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FILING CAPTION: Rules for implementing sexual misconduct survey requirements at institutions of higher education

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RULES:

715-030-0001, 715-030-0005, 715-030-0010, 715-030-0015, 715-030-0020, 715-030-0025, 715-030-0030, 715-030-0035, 715-030-0040

ADOPT: 715-030-0001

RULE TITLE: Definitions

NOTICE FILED DATE: 08/18/2025

RULE SUMMARY: This rule defines terms used in OAR 715-030-0001 through OAR 715-030-0040. ORS 350.335-346 originated in 2023 with the passage of HB 3456, amended in 2024 by HB 4164, and amended again in 2025 by HB 3731. The adoption of these rules is authorized by ORS 350.346(2) and is intended to provide institutions with direction in implementing the provisions of these statutes and when administering the legislatively required Sexual Misconduct Survey.

RULE TEXT:

For purposes of this section, the following definitions apply.

(1) "Sexual harassment" means unwelcome conduct of a sexual nature. Sexual harassment includes unwelcome sexual advances, requests for sexual favors, or other verbal, nonverbal or physical conduct of a sexual nature where such conduct is sufficiently severe or pervasive that it has the effect, intended or unintended, of unreasonably interfering with an individual's work or academic performance or it has created an intimidating, hostile or offensive environment and would have such an effect on a reasonable person." ORS 350.330(2)(a).

(2) "Sexual violence" means actual or attempted physical contact of a sexual nature or in a sexual context without the other person's consent, if the other person is incapacitated in any way, or without their ability to refuse the physical contact. Sexual violence includes physical contact through violence, coercion, or when the person is unable to give consent or refuse the physical contact because of vulnerability, intoxication, or unconsciousness. Examples of physical contact of a sexual nature or in a sexual context include forcible kissing, penetration of someone's body by another person's body part or an object, or the use of their body to penetrate another, and touching another person's intimate areas (for example, breasts, genitals, or buttocks), including groping, fondling, rape, sexual assault, and sexual abuse.

(3) "Consent" means freely given permission to participate when the option to say no is present and viable. Consent cannot be given by a person who is asleep, unconscious, incapacitated by any means, including by intoxicants, or

otherwise unable to make informed decisions.

(4) "Intimate partner violence" is a form of domestic violence in which the persons involved are in a relationship of a romantic or sexual nature. The relationship may be past or current. Other terms for this might include "dating violence" or "relationship abuse."

(5) "Domestic violence" is attempting to cause or causing physical or emotional injury; placing another in fear of physical or emotional injury; or engaging in any sexual contact without the other person's consent when the other person is a spouse, former spouse, adult related by blood or marriage, a person cohabitating, a person having cohabitated in the past, a person involved or previously involved in a sexually intimate relationship, or unmarried co-parent of a minor child. Domestic violence includes coercive control; physical abuse; financial abuse or control; emotional abuse; technological abuse; reproductive coercion; sexual violence; sexual exploitation; and stalking.

(6) "Sexual exploitation" means any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes in the absence of consent. Sexual exploitation includes:

(a) Creating or sharing an intimate or sexual image or recording of a person's likeness without their consent or sending intimate or sexual images or recordings to a person without their consent; coercing another person to create an intimate image or record a sexual act under threat of physical, emotional, or financial abuse;

(b) Displaying intimate areas of one's body to another person without their consent in a place where such display would not reasonably be expected; engaging in sexual activity while another person was present without their consent; or

(c) Observing another person's intimate areas or sexual activity without their knowledge or consent and in a place where the person has a reasonable expectation of privacy.

(7) "Stalking" means repeated and unwanted contact that causes the victim reasonable apprehension regarding the personal safety of the victim or a member of the victim's immediate family or household and it is objectively reasonable for a person in the victim's situation to have been alarmed or coerced by the contact. Stalking includes, but is not limited to, repeated and unwanted contact such as: electronic or in-person surveillance; sending communications including unwanted items to the target or people in the target's family, school, or workplace; tracking the target's physical location; accessing or monitoring a person's phone and other computing devices; property damage; and threats. Stalking may involve the use of third parties to accomplish the behaviors.

