

Enrolled
Senate Bill 344

Sponsored by Senators BURDICK, STEINER HAYWARD, STARR, KNOPP; Senator EDWARDS,
Representatives DOHERTY, GREENLICK (Presession filed.)

CHAPTER

AN ACT

Relating to online information.

Be It Enacted by the People of the State of Oregon:

SECTION 1. (1) A public or private educational institution may not:

(a) Require, request or otherwise compel a student or prospective student to disclose or to provide access to a personal social media account through the student’s or prospective student’s user name and password, password or other means of authentication that provides access.

(b) Require, request or otherwise compel a student or prospective student to access a personal social media account in the presence of an administrator or other employee of the educational institution in a manner that enables the administrator or employee to observe the contents of the personal social media account.

(c) Take, or threaten to take, any action to discipline or to prohibit from participation in curricular or extracurricular activities a student or prospective student for refusal to disclose the information or take actions specified in paragraph (a) or (b) of this subsection.

(d) Fail or refuse to admit a prospective student as a result of the refusal by the prospective student to disclose the information or take actions specified in paragraph (a) or (b) of this subsection.

(2) Nothing in this section prohibits an educational institution from:

(a) Conducting an investigation, for the purpose of ensuring compliance with applicable law, regulatory requirements or prohibitions against student misconduct, that is based on the receipt of specific information about activity associated with a personal social media account.

(b) Conducting an investigation authorized under paragraph (a) of this subsection that requires the student to share specific content on a social media account with the educational institution in order for the educational institution to make a factual determination about that content. Student cooperation required under this paragraph does not include providing the student’s user name and password, password or other means of authentication that provides access to the student’s personal social media account to the educational institution.

(c) Revoking a student’s access, in whole or in part, to equipment or computer networks owned or operated by the educational institution.

(3) An educational institution is not liable for obtaining the user name and password, password or other means of authentication that provides access to a student’s social media account through the application of the educational institution’s policies governing the use

of university equipment or computer networks owned or operated by the educational institution. However, the educational institution may not use the information obtained without the voluntary consent of the student.

(4) Nothing in this section applies to social media accounts intended for use solely for educational purposes at an educational institution or to social media accounts that are created by the educational institution and provided to the student if the student has been provided advance notice that the account may be monitored at any time by the educational institution.

(5) As used in this section:

(a) "Educational institution" means an institution that offers participants, students or trainees an organized course of study or training that is academic, technical, trade-oriented or preparatory for gainful employment in a recognized occupation. "Educational institution" includes, but is not limited to, community colleges and the public universities listed in ORS 352.002 but does not include kindergarten, elementary or secondary schools.

(b) "Social media" means an electronic medium that allows users to create, share and view user-generated content, including, but not limited to, uploading or downloading videos, still photographs, blogs, video blogs, podcasts, instant messages, electronic mail or Internet website profiles or locations.

SECTION 2. (1) Any person claiming to be aggrieved by a violation of section 1 of this 2013 Act may file a civil action in circuit court for equitable relief or, subject to the terms and conditions of ORS 30.265 to 30.300, damages, or both. The court may order such other relief as may be appropriate. Damages shall be \$200 or actual damages, whichever is greater.

(2) The action authorized by this section shall be filed within one year of the filing of a grievance.

(3) An action under this section may not be filed unless, within 180 days of the alleged violation, a grievance has been filed with the governing body of the educational institution against which the violation is alleged.

(4) An action under this section may not be filed until 90 days after filing a grievance unless only injunctive relief is sought pursuant to ORCP 79. The right to temporary or preliminary injunctive relief shall be independent of the right to pursue any administrative remedy available to complainants.

(5) An action under this section may not be filed if the governing body of the educational institution has obtained a conciliation agreement with the person filing the grievance or if a final determination of the grievance has been made except as provided in ORS 183.480.

(6) Notwithstanding the filing of a grievance pursuant to subsection (3) of this section, a person seeking to maintain an action under this section against a public educational institution shall also file a notice of claim within 180 days of the alleged violation in the manner provided by ORS 30.275.

(7) The court shall award reasonable attorney fees to a prevailing plaintiff in any action under this section. The court may award reasonable attorney fees and expert witness fees incurred by a defendant who prevails in the action if the court determines that the plaintiff had no objectively reasonable basis for asserting a claim or no objectively reasonable basis for appealing an adverse decision of a trial court.

Passed by Senate April 22, 2013

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Robert Taylor, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House June 3, 2013

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Tina Kotek, Speaker of House

Received by Governor:

.....M,....., 2013

Approved:

.....M,....., 2013

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2013

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Kate Brown, Secretary of State