

Senate Bill 740

Sponsored by Senator THATCHER

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires public institutions of higher education to adopt and enforce certain policies regarding due process rights for students, faculty and staff.

Requires institutions to adopt schedule of disciplinary sanctions for individuals who substantially interfere with due process rights established by policy.

Requires institutions to provide annual report to Legislative Assembly setting forth and describing any violations to policies and disciplinary sanctions issued for violations.

Provides for severability of provisions found to be invalid.

A BILL FOR AN ACT

1
2 Relating to due process rights for individuals subject to authority of public institutions of higher
3 education.

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

5 **SECTION 1. (1) As used in this section, "institution" and "public institution of higher**
6 **education" mean:**

7 (a) **A community college as defined in ORS 341.005;**

8 (b) **A public university listed in ORS 352.002; and**

9 (c) **The Oregon Health and Science University.**

10 (2) **Each public institution of higher education shall adopt and enforce written policies**
11 **that are consistent with and provide for the following:**

12 (a) **For students, faculty and staff who are subject to disciplinary proceedings, all rights**
13 **of due process required under the United States Constitution.**

14 (b) **For students, faculty and staff, adjudication procedures established by the institution**
15 **must include, at a minimum, the following:**

16 (A) **Presumption of innocence;**

17 (B) **Clear and convincing standard for evidence;**

18 (C) **Right to counsel;**

19 (D) **Right to be informed when a verbal conversation is relating to a disciplinary process;**

20 (E) **Right to record all verbal conversations relating to a disciplinary process;**

21 (F) **Right to access all evidence, including any exculpatory evidence, relating to a disci-**
22 **plinary process;**

23 (G) **Right to be informed of allegations made against the individual related to a discipli-**
24 **nary process;**

25 (H) **Right to be informed of all existing allegations received by the institution;**

26 (I) **Right to the use of clear and precise definitions for terms related to the allegations;**

27 (J) **Right to the use of a clear definition for the term "statute of limitations";**

28 (K) **Right to in-person hearings;**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (L) Right to cross examine the alleging individual and witnesses; and

2 (M) Right to speak publicly about the allegations and disciplinary process.

3 (c) Allegations of criminal felony misconduct must be referred to the appropriate law
4 enforcement agency.

5 (d) An individual may not be subject to more than one disciplinary process, concurrent
6 or subsequent, for the same allegation.

7 (e) To be designated a "Title IX Responsible Employee," a faculty or staff member must
8 have, at a minimum, five years of experience in criminal defense and substantial courtroom
9 experience.

10 (3) Each institution shall adopt a schedule of disciplinary sanctions for individuals who
11 substantially interfere with a due process right established under a policy adopted pursuant
12 to this 2023 Act.

13 (4) Each institution shall:

14 (a) Provide a copy of the institution's policies adopted pursuant to this 2023 Act to each
15 new student, faculty and staff member of the institution.

16 (b) Post the institution's policies adopted pursuant to this 2023 Act, and all reports sub-
17 mitted by the institution to the Legislative Assembly pursuant to subsection (5) of this sec-
18 tion, prominently on the institution's website. The policies and reports must be accessible
19 by no more than three Internet links from the institution's website home page, searchable
20 by keywords and phrases and accessible to the public without requiring registration, user
21 name or password.

22 (5) No later than December 31 of each calendar year, each institution shall submit a re-
23 port to the Legislative Assembly, in the manner prescribed by ORS 192.245, that sets forth
24 and describes any and all violations to the institution's policies adopted pursuant to this 2023
25 Act and disciplinary sanctions issued for those violations.

26 (6) If any provision of this 2023 Act or the application thereof to any person or circum-
27 stance is held invalid, the invalidity does not affect other provisions or applications of this
28 2023 Act which can be given effect without the invalid provision or application, and to this
29 end the provisions of this 2023 Act are severable.

30