

Requested by Representative HARTMAN

**PROPOSED AMENDMENTS TO
HOUSE BILL 3456**

1 On page 1 of the printed bill, delete lines 4 through 15 and delete pages
2 2 through 11 and insert:

3 **“SECTION 1. As used in sections 1 to 12 of this 2023 Act:**

4 **“(1) ‘Certified advocate’ and ‘qualified victim services program’**
5 **have the meanings given those terms in ORS 40.264.**

6 **“(2) ‘Institution of higher education’ has the meaning given that**
7 **term in ORS 350.253.**

8 **“(3) ‘Reporting party’ means a student or employee at an institution**
9 **of higher education who reports having experienced an incident of**
10 **sexual misconduct to the institution.**

11 **“(4) ‘Sexual misconduct’ means an incident of sexual harassment,**
12 **sexual violence, intimate partner violence, domestic violence, sexual**
13 **exploitation, stalking, harassment or violence based on sexual orien-**
14 **tation or gender identity or expression, or other gender-based**
15 **harassment or violence.**

16 **“(5) ‘Student’ means an individual who:**

17 **“(a) Is enrolled or who is seeking to enroll in a credit-bearing pro-**
18 **gram at an institution of higher education, whether part-time, full-**
19 **time or as an extension student; or**

20 **“(b) Who has taken a leave of absence or withdrawn from the in-**
21 **stitution of higher education after reporting an incident of sexual**

1 **misconduct to the Title IX coordinator at the institution.**

2 **“(6) ‘Trauma-informed response’ means a response involving an**
3 **understanding of the complexities of intimate partner violence, do-**
4 **mestic violence, sexual assault and stalking through training centered**
5 **on the neurobiological impact of trauma, the influence of societal**
6 **myths and stereotypes surrounding the causes and impacts of trauma,**
7 **an understanding of perpetration methodology and knowledge of how**
8 **to conduct an effective investigation.**

9 **“SECTION 2. (1) The Sexual Misconduct Survey Council is estab-**
10 **lished, consisting of 19 voting members and four nonvoting members.**

11 **“(2) The four nonvoting members of the council shall be appointed**
12 **as follows:**

13 **“(a) The President of the Senate shall appoint two nonvoting**
14 **members from among members of the Senate; and**

15 **“(b) The Speaker of the House of Representatives shall appoint two**
16 **nonvoting members from among members of the House of Represen-**
17 **tatives.**

18 **“(3)(a) The executive director of the Higher Education Coordinating**
19 **Commission, in consultation with the Attorney General’s Sexual As-**
20 **sault Task Force and the Oregon Coalition Against Domestic and**
21 **Sexual Violence, shall appoint the following 17 voting members of the**
22 **council:**

23 **“(A) One individual who represents a public university listed in ORS**
24 **352.002;**

25 **“(B) One individual who represents a private institution of higher**
26 **education;**

27 **“(C) One individual who represents a community college operated**
28 **under ORS chapter 341;**

29 **“(D) One Title IX coordinator from an institution of higher educa-**
30 **tion that awards bachelor’s degrees.;**

1 **“(E) One individual from the Oregon Coalition Against Domestic
2 and Sexual Violence;**

3 **“(F) One representative from the Attorney General’s Sexual Assault
4 Task Force;**

5 **“(G) One individual from a national coalition focused on ending
6 campus sexual violence, including but not limited to the Every Voice
7 Coalition;**

8 **“(H) Two students who are enrolled at a public university listed in
9 ORS 352.002 and who are affiliated with a group or organization that
10 advocates for multicultural, diversity or antidiscrimination training;**

11 **“(I) Two students who are enrolled at a private institution of higher
12 education and who are affiliated with a group or organization that
13 advocates for multicultural, diversity or antidiscrimination training;**

14 **“(J) Two students who are enrolled at a community college operated
15 under ORS chapter 341 and who are affiliated with a group or organ-
16 ization that advocates for multicultural, diversity or antidiscrimi-
17 nation training;**

