

SB 1572 -1, -2 STAFF MEASURE SUMMARY

Senate Committee On Education

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Meeting Dates: 2/8, 2/10

WHAT THE MEASURE DOES:

Requires institutions of higher education to modify written policies concerning sexual harassment, sexual assault, domestic violence, dating violence and stalking. Specifies that policies require institutions to provide appropriate supportive measures when incidents are reported regardless of whether a reporting party wishes to initiate or participate in a grievance process. Requires that policies adopt a consistent definition of consent, provide for introductory and continuing prevention programs for all students and employees, and clarify that institutions are required to biennially assess impact of sexual harassment, sexual assault, domestic violence, dating violence and stalking. Requires institutions of higher education to provide introductory and continuing prevention programs for all students and employees and specifies requirements. Requires institutions to biennially conduct campus climate survey to measure the impact of sexual harassment, sexual assault, domestic violence, dating violence and stalking and specifies requirements. Specifies definitions for terms used in statute. Applies to 2022-2023 academic year. Declares emergency, effective on passage.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-1 Adds public universities and community colleges to list of employers that must provide full-time teachers and school nurses with information regarding the Public Service Loan Forgiveness program. Specifies qualifications for full-time employment at a public university or community college. Allows for collective bargaining agreements to increase calculation of full-time employment. Applies provisions retroactively to September 25, 2021. Declares emergency, effective on passage.

-2 Replaces the measure. Maintains provisions included in -1 amendment.

BACKGROUND:

Title IX of the Education Amendments Act of 1972 prohibits discrimination on the basis of sex at all educational institutions that receive federal funds nationwide. The U.S. Department of Education (Department) and the judiciary have interpreted the prohibition on discrimination to include all forms of sexual harassment and violence. Starting in 1997, the Department issued guidance to educational institutions outlining the responsibilities and liabilities of institutions to respond to and resolve accusations of sexual harassment, discrimination, and violence through both formal and informal processes. The Department updated its guidance to institutions several times between 1997 and 2017. In 2017, the Department initiated an overhaul of its Title IX regulations, starting with a rescission of the Department's previous 2011 guidance. This overhaul culminated in the issuance of new Title IX regulations in 2020, which for the first time explicitly outlined processes for institutions to handle accusations of sexual harassment, discrimination, and violence in administrative rule rather than informal guidance. While many of the new regulations codified existing practices from prior Department guidance, notable changes included restricting required investigations of reported incidents that occur only on campuses, emphasizing the rights of the responding party in a grievance process, and requiring a consistent standard of evidence for each investigation at an institution. The new regulations took effect in August 2020. In April 2021, a presidential executive order directed the Department to review its Title IX regulations.

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Oregon law also contains prohibitions on discrimination, harassment, intimidation, bullying, dating violence, stalking, and sexual abuse in education settings. In 2015, the legislature passed Senate Bill 759, which required all public and private institutions of higher education to adopt written protocols for responding to sexual assault allegations involving students, faculty, or staff. These protocols are required to ensure that victims who make a report are provided with written information explaining their rights, legal options, and resources. In 2019, the legislature passed House Bill 3415, which required each public and private institution of higher education to adopt written policies in addition to existing required protocols concerning sexual harassment, sexual assault, domestic violence, dating violence, and stalking. That bill required the policies to include a specific definition of sexual harassment, procedures to address harassment and conduct an inquiry upon receiving notice, and an explanatory jurisdictional statement.

Senate Bill 1572 modifies the requirements of institutions of higher education to adopt written policies concerning discrimination, harassment, intimidation, bullying, dating violence, stalking, and sexual abuse by requiring additional standard definitions, introductory and continuing prevention and awareness programs for students and employees, and biennial campus climate surveys.