

HOUSE AMENDMENTS TO HOUSE BILL 3077

By COMMITTEE ON JUDICIARY

April 17

1 On page 1 of the printed bill, delete lines 5 through 31 and delete pages 2 through 4 and insert:
2 “**SECTION 1.** ORS 342.704, as amended by section 1, chapter 38, Oregon Laws 2018, is amended
3 to read:

4 “342.704. (1) **As used in this section, ‘district’ includes a school district, an education**
5 **service district and a public charter school.**

6 “[*1*] (2) The State Board of Education shall adopt by rule minimum requirements for [*school*]
7 district policies on sexual harassment of students by staff members and other students [*including*].
8 **A district policy must include**, but not **be** limited to, requirements that:

9 “(a) All staff members and students are subject to the policies[;].

10 “(b) Sexual harassment of students includes:

11 “(A) A demand **or request** for sexual favors in exchange for benefits; [*and*]

12 “(B) Unwelcome conduct of a sexual nature **that is physical, verbal or nonverbal and** that
13 [*has the purpose or effect of unreasonably interfering*] **interferes** with a student’s [*educational per-*
14 [*formance*] **educational program or activity** or that creates an intimidating, offensive or hostile
15 educational environment;

16 “(C) **Assault when sexual contact occurs without a student’s consent because the student**
17 **is under the influence of drugs or alcohol, is unconscious or is pressured through physical**
18 **force, coercion or explicit or implied threats; and**

19 “(D) **Any retaliation by other students, staff members or third parties.**

20 “(c) When a student or, if applicable, the student’s parents file a complaint alleging behavior
21 that may violate the policy, the student or student’s parents shall receive a written notification as
22 described in subsection [*4*] (5) of this section[;].

23 “(d) **When a staff member becomes aware of behavior that may violate the policy, the**
24 **staff member shall report to a district official so that the district official and the staff**
25 **member may coordinate efforts to take any action necessary to ensure the student is pro-**
26 **ected and to promote a nonhostile learning environment, including:**

27 “(A) **Providing resources for support measures to the student; and**

28 “(B) **Taking any actions that are necessary to remove potential future impact on the**
29 **student, but that are not retaliatory against the student or the staff member who reported**
30 **to the district official.**

31 “[*d*] (e) All complaints about behavior that may violate the policy shall be investigated[;].

32 “[*e*] (f) The initiation of a complaint, **and the participation in an investigation**, in good faith
33 about behavior that may violate the policy may not adversely affect the educational assignments or
34 **any terms or conditions of employment or of work or** educational environment of the [*student*]
35 **person** who initiated the complaint[; *and*] **or who participated in the investigation.**

1 “[(f)] (g) The [student] **person** who initiated the complaint and, if applicable, the student’s par-
2 ents shall be notified:

3 “(A) When the investigation is **initiated and** concluded; and

4 “(B) As to whether a violation of the policy was found to have occurred, to the extent allowable
5 under state and federal student confidentiality laws.

6 “[(2)] (3) The State Board of Education shall adopt by rule minimum requirements for [school]
7 district policies on sexual harassment of staff members by students and other staff members [*in-*
8 *cluding*]. **A district policy must include**, but not **be** limited to, requirements that:

9 “(a) All staff members and students are subject to the policies[;].

10 “(b) Sexual harassment of staff members includes:

11 “(A) A demand **or request** for sexual favors in exchange for benefits; [*and*]

12 “(B) Unwelcome conduct of a sexual nature **that is physical, verbal or nonverbal and** that
13 [*has the purpose or effect of unreasonably interfering*] **interferes** with a staff member’s ability to
14 perform the job or that creates an intimidating, offensive or hostile work environment;

15 “(C) **Assault when sexual contact occurs without a staff member’s consent because the**
16 **staff member is under the influence of drugs or alcohol, is unconscious or is pressured**
17 **through physical force, coercion or explicit or implied threats; and**

18 “(D) **Any retaliation by other staff members, students or third parties.**

19 “(c) When a staff member files a complaint alleging behavior that may violate the policy, the
20 staff member shall receive a written notification as described in subsection [(4)] (5) of this
21 section[;].

22 “(d) **When another staff member becomes aware of behavior that may violate the policy,**
23 **the other staff member shall report to a district official so that the district official may take**
24 **any action necessary to ensure the staff member is protected and to promote a nonhostile**
25 **work environment, including:**

26 “(A) **Providing resources for support measures to the staff member; and**

27 “(B) **Taking any actions that are necessary to remove potential future impact on the**
28 **staff member, but that are not retaliatory against the staff member or the other staff**
29 **member who reported to the district official.**

30 “[(d)] (e) All complaints about behavior that may violate the policy shall be investigated[;].

31 “[(e)] (f) The initiation of a complaint, **and the participation in an investigation**, in good faith
32 about behavior that may violate the policy may not adversely affect **the educational assignments**
33 **or** any terms or conditions of employment or **of work or educational** environment of the [*staff*
34 *member*] **person** who initiated the complaint[; *and*] **or participated in the investigation.**

35 “[(f)] (g) The [*staff member*] **person** who initiated the complaint shall be notified:

36 “(A) When the investigation is **initiated and** concluded; and

37 “(B) As to whether a violation of the policy was found to have occurred, to the extent allowable
38 under state and federal student confidentiality laws.