18 **“(K) One individual who has demonstrated experience in the devel-
19 opment and design of sexual misconduct climate surveys;**

20 **“(L) One individual who has demonstrated expertise in statistics,
21 data analytics or econometrics and experience in higher education
22 survey analysis;**

23 **“(M) One individual who is a medical or mental health care pro-
24 fessional with experience working with victims of trauma at a health
25 services program at an institution of higher education; and**

26 **“(N) One individual from a community-based domestic and sexual
27 violence advocacy agency.**

28 **“(b) An individual appointed under paragraph (a)(E) to (G) of this
29 subsection may appoint a designee to serve on the council in place of
30 the individual appointed.**

1 “(4) In addition to the individuals described in subsections (2) and
2 (3) of this section, the Attorney General and the executive director of
3 the commission, or the designee of the Attorney General or the execu-
4 tive director of the commission, shall serve as voting members of the
5 council.

6 “(5) In appointing members to the council, the appointing authori-
7 ties shall:

8 “(a) Seek to ensure that membership on the council is reflective of
9 the gender, racial and geographic diversity of Oregon; and

10 “(b) Seek to appoint individuals with a background, education or
11 experience in the fields of public health, survey design or Title IX of
12 the Education Amendments Act of 1972, 20 U.S.C. 1681 to 1688, as
13 amended.

14 “(6)(a) The term of office of each individual appointed to the council
15 under subsections (2) and (3) of this section is two years. Before the
16 expiration of the term of a member, the appointing authority shall
17 appoint a successor. A member is eligible for reappointment.

18 “(b) If there is a vacancy for any cause, the appointing authority
19 shall make an appointment to become immediately effective for the
20 unfinished term.

21 “(7) The council shall select one or more of its voting members as
22 chairperson or as cochairpersons.

23 “(8) A majority of the voting members of the council constitutes a
24 quorum for the transaction of business.

25 “(9) The Legislative Policy and Research Director shall provide staff
26 support to the council.

27 “(10)(a) Except as provided in paragraphs (b) and (c) of this sub-
28 section, members of the council are not entitled to compensation for
29 their service on the council.

30 “(b) To the extent moneys are available, members of the council

1 who are not members of the Legislative Assembly shall be reimbursed
2 for actual and necessary travel and other expenses incurred by the
3 members in the performance of official duties in the manner and
4 amount as provided in ORS 292.495.

5 “(c) Legislative members of the council shall be entitled to payment
6 of compensation and expense reimbursement under ORS 171.072, pay-
7 able from funds appropriated to the Legislative Assembly.

8 **“SECTION 3. (1) At least once every two years, the Sexual Miscon-**
9 **duct Survey Council established under section 2 of this 2023 Act shall:**

10 **“(a) Develop a base survey for distribution to institutions of higher**
11 **education; and**

12 **“(b) Provide each institution of higher education with any recom-**
13 **mendations regarding use of the survey, including but not limited to**
14 **additional content that could be added, the timing for conducting the**
15 **survey, recommendations for achieving statistically valid response**
16 **rates and how the survey results should be interpreted.**

17 **“(2) In developing the base survey required under subsection (1) of**
18 **this section, the council shall:**

19 **“(a) Utilize best practices from peer-reviewed research and consult**
20 **with individuals with expertise in the development and use of sexual**
21 **misconduct climate surveys by post-secondary institutions of educa-**
22 **tion;**

23 **“(b) Review sexual misconduct climate surveys that have been de-**
24 **veloped and previously used by post-secondary institutions of educa-**
25 **tion;**

26 **“(c) Provide opportunities for written comment from organizations**
27 **that work directly with victims of sexual misconduct in order to en-**
28 **sure the adequacy and appropriateness of the proposed content;**

29 **“(d) Consult with institutions of higher education on strategies for**
30 **optimizing the effectiveness of the survey;**

1 “(e) Account for the diverse needs and differences of institutions
2 of higher education;

3 “(f) Provide opportunities for student feedback through optional
4 comment boxes at the end of the survey and by providing a time and
5 space for students to comment to the council on what could be done
6 to improve the sexual misconduct climate survey described in section
7 4 of this 2023 Act so that the results of the survey convey an accurate
8 representation of happenings on campus; and

9 “(g) Use a trauma-informed framework.

