



DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

DATE: April 5th, 2019
TO: Honorable Jennifer Williamson, Chair of the House Committee on Judiciary
FROM: Aaron Knott, Legislative Director
SUBJECT: HB 3415 : Protecting survivors of campus sexual assault.

This testimony is presented in support of HB 3415.

BACKGROUND:

Oregon is a recognized national leader in fighting sexual harassment and sexual violence on our college campuses. With the passage of HB 3476, Oregon created a safe, confidential relationship between survivors and treatment providers which led to a historic increase in sexual assault reporting on our campuses. Oregon's legislature has made a series of targeted investments creating a survivor-centered, trauma-informed system of addressing harassment both on and off campus. Pending changes in federal rulemaking around campus sexual assault obligations pose the threat of destabilizing our long-standing system. In response to pending changes to these administrative standards, the Attorney General joined in an interim discussion with the Student Association, ACLU, Oregon Law Center, Sexual Assault Task Force, legal experts, private colleges, universities and others to discuss how best to "lock in" Oregon's positive gains and honor our long-standing commitment to survivors without offending federal requirements. HB 3415 is the result of those conversations. HB 3415 uses the mechanism of the campus code as a means to enforce a definition of sexual harassment reflective and supportive of longstanding practices at our universities. HB 3415 holds institutions of higher education accountable by maintaining current broad constructive notice provisions which obligate them to take action upon receiving a report of harassment, whether or not it takes place on the campus itself. Finally, HB 3415 formalizes a long held understanding that our Title IX coordinators and other necessary staff receive appropriate training on the definitions and dynamics of sexual harassment, sexual assault, domestic violence, dating violence, and stalking.

Definition of Harassment: The definition within HB 3415 codifies long standing guidance offered by Federal partners as to the obligations of universities and colleges as to the investigation of sexual assault and sexual harassment. While Federal standards are not the exclusive source of authority in state law in the area of sexual assault investigations, over decades they have substantially guided existing standards throughout Oregon's system of higher education. This statutory definition is intended to reflect existing practices and expectations to guarantee that our students continue to receive their education with the knowledge that sexual harassment will be taken seriously and investigated competently.

Constructive Notice: HB 3415 makes clear that the obligation to maintain a learning environment free of sexual harassment does not end at the edge of a campus. Under longstanding practices, an institution of higher education retains the obligation to investigate an incident of sexual harassment when they become aware of the incident, when the consequences of the harassment are of sufficient magnitude that they extend back to the campus by impairing the ability of the harassed person to pursue their educational opportunities.

Training Standards: HB 3415 maintains Oregon's high standards for the committed employees who do the difficult work of investigating and processing complaints of sexual harassment on our campuses, including Title IX coordinators, hearing officers, process advisors, institution investigators, third-party contracted investigator, campus security officers and any other individual who works in this capacity. These trainings will continue Oregon's dedication to trauma informed, gender responsive and survivor centered service delivery models for the victims of sexual assault and harassment.

Oregon enjoys a strong history of collaboration between our universities, service providers and lawmakers in working together to strive for a sexual assault and harassment free learning environment for all Oregonians. HB 3415 fortifies and formalizes key aspects of that collaboration. The Attorney General urges the passage of HB 3415.

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