

## OREGON K-12 TITLE IX LEGISLATION



On June 30, 2019, the 80th Oregon Legislative Assembly adjourned. Over the course of the last six months, Oregon legislators worked hard to create new policy that bolsters Oregon’s Title IX response and prevention systems. This resource provides institutions of higher education and K-12 school districts with a brief overview of those key legislative changes.

### HOUSE BILL 3077

Modifies current processes for reporting and investigating findings related to sexual harassment in K-12 school districts as delineated in ORS 342.704.

#### KEY CHANGES:

- ▶ Definition of sexual harassment
- ▶ Third-party individuals subject to the policy
- ▶ Requirement that staff members report potential policy violations to a district official
- ▶ Requirement that upon a report district official and reporting staff members coordinate efforts to protect the student
- ▶ Protection of students who report conduct and/or participate in an investigation from disciplinary action under the district’s drug and alcohol policies when the violation of the drug and alcohol policy occurred in connection with the reported conduct and was discovered as a result of the report or investigation

**GOES INTO EFFECT JULY 1, 2020.**

School districts (which include education service districts and charter schools) must adopt policies defining sexual harassment and creating processes for reporting and investigation.

#### PROTECTED PARTIES:

- ▶ Students
- ▶ Staff
- ▶ Some third-party individuals
  - ▶ Specifically those individuals who are on/adjacent to school grounds or district property
  - ▶ Persons present at school-sponsored or district sponsored activities
  - ▶ Persons who are off school or district property if the actions of a student or staff create a hostile environment for the person while at school or a school-sponsored or district-sponsored activity or program

#### ACTIONS DEFINED AS SEXUAL HARASSMENT:

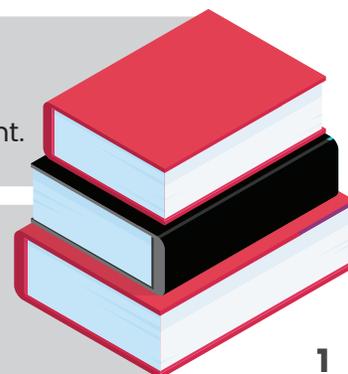
- ▶ A demand or request for sexual favors in exchange for benefits.
- ▶ Unwelcome conduct of a sexual nature that is physical, verbal or nonverbal and that interferes with a student’s education program or activity or that creates an intimidating, offensive or hostile educational environment.
- ▶ Assault when sexual contact occurs without a student’s consent because the student is under the influence of drugs or alcohol, is unconscious or is pressured through physical force, coercion or explicit or implied threats.

#### WHO MAY FILE A COMPLAINT OF SEXUAL HARASSMENT:

Student, staff, third-party subjected to prohibited behavior, or student’s parent may file a complaint of sexual harassment.

#### WHO MUST REPORT SEXUAL HARASSMENT:

When a staff member becomes aware of behavior that may violate the policy the staff member must report the behavior to a designated district official.



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### SCHOOL OBLIGATIONS CHECKLIST:

- Provide written notice to the person who initiated the complaint (and, when applicable, the complainant’s parent) regarding when the investigation is initiated and concluded.
- Provide written notice to the individual who initiated the complaint (and, when applicable, the complainant’s parent) as to whether a violation of the sexual harassment policy was found to have occurred.
- Notice must include information on:
  - Rights of complainant
  - The internal complaint process (including the person designated for the school or district to receive complaints)
  - Other civil and criminal remedies and that those remedies may be subject to statutes of limitations
  - Services available to the student, staff through the school or district
  - State and community-based services and resources available to persons who have experienced sexual harassment
  - Individuals will not be subject to the districts drug and alcohol policies if the violation occurred in connection with the reported prohibited conduct and was discovered as a results of the report or investigation
- Make available the information contained in the notice requirements at each school office, the district office, and on the schools website.
- Investigate all complaints.
- Upon receiving a staff member report, coordinate efforts to ensure the student, staff, or third-party subjected to the behavior is protected and to promote a non-hostile work environment. Those efforts must include:
  - Service provision
  - Necessary nonretaliatory actions that remove potential future impact



**Note:** The school or district may not take any responsive action that would adversely affect the educational assignments, terms or conditions of employment or work, or educational environment of any person who initiates a complaint or participates in an investigation

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