



**Testimony of Kimberly McCullough, Policy Director  
In Support of HB 3415 with the -1 Amendment  
House Judiciary Committee  
April 5, 2019**

Chair Williamson and Members of the Committee:

The American Civil Liberties Union of Oregon<sup>1</sup> supports HB 3415, which would require institutions of higher education to adopt written policies and conduct annual training on sexual harassment, sexual assault, domestic violence, dating violence and stalking. The ACLU of Oregon is concerned with the proposed rules by U.S. Department of Education Secretary DeVos pertaining to Title IX claims.<sup>2</sup> Oregon, through HB 3415, has the opportunity to mitigate the potentially consequence of the proposed rule should they become effective.

**The proposed rule unduly narrows an institution’s responsibility to remedy and prevent sexual harassment and assault.**<sup>3</sup> The proposed rule’s definition of sexual harassment is inappropriately narrow and its limit on investigations is unfounded. Firstly, the proposed definition limits harassment to unwelcome conduct that is “severe, pervasive, *and* objectively offensive.” That standard impermissibly excludes conduct that should trigger an obligation to respond. HB 3415 would adopt a definition of harassment that would mirror language currently used by our institutions. Such definition closely mirror language adopted under Title VI and VII, which are policies considered to reflect the intent of Title IX.

**HB 3415 would require higher education institutions to adopt policies pertaining to investigations conducted under HB 3415.** The proposed federal rule states, “If the conduct alleged by the complainant would not constitute sexual harassment as defined in section 106.30 even if proved . . . , the recipient *must* dismiss the formal complaint with regard to that conduct” without any investigation.” Under HB 3415, institution would have

---

<sup>1</sup> The American Civil Liberties Union of Oregon (ACLU of Oregon) is a nonpartisan, nonprofit organization dedicated to preservation and enhancement of civil liberties and civil rights, with more than 45,000 members and supporters statewide.

<sup>2</sup> [U.S. Department of Education Title IX Proposed Rule.](#)

<sup>3</sup> [ACLU Comments in Response to Proposed Rule, “Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance,” RIN 1870-AA14.](#)

broader responsibility of responding to harassment inquiries submitted by students – one that would mirror current practice. By making these policies in consultation with the recognize student government and readily available on the institution’s website, students can better navigate their expectations when bringing a claim under this law and be assured that their elected peers have represented them in crafting such policies.

**Lastly, advocates and administrators tasked with handling Title IX claims should be provided with culturally-responsive, gender-responsive, and trauma-informed training.** Students experiencing harassment should be afforded with resources that will guide them through an administrative process in a manner that acknowledges the pain a person has endured. HB 3415 requires trainings and a high level of responsiveness from advocates and assigned staff members handling such sensitive incidents. No student should have to endure the aftermath of a scarring experience on their own.

**We thank the stakeholders who participated in the workgroup and are proud to support HB 3415.** We look forward to continuing this work as we see federal policies develop. This police is a step closer to promising Oregonian students a safe and prosperous educational environment. For these reasons, the ACLU of Oregon urges you to support HB 3415. Please feel free to contact us if you have any questions, comments, or concerns.