

REFERENCE TITLE: **postsecondary institutions; sexual consent policies**

State of Arizona
Senate
Fifty-sixth Legislature
First Regular Session
2023

SB 1348

Introduced by
Senators Mendez: Diaz, Fernandez, Gonzales, Hernandez, Sundareshan;
Representative Salman

AN ACT

AMENDING TITLE 15, CHAPTER 14, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 4; RELATING TO POSTSECONDARY EDUCATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 15, chapter 14, Arizona Revised Statutes, is
3 amended by adding article 4, to read:

4 ARTICLE 4. POLICIES DEFINING CONSENT TO SEXUAL ACTIVITY

5 15-1841. Consent to sexual activity; policies

6 EACH PUBLIC AND PRIVATE COLLEGE, UNIVERSITY AND COMMUNITY COLLEGE IN
7 THIS STATE SHALL ADOPT POLICIES THAT DEFINE CONSENT TO SEXUAL ACTIVITY AS
8 INFORMED AND FREELY GIVEN WORDS OR ACTIONS THAT INDICATE A WILLINGNESS TO
9 PARTICIPATE IN MUTUALLY AGREED-ON SEXUAL ACTIVITY. THE POLICIES SHALL
10 INCLUDE STATEMENTS PROVIDING THAT CONSENT:

11 1. MAY NOT BE INFERRED FROM ANY OF THE FOLLOWING:

12 (a) SILENCE.

13 (b) PASSIVITY OR LACK OF RESISTANCE.

14 (c) A CURRENT OR PREVIOUS DATING OR SEXUAL RELATIONSHIP.

15 (d) THE ACCEPTANCE OR PROVISION OF A GIFT, MEAL, DRINK OR OTHER
16 ITEM.

17 (e) PREVIOUS CONSENT TO SEXUAL ACTIVITY.

18 2. MAY BE WITHDRAWN DURING SEXUAL ACTIVITY AND THAT CONSENT TO ONE
19 FORM OF SEXUAL ACTIVITY DOES NOT IMPLY CONSENT TO ANY OTHER FORM OF SEXUAL
20 ACTIVITY.

21 3. MAY NOT BE OBTAINED THROUGH PHYSICAL FORCE, VIOLENCE, DURESS,
22 INTIMIDATION, COERCION OR AN EXPRESS OR IMPLIED THREAT OF INJURY.

23 4. MAY NOT BE GIVEN BY A PERSON WHO IS ANY OF THE FOLLOWING:

24 (a) INCAPACITATED BY DRUGS, ALCOHOL OR ANY OTHER SUBSTANCE. THE
25 POLICY LANGUAGE ADOPTED PURSUANT TO THIS SUBDIVISION SHALL PROVIDE THAT A
26 PERSON'S USE OF DRUGS, ALCOHOL OR ANY OTHER SUBSTANCE DOES NOT DIMINISH
27 THE PERSON'S RESPONSIBILITY TO OBTAIN CONSENT AND DOES NOT EXCUSE CONDUCT
28 THAT VIOLATES THE POLICY.

29 (b) UNCONSCIOUS.

30 (c) ASLEEP.

31 (d) PHYSICALLY OR MENTALLY UNABLE TO MAKE INFORMED, RATIONAL
32 JUDGMENTS.

33 (e) DEEMED BY LAW TO BE INCAPABLE OF GIVING CONSENT BY VIRTUE OF
34 AGE, CIRCUMSTANCES OR ANY OTHER FACTOR.

35 Sec. 2. Short title

36 This act may be cited as the "Yes Means Yes Act".