(8) "Harassment or violence based on sexual orientation" means either harassment based on sexual orientation or violence based on sexual orientation.

(a) Harassment based on sexual orientation means unwelcome conduct based on a person's real or perceived sexual orientation. This includes unwelcome advances, economic manipulation, requests for sexual favors, or other verbal, nonverbal or physical conduct based on sexual orientation and of a nature where such conduct is sufficiently severe or pervasive that it has the effect, intended or unintended, of unreasonably interfering with an individual's work or academic performance or it has created an intimidating, hostile or offensive environment and would have such an effect on a reasonable person.

(b) Violence based on sexual orientation means any form of violence against an individual based on the person's real or perceived sexual orientation. This includes physical, sexual, and psychological abuse; threats; coercion; and arbitrary deprivation of liberty, whether in public or private life.

(9) "Gender-based harassment or violence" means either gender-based harassment or gender-based violence.

(a) Gender-based harassment means unwelcome conduct against an individual based on their biological sex, gender identity or expression, or perceived deviation from socially defined expectations of male-female binary gender stereotypes. This includes unwelcome gender-based advances, economic manipulation, requests for sexual favors, or other verbal, nonverbal or physical conduct of a gender-based nature where such conduct is sufficiently severe or pervasive that it has the effect, intended or unintended, of unreasonably interfering with an individual's work or academic performance or it has created an intimidating, hostile or offensive environment and would have such an effect on a reasonable person.

(b) Gender-based violence means any form of violence against an individual based on their biological sex, gender identity or expression, or perceived deviation from socially defined expectations of male-female binary gender stereotypes. This

includes physical, sexual, and psychological abuse; threats; coercion; and arbitrary deprivation of liberty, whether in public or private life.

(10) “Institution of higher education” or “institution” means a public university listed in ORS 352.002; Oregon Health and Science University; community college operated under ORS chapter 341; or an Oregon-based private university or college, as provided in ORS 350.330. An Oregon-based private university or college includes an out-of-state private university or college that has a campus located in Oregon at which students attend classes in person.

(11) “Local victim advocacy organization” means a community-based domestic and sexual violence advocacy agency providing services in the same county as the campus of the institution of higher education.

(12) “Supportive measures” are individualized services, changes, exceptions, or accommodations provided by an institution of higher education to restore or preserve equal access to education and employment, protect student and employee safety, or deter sexual misconduct. Waivers granted under ORS 350.344 are supportive measures.

(13) For the purposes of ORS 350.345, the term “complainant” means a student or employee who was the target of sexual misconduct.

STATUTORY/OTHER AUTHORITY: ORS 350.346

STATUTES/OTHER IMPLEMENTED: ORS 40.264, ORS 350.335

ADOPT: 715-030-0005

RULE TITLE: Survey Development

NOTICE FILED DATE: 08/18/2025

RULE SUMMARY: This rule establishes a procedure for approval of institution-specific questions in the sexual misconduct survey required by ORS 350.337-338.

RULE TEXT:

Proposed additional institution-specific questions shall be submitted to the commission for consideration by the Sexual Misconduct Survey Council within 60 days of submission. The Council shall ensure questions do not require the disclosure of any personally identifiable information and are not objectively traumatizing for victims of sexual harassment.

STATUTORY/OTHER AUTHORITY: 350.346

STATUTES/OTHER IMPLEMENTED: 350.338

ADOPT: 715-030-0010

RULE TITLE: Survey of Enrolled Students; Information to be Posted on Website

NOTICE FILED DATE: 08/18/2025

RULE SUMMARY: This rule outlines requirements for administering the sexual misconduct survey and handling survey data.

