

HB 3077-2
(LC 913)
4/3/19 (HRL/ps)

Requested by HOUSE COMMITTEE ON JUDICIARY (at the request of Representative Andrea Salinas)

**PROPOSED AMENDMENTS TO
HOUSE BILL 3077**

1 On page 1 of the printed bill, delete lines 5 through 31 and delete pages
2 2 through 4 and insert:

3 **“SECTION 1.** ORS 342.704, as amended by section 1, chapter 38, Oregon
4 Laws 2018, is amended to read:

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

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

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

12 **“(b)** Sexual harassment of students includes:

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

15 **“(B)** Unwelcome conduct of a sexual nature **that is physical, verbal or**
16 **nonverbal and** that [has the purpose or effect of unreasonably interfering]
17 **interferes** with a student’s [educational performance] **educational program**
18 **or activity** or that creates an intimidating, offensive or hostile educational
19 environment;

20 **“(C)** Assault when sexual contact occurs without a student’s con-
21 **sent because the student is under the influence of drugs or alcohol, is**

1 **unconscious or is pressured through physical force, coercion or ex-**
2 **PLICIT or implied threats; and**

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

5 “(c) When a student or, if applicable, the student’s parents file a com-
6 plaint alleging behavior that may violate the policy, the student or student’s
7 parents shall receive a written notification as described in subsection [(4)]
8 (5) of this section[;].

9 **“(d) When a staff member becomes aware of behavior that may vi-**
10 **olate the policy, the staff member shall report to a district official so**
11 **that the district official and the staff member may coordinate efforts**
12 **to take any action necessary to ensure the student is protected and**
13 **to promote a nonhostile learning environment, including:**

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

15 **“(B) Taking any actions that are necessary to remove potential fu-**
16 **ture impact on the student, but that are not retaliatory against the**
17 **student or the staff member who reported to the district official.**

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

20 “[*e*] (f) The initiation of a complaint, **and the participation in an in-**
21 **vestigation**, in good faith about behavior that may violate the policy may
22 not adversely affect the educational assignments or **any terms or condi-**
23 **tions of employment or of work or** educational environment of the [*stu-*
24 *dent*] **person** who initiated the complaint[; *and*] **or who participated in the**
25 **investigation.**

26 “[*f*] (g) The [*student*] **person** who initiated the complaint and, if appli-
27 cable, the student’s parents shall be notified:

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

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

1 “[2] (3) The State Board of Education shall adopt by rule minimum re-
2 quirements for [school] district policies on sexual harassment of staff mem-
3 bers by students and other staff members [including]. **A district policy must**
4 **include**, but not **be** limited to, requirements that:

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

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

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

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

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

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

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

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

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

29 “(B) **Taking any actions that are necessary to remove potential fu-**
30 **ture impact on the staff member, but that are not retaliatory against**

1 **the staff member or the other staff member who reported to the dis-**
2 **trict official.**

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

5 “[*(e)*] (f) The initiation of a complaint, **and the participation in an in-**
6 **vestigation**, in good faith about behavior that may violate the policy may
7 not adversely affect **the educational assignments or** any terms or condi-
8 tions of employment or **of work or educational** environment of the [*staff*
9 *member*] **person** who initiated the complaint[; *and*] **or participated in the**
10 **investigation.**

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

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

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

16 “[*(3)*] (4) The State Board of Education shall adopt by rule minimum re-
17 quirements for [*school*] district policies on sexual harassment of persons de-
18 scribed in paragraph (b) of this subsection by staff members and students[,
19 *including*]. **A district policy must include**, but not **be** limited to, require-
20 ments that:

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

22 “[*(b)*] *The policies apply to persons who are on or immediately adjacent to*
23 *school grounds, at any school-sponsored activity, on school-provided transpor-*
24 *tation or at any official school bus stop;*]

25 “(b) **The policies apply to persons who:**

26 “(A) **Are on or immediately adjacent to school grounds or district**
27 **property;**

28 “(B) **Are at any school-sponsored or district-sponsored activity or**
29 **program; or**

30 “(C) **Are off school or district property, if a student or staff member**

1 **acts toward the person in a manner that creates a hostile environment**
2 **for the person while at school or a school-sponsored or district-**
3 **sponsored activity or program.**

4 “(c) Sexual harassment of persons described in paragraph (b) of this sub-
5 section includes:

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

8 “(B) Unwelcome conduct of a sexual nature that **is physical, verbal or**
9 **nonverbal and that[:]**

10 “[*i*] *Has the purpose or effect of unreasonably interfering with a person’s*
11 *educational performance or a person’s ability to perform the job; or]*

12 “[*ii*] creates an intimidating, offensive or hostile [*educational or work*]
13 environment;

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

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

19 “(d) When a person **who may have been subjected to behavior in vi-**
20 **olation of the policy** or, if applicable, the person’s parents file a complaint
21 alleging behavior that may violate the policy, the person or person’s parents
22 shall receive a written notification as described in subsection [(4)] (5) of this
23 section[;].

24 “(e) **When a staff member becomes aware of behavior that may vi-**
25 **olate the policy, the staff member shall report to a district official so**
26 **that the district official and the staff member may coordinate efforts**
27 **to take any action necessary to ensure the person who was subjected**
28 **to the behavior is protected and to promote a nonhostile environment,**
29 **including:**

30 “(A) **Providing resources for support measures to the person who**

1 **was subjected to the behavior; and**

2 **“(B) Taking any actions that are necessary to remove potential fu-**
3 **ture impact on the person, but that are not retaliatory against the**
4 **person or the staff member who reported to the district official.**

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

7 “[*f*] (g) The initiation of a complaint, **and the participation in an in-**
8 **vestigation**, in good faith about behavior that may violate the policy may
9 not adversely affect **the educational assignments or** any terms or condi-
10 tions of employment or of work or educational environment of the person
11 who initiated the complaint[; *and*] **or who participated in the investi-**
12 **gation.**

13 “[*g*] (h) The person who initiated the complaint and, if applicable, the
14 person’s parents shall be notified:

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

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

18 “[*4(a)*] (5)(a) The written notification required under subsections [(*1*)(*c*),
19 (*2*)(*c*) and (*3*)(*d*)] **(2)(c), (3)(c) and (4)(d)** of this section must set forth:

20 “(A) The rights of the student, student’s parents, staff member, person or
21 person’s parents who filed the complaint[;].

22 “(B) Information about the internal complaint processes available through
23 the school or [*school*] district that the student, student’s parents, staff mem-
24 ber, person or person’s parents who filed the complaint may pursue[;], **in-**
25 **cluding the person designated for the school or district for receiving**
26 **complaints.**

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

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

4 “(E) Information about the privacy rights of the student, staff member or
5 person and legally recognized exceptions to those rights for internal com-
6 plaint processes and services available through the school or [school]
7 district[; and].

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

11 **“(G) Notice that students who report information about possible**
12 **prohibited conduct and students who participate in an investigation**
13 **under a policy adopted as provided by this section may not be disci-**
14 **plined for violations of the district’s drug and alcohol policies that**
15 **occurred in connection with the reported prohibited conduct and that**
16 **were discovered as a result of a prohibited conduct report or investi-**
17 **gation unless the student gave another person alcohol or drugs with-**
18 **out 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
23 to be easily read; and

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

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

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