



Legislative  
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**SB 19-007**

# REVISED FISCAL NOTE

(replaces fiscal note dated April 15, 2019)

<b>Drafting Number:</b>	LLS 19-0437	<b>Date:</b>	April 30, 2019
<b>Prime Sponsors:</b>	Sen. Pettersen; Winter Rep. McLachlan; Buckner	<b>Bill Status:</b>	House Education
		<b>Fiscal Analyst:</b>	Anna Gerstle   303-866-4375 Anna.Gerstle@state.co.us

**Bill Topic:** PREVENT SEXUAL MISCONDUCT AT HIGHER ED CAMPUSES

**Summary of Fiscal Impact:**

<input type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

The bill requires institutions of higher education to adopt sexual misconduct policies and offer related training to students and staff, and requires the Department of Higher Education to convene an advisory committee and a biennial summit related to sexual misconduct prevention. The bill increases state workload and costs on an ongoing basis.

**Appropriation Summary:** No appropriation is required.

**Fiscal Note Status:** This revised fiscal note reflects the reengrossed bill.

## Summary of Legislation

**Sexual misconduct policies.** The bill requires that institutions of higher education adopt sexual misconduct policies for enrolled students. Policies must be adopted by August 1, 2020, updated periodically, and include the following:

- definitions consistent with state and federal law and policy;
- confidential and nonconfidential reporting options for sexual misconduct;
- an explanation of the role of the institution in response to a report or violation;
- procedures for investigating reports of sexual misconduct, including a preponderance of evidence standard when a student has been accused of sexual misconduct;
- prohibitions on certain actions, such as retaliation or consideration of prior, irrelevant sexual conduct;
- protection from disciplinary action against a complainant, reporting party, or witness, for policy violations such as consumption of alcohol or drugs; and
- an appeals process that applies to both the complainant and the accused.

If the bill conflicts with federal law or regulation and, as a result, the institution is at risk of losing federal funding, the institution must follow federal law.

**Support services.** By August 1, 2020, each institution must provide information to students how to access support regarding sexual misconduct. A faculty or staff member may provide the support, as long as the individual is not the institution's Title IX coordinator, or the institution may designate an outside entity to provide support. Institutions with fewer than 1,000 students may partner with another institution to provide support services.

**Training.** By August 1, 2020, each institution must offer annual training to new students and staff about the institution's sexual misconduct policy, the resources available, and awareness and prevention of sexual misconduct. The bill specifies what may be included in the training, and that information on the policy, training, and sexual misconduct prevention must be posted to the institution's website and distributed through email or other means of communication.

**Reporting.** By October 1, 2020, and each subsequent year, institutions must provide to the Department of Higher Education (DHE) their policy, a description of the training provided, a statement on how the institution is informing students of support services and promoting sexual misconduct awareness and prevention, and any changes to policy or procedures, to be posted on DHE's website and included in the department's SMART Act hearing beginning in 2020.

**Summits.** Beginning August 1, 2020, DHE must convene a planning committee to host biennial summits on sexual misconduct on institution campuses for interested persons to facilitate communication, share information, and hear from experts as it relates to awareness and prevention of sexual misconduct. The bill specifies the membership and appointment procedures of the ten-person committee, which must report to the General Assembly a summary of the events, attendees, outcomes, and recommendations by January 15 in the year following a summit.

**Advisory committee.** The bill creates an advisory committee to make recommendations to the General Assembly and institutions of higher education concerning sexual misconduct policies and methods to reduce sexual misconduct at institutions of higher education. The bill specifies the composition of the committee and that members serve without compensation. Currently, the federal Department of Education is considering public comment on proposed rules related to sexual misconduct. Within 90 days after the final federal rules are adopted, the committee must study and report on best practices and make recommendations related to handling incidents, conducting cross-examinations at hearings, and whether a standard of reasonableness should be included in an institution's sexual misconduct policy. The committee must report by January 1, 2021 and each year thereafter. The committee is scheduled to repeal September 1, 2023, after a sunset review.

## **State Expenditures**

The bill increases workload and costs for DHE and institutions of higher education, as discussed below.

**Department of Higher Education.** The bill increases expenditures for the DHE to host and the committee to convene the summit every other year. Costs may include food, materials, speakers, travel, and other related costs. Based on the cost of convening meetings of a similar size, holding the summit is expected to cost approximately \$5,000 every other year. No change in appropriations is required.

In addition, the bill increases the workload for DHE to collect the required information from the institutions to be posted on the website, answer any questions from institutions, and convene the planning committee. The fiscal note assumes that members of the planning committee will not be compensated or reimbursed for expenses. This workload increase can be accomplished within current appropriations.

DHE is also required to convene the advisory committee, once the federal rules are adopted. It is unknown when the federal rules will be adopted, and what will be included in the final rules. Assuming five meetings are held in FY 2019-20, staff will require about 100 hours of work. As a result, no change in appropriations is expected. Committee members are not compensated or reimbursed for expenses.

**Institutions of higher education.** The bill increases costs and workload for institutions of higher education to adopt sexual misconduct policies, adjust current procedures, and provide training to students and staff. Costs will vary among institutions and depend on the sexual misconduct policies, training, and support staff that are already in place. No change in appropriations is required.

### **Effective Date**

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

### **State and Local Government Contacts**

Higher Education