10 “(3) The base survey shall gather data on topics including but not
11 limited to:

12 “(a) The number and type of incidents, both reported and
13 unreported, of sexual misconduct at the institution of higher educa-
14 tion;

15 “(b) When incidents of sexual misconduct occurred, without re-
16 quiring a specific date or time;

17 “(c) Whether incidents of sexual misconduct occurred on campus,
18 off campus, overseas or virtually;

19 “(d) If the sexual misconduct was perpetrated by a student, faculty
20 member, nonfaculty staff member, third-party vendor to the institu-
21 tion of higher education or other individual;

22 “(e) How aware students are of institutional policies and procedures
23 related to campus sexual misconduct;

24 “(f) Whether a student reported sexual misconduct, with specific
25 follow-up questions regarding:

26 “(A) For students who reported sexual misconduct, whether the
27 report was made to a campus resource or law enforcement agency; and

28 “(B) For students who did not report sexual misconduct, why the
29 student chose not to make a report;

30 “(g) Whether students who experienced sexual misconduct disclosed

1 the sexual misconduct to a friend, peer, family member, faculty or
2 nonfaculty staff member, campus resource or law enforcement official;

3 “(h) For a student who reported sexual misconduct:

4 “(A) Whether the student was informed of or referred to local,
5 state, campus or other resources, or to victim support services, in-
6 cluding but not limited to appropriate medical care, mental health
7 counseling and legal services; and

8 “(B) Whether the student was provided with protection from retal-
9 iation, access to institution-based supportive measures or institution-
10 based accommodations and criminal justice remedies;

11 “(i) For a student who experienced assault, the types of contextual
12 factors that were present during the assault, including but not limited
13 to the involvement of force, incapacitation, coercion, drugs or alcohol;

14 “(j) Demographic information that could be used to identify at-risk
15 groups, including but not limited to sex, race, ethnicity, national ori-
16 gin, economic status, disability status, gender identity, immigration
17 status and sexual orientation;

18 “(k) Perceptions of campus safety among members of the campus
19 community;

20 “(L) Student confidence in the institution’s ability to protect
21 against and respond to incidents of sexual misconduct;

22 “(m) Whether students who reported sexual misconduct took a
23 leave of absence from the institution, or considered transferring to
24 another institution or withdrawing;

25 “(n) Whether students who experienced sexual misconduct with-
26 drew from any classes or were placed on academic probation;

27 “(o) Whether students experienced any financial impacts from sex-
28 ual misconduct or the institution’s response to a report of sexual
29 misconduct;

30 “(p) Whether students experienced any negative health impacts

1 from sexual misconduct or the institution’s response to a report of
2 sexual misconduct, including but not limited to post-traumatic stress
3 disorder, anxiety, depression, chronic pain or eating disorders;

4 “(q) Community attitudes towards sexual misconduct, including but
5 not limited to students’ willingness to intervene as bystanders; and

6 “(r) Any other questions the council determines would be beneficial.

7 “(4) A base survey developed under this section:

8 “(a) Shall:

9 “(A) Include a ‘decline to state’ and ‘not applicable’ option for each
10 question;

11 “(B) Be offered to all students enrolled at the institution of higher
12 education, including students who are on a leave of absence or study-
13 ing abroad;

14 “(C) Be created taking into account all reasonable measures to en-
15 sure that an adequate, random and representative sample of students
16 complete the survey; and

17 “(D) Be administered online, with reasonable accommodations pro-
18 vided to all students in order to ensure accessibility; and

19 “(b) May not require the disclosure of any personally identifiable
20 information.