RULE TEXT:

(1) Each institution of higher education shall administer a sexual misconduct survey within two academic years from the date the survey is first distributed to the institutions by the commission. Each subsequent administration of the survey by an institution shall occur no greater than two academic years following the institution's administration of the prior survey.

(2) Each institution shall administer only the most recent sexual misconduct survey distributed to it by the commission.

(3) Institutions shall implement ethical principles and standards for survey administration, data collection, and data utilization, and administer the survey consistent with those principles. In forming such principles and standards, institutions shall consider the Oregon Campus Sexual Misconduct Survey Implementation Guide published by the Commission. Institutions shall include information about the ethical standards they have adopted in the survey and include a link to the standards in the aggregate summary of survey results. If institutions contract with third-parties for administration of the survey, they shall ensure that the third-party contractors also abide by the adopted professional and ethical standards.

(4) The online platform used to collect survey data shall not collect IP addresses or any other information that could be used to identify a respondent or any personally identifiable information.

(5) The summary of the results of the survey shall be submitted to the commission by the institution in a format provided for by the commission. The information submitted to the commission shall not include any personally identifiable information.

STATUTORY/OTHER AUTHORITY: ORS 350.346

STATUTES/OTHER IMPLEMENTED: ORS 350.338, ORS 350.339

ADOPT: 715-030-0015

RULE TITLE: Required Employment of Certified Advocate, Qualifications, Duties, and Exceptions

NOTICE FILED DATE: 08/18/2025

RULE SUMMARY: This rule clarifies requirements for ensuring certified advocate services are provided by institutions.

RULE TEXT:

(1) An institution shall employ at least one certified advocate as part of an institution-based qualified victim services program unless the institution:

(a) does not have an institution-based qualified victim service program, or

(b) has fewer than 1,000 enrolled students who reside on campus.

(2) An institution that meets the provisions of either subsection (a) or (b) of section (1) shall partner with a local victim advocacy organization to provide the services of an advocate without charge to enrolled students and ensure that the organization's advocate has regular scheduled on-campus office hours as agreed upon by the institution and the local victim advocacy organization or obtain a waiver under OAR 715-030 0025.

(3) The institution shall make a reasonable effort to provide a space for use by the advocate that allows for confidentiality of access and conversation and is located away from offices used by campus security and staff involved in sexual misconduct investigation and disciplinary processes.

(4) For the purposes of ORS 350.340(4)(b), the advocate shall meet the requirements by annually sending information to all staff informing them of their duties should they be asked to provide or enforce supportive measures or accommodations.

STATUTORY/OTHER AUTHORITY: ORS 350.346

STATUTES/OTHER IMPLEMENTED: ORS 40.264, ORS 350.340

ADOPT: 715-030-0020

RULE TITLE: Required Memorandum of Understanding and Exceptions

NOTICE FILED DATE: 08/18/2025

RULE SUMMARY: This rule clarifies the required elements of the memorandum of understanding between an institution and a community-based domestic and sexual violence advocacy agency.

RULE TEXT:

- (1) Each institution of higher education shall enter into and maintain a memorandum of understanding with a community-based domestic and sexual violence advocacy agency that is in the same county as the institution.
- (2) The agency shall review the institution's sexual misconduct training materials for students and employees; the institution shall consider incorporating any feedback provided by the agency.
- (3) Services offered to students and employees of an institution by the agency pursuant to the memorandum shall be made available on campus and off campus; they may be offered virtually if the student or employee prefers.
- (4) Neither the agency nor the institution may charge any fees to students and employees that access confidential victim services as provided for in this section.
- (5) Institutions shall submit a copy of the memorandum of understanding to the commission in a manner specified by the commission.

STATUTORY/OTHER AUTHORITY: ORS 350.346

STATUTES/OTHER IMPLEMENTED: ORS 350.341

ADOPT: 715-030-0025

RULE TITLE: Waivers from the Requirements to Partner with Local Community-based Domestic and Sexual Violence Advocacy Agency

NOTICE FILED DATE: 08/18/2025

RULE SUMMARY: This rule establishes a procedure for application for a waiver from the requirements to partner with local community-based domestic and sexual violence advocacy agency.

