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Director of the Department of Education

House Bill 2280 – Definition of Consent for School Policies
House Education Committee
January 23, 2023

Chair Neron, Vice Chairs Wright and Hudson and members of the House Education Committee, I am Colt Gill, Director for the Oregon Department of Education. Thank you for the opportunity to provide written testimony in support of House Bill 2280.

This bill is designed to support students who are victims of sexual harassment by fixing a misalignment in Oregon laws and rules. Oregon’s current laws require schools to have sexual harassment policies that use an implied definition of consent, stating that consent cannot be present when a person is incapacitated, unconscious or pressured through physical force, coercion, or threats. This definition is out of alignment with Oregon’s rules and standards related to comprehensive sexuality education. OAR 581-022-2050 defines consensual as the presence of a “yes” when “no” is a viable option. Starting in sixth grade, the health education standards and performance indicators require students to demonstrate understanding that consent is a “freely given yes.” This teaches students bodily autonomy, self-respect, and that they deserve healthy and respectful relationships.

This misalignment sets students up for disappointment and trauma. Students learn throughout middle school and high school that consent means a freely-given yes, and that anything less is not ok. They are also told in health education that they can and should tell an adult if they are hurt or assaulted, and that their school has sexual harassment policies to support them. A student who clearly does not want to participate in sexual activity but isn’t able to say no because of manipulation, an unfair exertion of power, or because they know their “no” will not be respected should believe what they have been told since middle school - that this interaction was not ok and was not consensual. But if they make the brave choice to report it to their school, they may find that under the current policies, the school does not consider the incident to be sexual harassment. The very place they learned about consent is now pulling the rug out from under them.

We know that students who are victims of sexual harassment are at higher risk of adverse educational outcomes; in the months and years after an assault, their grades may suffer, they may have more frequent absences, and they may even drop out school. Research has shown that when an institution that a student relies on, like a school, betrays a student by failing to provide a promised supportive and consistent response, trauma and adverse reactions can be multiplied.

The proposed definition remedies this problem. ODE developed this definition in consultation with community partners to be in alignment with the comprehensive sexuality education standards. We

believe that the expectations outlined in school policies should be consistent with what students are taught in the classroom so that students know what to expect and are held to a clear and consistent standard in their interpersonal interactions.

Thank you for this opportunity to provide comments. I am available for any questions you may have.

Respectfully submitted,

Colt Gill

Director