

## CHAPTER 38

AN ACT

HB 4150

Relating to school sexual harassment policies; creating new provisions; amending ORS 342.700 and 342.704; and prescribing an effective date.

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

**SECTION 1.** ORS 342.704 is amended to read:

342.704. (1) The State Board of Education shall adopt by rule minimum requirements for school district policies on sexual harassment of students by staff **members** and other students including, but not limited to, requirements that:

(a) All staff **members** and students are subject to the policies;

(b) Sexual harassment of students includes:

(A) A demand for sexual favors in exchange for benefits; and

(B) Unwelcome conduct of a sexual nature that has the purpose or effect of unreasonably interfering with a student's educational performance or that creates an intimidating, offensive or hostile educational environment;

(c) **When a student or, if applicable, the student's parents file a complaint alleging behavior that may violate the policy, the student or student's parents shall receive a written notification as described in subsection (4) of this section;**

[(c)] (d) All complaints about behavior that may violate the policy shall be investigated;

[(d)] (e) The initiation of a complaint in good faith about behavior that may violate the policy [shall] **may** not adversely affect the educational assignments or [study] **educational** environment of the student **who initiated the complaint;** and

[(e)] (f) The student who initiated the complaint and, **if applicable,** the student's parents shall be notified:

(A) When the investigation is concluded[.]; and

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

(2) The State Board of Education shall adopt by rule minimum requirements for school district policies on sexual harassment of staff **members** by students and other staff **members** including, but not limited to, requirements that:

(a) All staff **members** and students are subject to the policies;

(b) Sexual harassment of staff **members** includes:

(A) A demand for sexual favors in exchange for benefits; and

(B) Unwelcome conduct of a sexual nature that has the purpose or effect of unreasonably interfering with a staff [person's] **member's** ability to perform the job or that creates an intimidating, offensive or hostile work environment;

(c) **When a staff member files a complaint alleging behavior that may violate the policy, the staff member shall receive a written notification as described in subsection (4) of this section;**

[(c)] (d) All complaints about behavior that may violate the policy shall be investigated;

[(d)] (e) The initiation of a complaint in good faith about behavior that may violate the policy [shall] **may** not adversely affect any terms or conditions of employment or work environment of the staff [complainant] **member who initiated the complaint;** and

[(e)] (f) The staff member who initiated the complaint shall be notified:

(A) When the investigation is concluded[.]; and

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

(3) The State Board of Education shall adopt by rule minimum requirements for school district policies on sexual harassment of persons described in paragraph (b) of this subsection by staff members and students, including, but not limited to, requirements that:

(a) All staff members and students are subject to the policies;

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

(c) Sexual harassment of persons described in paragraph (b) of this subsection includes:

(A) A demand for sexual favors in exchange for benefits; and

(B) Unwelcome conduct of a sexual nature that:

(i) Has the purpose or effect of unreasonably interfering with a person's educational performance or a person's ability to perform the job; or

(ii) Creates an intimidating, offensive or hostile educational or work environment;

(d) When a person or, if applicable, the person's parents file a complaint alleging behavior that may violate the policy, the person or person's parents shall receive a written notification as described in subsection (4) of this section;

(e) All complaints about behavior that may violate the policy shall be investigated;

(f) The initiation of a complaint in good faith about behavior that may violate the policy may not adversely affect any terms or conditions of employment or of work or educational environment of the person who initiated the complaint; and

(g) The person who initiated the complaint and, **if applicable,** the person's parents shall be notified:

(A) When the investigation is concluded; and

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

(4)(a) The written notification required under subsections (1)(c), (2)(c) and (3)(d) of this section must set forth:

(A) The rights of the student, student's parents, staff member, person or person's parents who filed the complaint;

(B) Information about the internal complaint processes available through the school or school district that the student, student's parents, staff member, person or person's parents who filed the complaint may pursue;

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

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

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

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

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

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

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

(C) Be made available to students, students' parents, staff members and members of the public on the website of the school or school district.

**SECTION 2.** ORS 342.700 is amended to read:

342.700. It is the policy of the State of Oregon that sexual harassment will not be tolerated in schools. A school district shall adopt a policy on sexual harassment for students and staff **members** that meets the requirements of ORS 342.704. A school district shall make the sexual harassment policy available to students, parents of students and staff **members**. A school district's sexual harassment policy shall be posted on a sign that is at least 8.5 by 11 inches in size. The school district shall post the sign in all grade 6 through 12 schools in the school district.

**SECTION 3.** The amendments to ORS 342.704 by section 1 of this 2018 Act apply to complaints that are initiated under ORS 342.704 on or after the effective date of this 2018 Act.

**SECTION 4.** This 2018 Act takes effect on July 1, 2018.

Approved by the Governor March 16, 2018

Filed in the office of Secretary of State March 21, 2018

Effective date July 1, 2018