21 **“SECTION 4. (1) At least once every two years, each institution of**
22 **higher education shall conduct a sexual misconduct climate survey of**
23 **all students enrolled at the institution.**

24 “(2)(a) A survey conducted under this section shall include:

25 “(A) The most recent base survey provided by the Sexual Miscon-
26 duct Survey Council under section 3 of this 2023 Act; and

27 “(B) Any additional campus-specific questions chosen by the insti-
28 tution, provided that the additional questions do not:

29 “(i) Require the disclosure of any personally identifiable informa-
30 tion; and

1 “(ii) Are not objectively traumatizing for victims of sexual miscon-
2 duct.

3 “(b) The council may review any questions that are added by an
4 institution under paragraph (a)(B) of this subsection to ensure that
5 the questions do not violate the requirements set forth in paragraphs
6 (a)(B)(i) or (ii) of this subsection. If the council determines that an
7 institution has included questions that violate paragraphs (a)(B)(i) or
8 (ii) of this subsection the council, and any appropriate experts ap-
9 pointed by the council, shall assist the institution in developing ap-
10 propriate campus-specific questions.

11 “(3) No later than 120 days after completing a survey under this
12 section, each institution of higher education shall:

13 “(a) Submit an aggregate summary of the results to the Higher
14 Education Coordinating Commission; and

15 “(b) Post on the institution’s website in an easily accessible man-
16 ner:

17 “(A) A summary of the results of the survey;

18 “(B) Any annual security reports required to be reported under
19 federal law, including but not limited to the Annual Security Report
20 required to be reported under the Clery Act of 1990 (P.L. 101-542), as
21 amended; and

22 “(C) A link to the data repository for summaries of sexual miscon-
23 duct climate surveys established by the commission under section 5
24 of this 2023 Act.

25 “SECTION 5. (1) The Higher Education Coordinating Commission
26 shall establish a data repository for all summaries of sexual miscon-
27 duct climate surveys conducted by institutions of higher education and
28 submitted to the commission under section 4 of this 2023 Act.

29 “(2) The data repository established under this section must:

30 “(a) Be made available to the public in an easily accessible manner

1 on the website of the commission; and

2 “(b) Except as provided in subsection (3) of this section, include all
3 sexual misconduct climate survey data received by the commission.

4 “(3) Prior to making the data of any sexual misconduct climate
5 survey the commission receives publicly available, the commission
6 shall ensure that the data is anonymized and does not contain any
7 personally identifiable information. The commission may alter the
8 data it receives to the degree necessary to ensure conformity with this
9 subsection.

10 “(4) The commission shall adopt rules for the dissemination and
11 collection of sexual misconduct climate surveys at institutions of
12 higher education. In adopting these rules, the commission shall seek
13 to promote effective solicitation that will achieve the highest practi-
14 cable response rate, collection and publication of statistical informa-
15 tion from institutions of higher education.

16 **“SECTION 6. (1)(a) Except as provided in paragraph (b) of this**
17 **subsection, each institution of higher education shall employ at least**
18 **one certified advocate as part of a institution-based qualified victim**
19 **services program.**

20 “(b) An institution of higher education is not required to employ a
21 certified advocate if the institution:

22 “(A)(i) Does not have an institution-based qualified victim services
23 program; or

24 “(ii) Has fewer than 1,000 enrolled students who reside on campus;
25 and

26 “(B)(i) Partners with a local victim advocacy organization to pro-
27 vide a certified advocate;

28 “(ii) Ensures that the certified advocate has on-campus office
29 hours; and

30 “(iii) Ensures that the services of the certified advocate are pro-

1 vided without charge to enrolled students.