39 “[(3)] (4) The State Board of Education shall adopt by rule minimum requirements for [school]
40 district policies on sexual harassment of persons described in paragraph (b) of this subsection by
41 staff members and students[, *including*]. **A district policy must include**, but not **be** limited to, re-
42 quirements that:

43 “(a) All staff members and students are subject to the policies[;].

44 “[(b)] *The policies apply to persons who are on or immediately adjacent to school grounds, at any*
45 *school-sponsored activity, on school-provided transportation or at any official school bus stop;*

1 **“(b) The policies apply to persons who:**
2 **“(A) Are on or immediately adjacent to school grounds or district property;**
3 **“(B) Are at any school-sponsored or district-sponsored activity or program; or**
4 **“(C) Are off school or district property, if a student or staff member acts toward the**
5 **person in a manner that creates a hostile environment for the person while at school or a**
6 **school-sponsored or district-sponsored activity or program.**
7 “(c) Sexual harassment of persons described in paragraph (b) of this subsection includes:
8 “(A) A demand **or request** for sexual favors in exchange for benefits; [*and*]
9 “(B) Unwelcome conduct of a sexual nature that **is physical, verbal or nonverbal and that[.]**
10 **“[(i) Has the purpose or effect of unreasonably interfering with a person’s educational performance**
11 **or a person’s ability to perform the job; or]**
12 **“[(ii)] creates an intimidating, offensive or hostile [*educational or work*] environment;**
13 **“(C) Assault when sexual contact occurs without a person’s consent because the person**
14 **is under the influence of drugs or alcohol, is unconscious or is pressured through physical**
15 **force, coercion or explicit or implied threats; and**
16 **“(D) Any retaliation by students, staff members or third parties.**
17 “(d) When a person **who may have been subjected to behavior in violation of the policy** or,
18 if applicable, the person’s parents file a complaint alleging behavior that may violate the policy, the
19 person or person’s parents shall receive a written notification as described in subsection [(4)] (5)
20 of this section[.];
21 **“(e) When a staff member becomes aware of behavior that may violate the policy, the**
22 **staff member shall report to a district official so that the district official and the staff**
23 **member may coordinate efforts to take any action necessary to ensure the person who was**
24 **subjected to the behavior is protected and to promote a nonhostile environment, including:**
25 **“(A) Providing resources for support measures to the person who was subjected to the**
26 **behavior; and**
27 **“(B) Taking any actions that are necessary to remove potential future impact on the**
28 **person, but that are not retaliatory against the person or the staff member who reported to**
29 **the district official.**
30 “[(e)] (f) All complaints about behavior that may violate the policy shall be investigated[.];
31 “[(f)] (g) The initiation of a complaint, **and the participation in an investigation**, in good faith
32 about behavior that may violate the policy may not adversely affect **the educational assignments**
33 **or** any terms or conditions of employment or of work or educational environment of the person who
34 initiated the complaint[; *and*] **or who participated in the investigation.**
35 “[(g)] (h) The person who initiated the complaint and, if applicable, the person’s parents shall
36 be notified:
37 “(A) When the investigation is **initiated and** concluded; and
38 “(B) As to whether a violation of the policy was found to have occurred, to the extent allowable
39 under state and federal student confidentiality laws.
40 “[(4)(a)] (5)(a) The written notification required under subsections [(1)(c), (2)(c) and (3)(d)] (2)(c),
41 (3)(c) **and (4)(d)** of this section must set forth:
42 “(A) The rights of the student, student’s parents, staff member, person or person’s parents who
43 filed the complaint[.];
44 “(B) Information about the internal complaint processes available through the school or
45 [*school*] district that the student, student’s parents, staff member, person or person’s parents who

1 filed the complaint may pursue[;], **including the person designated for the school or district for**
2 **receiving complaints.**

3 “(C) Notice that civil and criminal remedies that are not provided by the school or [school]
4 district may be available to the student, student’s parents, staff member, person or person’s parents
5 through the legal system and that those remedies may be subject to statutes of limitation[;].

6 “(D) Information about services available to the student or staff member through the school or
7 [school] district, including any counseling services, nursing services or peer advising[;].

8 “(E) Information about the privacy rights of the student, staff member or person and legally
9 recognized exceptions to those rights for internal complaint processes and services available
10 through the school or [school] district[; and].

11 “(F) Information about, and contact information for, state and community-based services and
12 resources that are available to persons who have experienced sexual harassment.

13 **“(G) Notice that students who report information about possible prohibited conduct and**
14 **students who participate in an investigation under a policy adopted as provided by this sec-**
15 **tion may not be disciplined for violations of the district’s drug and alcohol policies that oc-**
16 **curred in connection with the reported prohibited conduct and that were discovered as a**
17 **result of a prohibited conduct report or investigation unless the student gave another person**
18 **alcohol or drugs without the person’s knowledge and with the intent of causing the person**
19 **to become incapacitated and vulnerable to the prohibited conduct.**

20 “(b) The written notification required by this subsection must:

21 “(A) Be written in plain language that is easy to understand;

22 “(B) Use print that is of a color, size and font that allow the notification to be easily read; and

23 “(C) Be made available to students, students’ parents, staff members and members of the public
24 **at each school office, at the district office and** on the website of the school or [school] district.

25 **“SECTION 2. This 2019 Act takes effect on July 1, 2020.”.**