RULE TEXT:

- (1) An institution may submit a request that it be exempted or partially exempted from the requirements of OAR 715-030-0015 and 715-030-0020 if, despite reasonable efforts, it has been unable enter into an agreement to provide advocacy services or establish a memorandum of understanding with a community-based domestic and sexual violence advocacy agency.
- (2) To request a waiver, an institution shall submit a letter to the commission in a manner to be determined by the commission. The letter shall include the dates for the period for which a waiver is requested; the names and websites or other contact information for agencies contacted by the institution; a description of actions taken during the period for which the waiver is requested toward entering into an agreement to provide advocacy services or a memorandum of understanding with an agency; and a description of services which were requested and whether or not those services were provided.
- (3) The commission shall make a determination on the waiver request within 30 days of receiving the request. The waiver shall be granted by the commission if the institution shows that it made reasonable good faith efforts to contact agencies to provide the services specified in OAR 715-030-0015 and 715-030-0020, and such agencies did not respond or declined to provide some or all of those services.
- (4) A waiver granted under this rule shall be no longer than one year in duration, except that an institution may subsequently apply for a waiver renewal.

STATUTORY/OTHER AUTHORITY: ORS 350.346

STATUTES/OTHER IMPLEMENTED: ORS 350.340, ORS 350.341

ADOPT: 715-030-0030

RULE TITLE: Required Training for Students and Employees of Institution; Contents of Training.

NOTICE FILED DATE: 08/18/2025

RULE SUMMARY: This rule clarifies requirements for annual primary and prevention training.

RULE TEXT:

- (1) An institution shall maintain a list of the individuals with the qualifications required by ORS 350.343(a) to provide guidance to establish annual primary prevention and awareness training.
- (2) For the purposes of ORS 350.343(1)(a), a certified confidential advocate employed by the institution is an individual with experience identifying protective and risk factors related to violence.
- (3) Institutions shall not impose any penalty or take any other adverse action against students or employees for nonattendance.

STATUTORY/OTHER AUTHORITY: ORS 350.346

STATUTES/OTHER IMPLEMENTED: ORS 350.343

ADOPT: 715-030-0035

RULE TITLE: Student Waiver from Certain Requirements for Institution-sponsored Programs or Activities;
Qualifications for Waiver; Confidentiality of Personal Information.

NOTICE FILED DATE: 08/18/2025

RULE SUMMARY: This rule establishes procedures for requests by students for waivers from certain requirements for institution-sponsored programs or activities.

RULE TEXT:

- (1) A student who, while enrolled at an institution, has experienced sexual misconduct may request a waiver of minimum required grade point average or disciplinary record requirements required to demonstrate academic success that are part of an institution-sponsored program or activity identified by the institution.
- (2) The waiver may be requested by the student verbally or in writing via paper, email, or text. The waiver shall be documented to the student in writing.
- (3) The student may choose to submit a copy of the waiver directly to the individual or office administering the institution-sponsored program or activity; or, on direction from the student and consistent with other privacy and confidentiality requirements, the waiver may be provided by the advocate, Title IX coordinator, or equivalent official directly to the individual or office administering the institution-sponsored program or activity.
- (4) A student shall repeat the waiver process for each institution-sponsored program or activity for which the student is seeking a waiver.
- (5) Documentation of the waiver provided to the student or to the individual or office administering the institution-sponsored programs or activities shall indicate that it is being granted in compliance with ORS 350.344 and shall not contain information about the specific reason that the waiver was granted.

STATUTORY/OTHER AUTHORITY: ORS 350.346

STATUTES/OTHER IMPLEMENTED: ORS 350.344

ADOPT: 715-030-0040

RULE TITLE: Report Relating to Sexual Misconduct; Contents.