2 “(2) A certified advocate employed by an institution of higher edu-
3 cation under this section shall be appointed based on the individual’s
4 experience and demonstrated ability to effectively provide victim ser-
5 vices related to sexual misconduct and:

6 “(a) May not:

7 “(A) Be a student of the institution;

8 “(B) Be a Title IX coordinator for the institution;

9 “(C) Be an authorized administrator of disciplinary processes on
10 behalf of the institution;

11 “(D) Be a member of campus police or law enforcement; or

12 “(E) Have any additional job responsibilities that could create a
13 conflict of interest, including but not limited to being a general
14 counsel, director of athletics, dean of students, clergy member, or any
15 employee who serves on a judicial or hearing board or to whom an
16 appeal regarding an allegation of sexual misconduct may be made; and

17 “(b) Shall receive training:

18 “(A) Required to be a certified advocate;

19 “(B) On the requirements of Title IX of the Education Amendments
20 Act of 1972, 20 U.S.C. 1681 to 1688, as amended;

21 “(C) On the policies of the institution of higher education relating
22 to sexual misconduct; and

23 “(D) On trauma-informed response.

24 “(3) A certified advocate who is employed under this section shall:

25 “(a) Provide confidential services to students and inform students
26 of all information required to be provided under ORS 350.253 and
27 350.255;

28 “(b) Provide written notification to all institution staff involved in
29 providing or enforcing supportive measures or accommodations of the
30 respective duties of these staff members;

1 “(c) If directed by a student, assist the student in contacting cam-
2 pus police or local law enforcement agencies to make a report;

3 “(d) Notify students of their rights, and the responsibilities of the
4 institution, regarding protection orders, no contact orders and any
5 other lawful ordered issued by the institution or by a criminal, civil
6 or tribal court;

7 “(e) Be subject to privilege as a certified advocate under ORS 40.264;

8 “(f) Coordinate with on-campus sexual misconduct response re-
9 sources and any community-based domestic and sexual violence advo-
10 cacy agency with which the institution has entered into a
11 memorandum of understanding under section 7 of this 2023 Act within
12 a reasonable time after being designated as a certified advocate; and

13 “(g) If requested by signed written consent from a student, assist
14 the student with coordinating on-campus supports and supports
15 available with any community-based domestic and sexual violence ad-
16 vocacy agency with which the institution has entered into a memo-
17 randum of understanding under section 7 of this 2023 Act.

18 “(4) A certified advocate employed under this section:

19 “(a) If requested by a student, may attend an administrative or
20 institution-based adjudication proceeding as the advocate or support
21 person for the student;

22 “(b) May not:

23 “(A) Be required to report an incident to the institution or a law
24 enforcement agency unless otherwise required to do so by state or
25 federal law;

26 “(B) Disclose confidential information, including but not limited to
27 the name, contact information or any personally identifiable informa-
28 tion of a student or any information on the sexual misconduct, with-
29 out the prior written consent of the student who provided the
30 information to the certified advocate;

1 **“(C) Provide services to both the reporting party and the responding**
2 **party of the same sexual misconduct incident; or**

3 **“(D) Act as a counselor or therapist.**

4 **“(5) Nothing in this section may be construed to limit either party’s**
5 **right of cross examination of the certified advocate in a criminal or**
6 **civil proceeding if the advocate testifies after written consent has been**
7 **given.**

8 **“(6) Providing notice to a certified advocate of an alleged act of**
9 **sexual misconduct or an advocate’s performance of a service under**
10 **this section may not be considered actual or constructive notice to the**
11 **institution of higher education of the alleged act.**

12 **“(7) If a conflict of interest arises for an institution of higher edu-**
13 **cation in which a certified advocate is advocating for a student’s need**
14 **for sexual misconduct crisis services or for campus resources or law**
15 **enforcement services, the institution may not discipline, penalize or**
16 **otherwise retaliate against the certified advocate for representing the**
17 **interest of the reporting party.**

18 **“SECTION 7. (1) Except as provided in subsection (4) of this section,**
19 **each institution of higher education shall enter into and maintain a**
20 **memorandum of understanding with a community-based domestic and**
21 **sexual violence advocacy agency that is in the same county as the in-**
22 **stitution.**

