 2.

Additionally, before an official offer of employment, the institution must request that 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 he or she is 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.

Institutions, or an employee acting on behalf of the institution, who disclose information are presumed to be acting in good faith and are immune from civil and criminal liability for disclosure. The institution is not liable for nondisclosure of information by an employee without access to personnel records who is asked to respond to a reference check. Institutions must share best practices with all staff who are likely to receive reference checks about how to inform requesters to contact the appropriate office for personnel records. Institutions must keep personal identifying information of the complainant and any witness confidential, unless the complainant or witness agree to disclose their identifying information. The disclosure requirements do not restrict expungement from a personnel file or employment records of information about alleged sexual misconduct that has not been substantiated.

### **Summary of Bill:**

The statement that must be signed by an applicant prior to an offer of employment must include the following:

1. a declaration of whether the applicant is the subject of any substantiated findings of sexual misconduct by any association, or is currently being investigated for, or has resigned membership during an investigation into, a violation of any sexual misconduct policy by an association;
2. an authorization to permit the applicant's past relevant association to disclose any sexual misconduct committed by the applicant; and
3. a release from liability for the applicant's current or past relevant association for providing the information in 1 or 2.

Additionally, prior to an offer of employment, an institution must request in writing that the applicant's current and past relevant associations provide the information described in the list above and ask the applicant if they are currently being investigated for, or have resigned membership during an investigation into, a violation of any sexual misconduct policy by any association.

Association means a scholarly or professional organization or learned society that sponsors activities or events for the benefit of individuals affiliated with postsecondary education institutions, with a code of conduct forbidding sexual misconduct at such activities or events, and established investigative procedures for allegations that the code of conduct has been violated.

**Appropriation:** None.

**Fiscal Note:** Requested on January 30, 2023.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.