NOTICE FILED DATE: 08/18/2025

RULE SUMMARY: This rule explains how to count data for inclusion in the institution's annual report.

RULE TEXT:

- (1) For the purposes of ORS 350.345(2)(a), a report of sexual misconduct made to a Title IX coordinator or equivalent official includes any report made by a student or employee of the institution, regardless of whether it is a first person account, third-person account, or anonymous account provided the report includes information that:
- (a) the person who experienced the sexual misconduct is a student or employee of the institution; and
 - (b) there is sufficient information to determine the type of sexual misconduct that occurred.
- (2) An institution need only report and count one incidence of sexual misconduct if multiple reports are made of the same sexual misconduct action committed by the same person against the same victim.
- (3) For purposes of ORS 350.345(2)(k), "types of violence" means "types of sexual misconduct." The "types of sexual misconduct" are:
- (a) sexual harassment;
 - (b) sexual violence;
 - (c) intimate partner violence;
 - (d) domestic violence;
 - (e) sexual exploitation;
 - (f) stalking;
 - (g) harassment or violence based on sexual orientation; or
 - (h) gender-based harassment or violence.
- (5) For the purpose of ORS 350.345(2)(b), a "law enforcement investigation" is an investigation conducted by:
- (a) County sheriffs, municipal police departments, police departments established by a university under ORS 352.121 or 353.125, and state police;
 - (b) Other police officers of this state or another state, including humane special agents as defined in ORS 181A.345;
 - (c) A tribal government as defined in ORS 181A.940 that employs authorized tribal police officers as defined in ORS 181A.940; or
 - (d) Law enforcement agencies of the federal government.
- (6) An institution shall count each investigation initiated by law enforcement during the reporting period in response to sexual misconduct that was also reported to the institution regardless of when the sexual misconduct was reported to the institution.
- (7) When required to report the number of students and employees for a specific reporting element in ORS 350.345, an institution shall separately list the number of students and the number of employees.
- (8) An institution shall not include the student or employee in the count of individuals investigated but not found responsible for violating sexual misconduct policies or codes of conduct prohibiting sexual misconduct policies if they were found responsible for other violations of sexual misconduct policies or codes of conduct prohibiting sexual misconduct during the reporting period.
- (9) An institution shall report the number of complainants reporting sexual misconduct to the institution's Title IX coordinator or equivalent official who requested supportive measures, not the number of complainants to whom supportive measures were offered.
- (10) An institution shall report the number of complainants requesting a specific number of supportive measures: for example: 4 complainants requested 1 supportive measure; 3 complainant requested 2 supportive measures; etc.
- (11) An institution shall report the number of complainants who received a certain number of supportive measures: for example: 4 complainants received 1 supportive measure; 3 complainants received 2 supportive measures; etc.
- (12) An institution shall report the number of individuals who made a report to the Title IX coordinator or equivalent

official during the reporting period and either declined to participate in an investigation initiated by the institution or requested that the institution not conduct an investigation into the report. An individual who did not respond to communications about the availability of an investigation shall be considered to have declined to participate in an investigation. Report the number of students and the number of employees separately.

(13) An institution shall report the number of open investigations of sexual misconduct initiated by the institution that were not resolved during the previous academic year, regardless of when the investigation was initiated.

(14) For the purpose of ORS 350.345(2)(k), the type of violence reported as occurring on the campus of the institution shall be reported as the type of sexual misconduct according to the categories listed in the definition for such term in OAR 715-030-0005 and may also include any campus-specific categories of sexual misconduct. The number of reports of each category of sexual misconduct occurring on the campus of the institution shall be reported separately.

(15) The Commission shall provide a template that institutions may use to facilitate meeting the reporting requirements of ORS 350.345.

STATUTORY/OTHER AUTHORITY: ORS 350.346

STATUTES/OTHER IMPLEMENTED: ORS 350.345