23 **“(2) The memorandum of understanding entered into under this**
24 **section shall ensure that the community-based domestic and sexual**
25 **violence advocacy agency will:**

26 **“(a) Assist in developing the institution’s policies, programming**
27 **and training regarding sexual misconduct that involves students and**
28 **employees;**

29 **“(b) Provide an accessible off-campus alternative where students**
30 **and employees of the institution can receive free and confidential**

1 **sexual misconduct crisis services, including but not limited to access**
2 **to a sexual assault nurse examiner, if available, and to domestic vi-**
3 **olence crisis services in response to sexual misconduct;**

4 **“(c) Ensure that a student or employee of the institution can access**
5 **free and confidential counseling and advocacy services either on cam-**
6 **pus or off campus; and**

7 **“(d) Ensure cooperation and training between the institution and**
8 **the community-based domestic and sexual violence advocacy agency**
9 **to ensure an understanding of the roles that the institution or center**
10 **should play in responding to reports and disclosures of sexual mis-**
11 **conduct against students and employees of the institution and the**
12 **institution’s protocols for providing support and services to students**
13 **and employees who have been the victims of sexual misconduct.**

14 **“(3)(a) A memorandum of understanding entered into under this**
15 **section may include an agreement, including a fee structure, between**
16 **the community-based domestic and sexual violence advocacy agency**
17 **and the institution of higher education for the provision of confiden-**
18 **tial victim services.**

19 **“(b) As used in this subsection, ‘confidential victim services’ means**
20 **case consultation and training fees for certified advocates, consulta-**
21 **tion fees for the development and implementation of student education**
22 **and prevention programs, the development of staff training and pre-**
23 **vention curriculum and confidential on-site office space for a repre-**
24 **sentative from a community-based domestic and sexual violence**
25 **advocacy agency to meet with students or employees of the institution**
26 **of higher education.**

27 **“(4) Notwithstanding subsection (1) of this section:**

28 **“(a) The Higher Education Coordinating Commission may waive the**
29 **requirements of this section if the commission determines that, de-**
30 **spite reasonable efforts, an institution of higher education was unable**

1 to enter into a memorandum of understanding with a community-
2 based domestic and sexual violence advocacy agency.

3 “(b) This section does not apply to a satellite campus or branch
4 campus of an institution of higher education if the satellite campus
5 or branch campus has 1,000 or fewer enrolled students who reside on
6 campus.

7 **“SECTION 8. (1)(a) A reporting party or a witness who requests an**
8 **investigation of sexual misconduct may not be subjected to a discipli-**
9 **nary proceeding or sanction for violating the institution of higher**
10 **education’s student conduct policy related to drug or alcohol use,**
11 **trespassing or unauthorized entry of school facilities or other vio-**
12 **lations of a school policy or code of conduct that is discovered in**
13 **connection with the alleged sexual misconduct unless the institution**
14 **determines that the report was not made in good faith or that the vi-**
15 **olation of the policy was an egregious violation.**

16 “(b) As used in this subsection, an ‘egregious violation’ includes but
17 is not limited to taking an action that places the health and safety of
18 another individual at risk.

19 “(2) If the code of conduct of an institution of higher education
20 prohibits sexual activity or certain forms of sexual activity, including
21 but not limited to same-gender relationships or sexual activity, the
22 institution may not take disciplinary action against:

23 “(a) Individuals who report sexual misconduct or nonharassing
24 sexual activity related to sexual misconduct that is discovered during
25 an investigation into reported sexual misconduct; or

26 “(b) Other nonharassing sexual activity that is discovered during
27 an investigation into an allegation of sexual misconduct.

28 “(3) In any instance in which disciplinary action is taken against
29 an individual who has reported sexual misconduct, the institution of
30 higher education shall review the disciplinary action to determine if

1 there is a link between the disclosed sexual misconduct and the mis-
2 conduct that led to the reporting party's being disciplined.

3 **“SECTION 9. (1) In addition to any requirements set forth in ORS**
4 **350.253 and 350.255, each institution of higher education shall:**

5 **“(a) Receive guidance from the Title IX coordinator of the institu-**
6 **tion, local law enforcement, violence prevention specialists, public**
7 **health specialists, other individuals with experience identifying pro-**
8 **TECTIVE and risk factors related to violence and the community-based**
9 **domestic and sexual violence advocacy agency with which the institu-**
10 **tion entered into a memorandum of understanding under section 7 of**
11 **this 2023 Act; and**

12 **“(b) Use the guidance received under paragraph (a) of this sub-**
13 **section to establish a trauma-informed, gender-inclusive sexual mis-**
14 **conduct primary prevention and awareness training that must be**
15 **attended annually by each student and employee of the institution.**

16 **“(2) Trainings provided under this section:**

17 **“(a) Must be accessible to individuals with a disability;**

18 **“(b) Must be culturally responsive and address the unique experi-**
19 **ences and challenges faced by students based on race, color, ethnicity,**
20 **national origin, religion, economic status, disability status, immi-**
21 **gration status, sexual orientation, gender identity and pregnancy or**
22 **parenting status; and**

23 **“(c) Must include:**

24 **“(A) An explanation of consent as it applies to sexual activity and**
25 **sexual relationships;**

26 **“(B) The role drugs and alcohol play in an individual's ability to**
27 **consent;**

28 **“(C) Information on options relating to the reporting of an incident**
29 **of sexual misconduct, the effects of each option presented and the**
30 **methods to report an incident of sexual misconduct, including confi-**

1 **dential and anonymous disclosure;**

2 **“(D) Information on the institution’s procedures for resolving sex-**
3 **ual misconduct reports and the range of sanctions or penalties the**
4 **institution may impose on students and employees responsible for a**
5 **violation;**

6 **“(E) The name, contact information and role of the certified advo-**
7 **cate employed by the institution;**

8 **“(F) Strategies for bystander intervention and risk reduction; and**

9 **“(G) Opportunities for ongoing sexual misconduct prevention and**
10 **awareness training and programming.**

11 **“(3) Notwithstanding section 1 (5) of this 2023 Act, as used in this**
12 **section, ‘student’ means an individual who is enrolled at least half-**
13 **time in an academic credit-bearing program at an institution of higher**
14 **education.**

15 **“SECTION 10. (1) Each institution of higher education shall waive**
16 **any requirements relating to a minimum required grade point average**
17 **or disciplinary record requirements required to demonstrate academic**
18 **success that are part of any institution-sponsored program or activity**
19 **for any participant who:**

20 **“(a) Has experienced sexual misconduct; and**

21 **“(b) Has received a waiver in the manner described in subsection**
22 **(2) of this section.**

23 **“(2) A student may obtain a waiver under this section from the**
24 **certified advocate employed by the institution, the Title IX coordinator**
25 **at the institution, a student basic needs coordinator at the institution,**
26 **any law enforcement personnel at the institution, the student’s aca-**
27 **demic advisor at the institution or any disability resource center per-**
28 **sonnel.**

29 **“(3) Each institution of higher education shall maintain**
30 **confidentiality of all materials that contain personally identifiable in-**

1 formation for individuals who have requested a waiver under this
2 section unless disclosure is required specifically for the purpose of
3 making required accommodations or if otherwise required by a court
4 of law.

5 “(4) As used in this section:

6 “(a) ‘Institution-sponsored program or activity’ includes but is not
7 limited to a scholarship provided by an institution of higher education
8 or an institution-sponsored academic or extracurricular activity.

9 “(b) ‘Institution-sponsored program or activity’ does not include
10 licensures, participation in clinical and practicum settings or similar
11 programs or activities.

12 “SECTION 11. (1) No later than October 1 of each year, each insti-
13 tution of higher education shall submit a report in the manner pro-
14 vided by ORS 192.245 to:

15 “(a) The Secretary of the Senate and the Chief Clerk of the House
16 of Representatives;

17 “(b) The interim committees of the Legislative Assembly relating
18 to higher education;

19 “(c) The Higher Education Coordinating Commission; and

20 “(d) The Director of Human Services.

21 “(2) The report shall include:

22 “(a) The total number of allegations of intimate partner violence,
23 domestic violence, sexual assault, sexual harassment and stalking that
24 were reported to the institution’s Title IX coordinator by a student or
25 employee of the institution against another student or employee of the
26 institution during the previous academic year;

27 “(b) The number of law enforcement investigations known to have
28 been initiated during the previous academic year in response to reports
29 of sexual misconduct that were brought forward by a student or em-
30 ployee of the institution against another student or employee of the

1 **institution;**

2 **“(c) The number of students and employees at the institution who**
3 **were found responsible during the previous academic year for violating**
4 **the institution’s policies prohibiting sexual misconduct;**

5 **“(d) The number of students and employees at the institution who**
6 **during the previous academic year, faced academic or employment**
7 **disciplinary action due to having violated the institution’s policies**
8 **prohibiting sexual misconduct;**

9 **“(e) The number of students and employees at the institution who,**
10 **during the previous academic year, were investigated, but found not**
11 **responsible for having violated the institution’s policies prohibiting**
12 **sexual misconduct;**

13 **“(f) The number of disciplinary actions imposed during the previous**
14 **academic year by the institution as a result of a finding of responsi-**
15 **bility for violating the institution’s policies prohibiting sexual mis-**
16 **conduct;**

17 **“(g) The number of students at the institution who, during the**
18 **previous academic year, requested supportive measures;**

19 **“(h) The number of supportive measures requested by each student**
20 **described in paragraph (g) of this subsection;**

21 **“(i) The number of supported measures granted to each student**
22 **described in paragraph (g) of this subsection; and**

23 **“(j) The number of students during the previous academic year who**
24 **took a leave of absence, transferred to a different institution of higher**
25 **education or withdrew from the institution of higher education.**

26 **“(3) The information provided in the report must be provided in an**
27 **anonymous and aggregate manner that complies with all state and**
28 **federal privacy laws.**

29 **“SECTION 12. (1) If, after providing reasonable notice and an op-**
30 **portunity for a hearing, the Higher Education Coordinating Commis-**

1 sion determines that an institution of higher education has violated
2 or failed to carry out any provision of sections 1 to 12 of this 2023 Act,
3 the commission may impose a civil penalty against the institution not
4 to exceed \$150,000 or one percent of the institution’s annual operating
5 budget, whichever is lower, for each violation.

6 “(2) Prior to the start of each academic year, the commission shall
7 adjust the dollar amount set forth in this section by the cumulative
8 change in the Consumer Price Index for All Urban Consumers, West
9 Region (All Items), as published by the Bureau of Labor Statistics of
10 the United States Department of Labor, or its successor, since the
11 previous academic year. The adjustments performed under this sub-
12 section shall be rounded to the nearest \$10 increment.

13 “(3) The commission may adopt rules necessary to implement
14 sections 1 to 12 of this 2023 Act.

15 “SECTION 13. The Sexual Misconduct Survey Council must submit
16 the first base survey and related recommendations, including but not
17 limited to recommendations on achieving statistically valid response
18 rates, to each institution of higher education no later than January
19 1, 2024.

20 “SECTION 14. Sections 1 to 12 of this 2023 Act first apply to the
21 2023-2024 academic year.

22 “SECTION 15. It is the intent of the Legislative Assembly that all
23 parts of this 2023 Act are independent and that if any part of this 2023
24 Act is held unconstitutional, all remaining parts shall remain in force.

25 “SECTION 16. This 2023 Act being necessary for the immediate
26 preservation of the public peace, health and safety, an emergency is
27 declared to exist, and this 2023 Act takes effect on its passage.”.

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