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NOTICE OF PROPOSED RULEMAKING INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 715 HIGHER EDUCATION COORDINATING COMMISSION

FILED

10/17/2025 2:52 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Rules for maximizing Oregon Sexual Misconduct Climate Survey response rates and protecting student information

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 11/25/2025 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

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Filed By:
Guthrie Stafford
Rules Coordinator

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 11/18/2025

TIME: 10:45 AM - 11:15 AM

OFFICER: Guthrie Stafford

REMOTE HEARING DETAILS

MEETING URL: Click here to join the meeting

PHONE NUMBER: 1-503-446-4951

SPECIAL INSTRUCTIONS:

Conference ID Code: 735343553#

NEED FOR THE RULE(S)

The adoption of these rules is authorized by ORS 350.346(2) and is necessary to provide institutions with direction when administering the legislatively required Sexual Misconduct Survey.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

Rules 715-030-0001, 715-030-0010, 715-030-0011 and 715-030-0012 are based in part on the 2025 Oregon Sexual Misconduct Implementation Guide adopted by the Sexual Misconduct Survey Council. This document is available online at: <https://www.oregon.gov/highered/about/Documents/Sexual-Misconduct-Reporting/Survey/2025-Oregon-Campus-Sexual-Misconduct-Survey-Implementation-Guide.pdf>

Rules 715-030-0001 is based in part on two standards:

McCallister, E., Grance, T., & Scarfone, K. (2010). Guide to protecting the confidentiality of personally identifiable information (PII). Gaithersburg, MD: National Institutes of Standards and Technology Special Publication 800-122. Available online at: <https://nvlpubs.nist.gov/nistpubs/legacy/sp/nistspecialpublication800-122.pdf>

and

Privacy Technical Assistance Center. (2015). Data Governance Checklist. US Department of Education. PTAC-CL-1. Available online at:
https://studentprivacy.ed.gov/sites/default/files/resource_document/file/Data%20Governance%20Checklist_0.pdf

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

These rules are not expected to have an impact on racial equity in the state.

FISCAL AND ECONOMIC IMPACT:

Developing survey recruitment and dissemination practices to maximize student response will require institutional employee time. Recruitment material creation and distribution may have associated costs. Statute requires that the survey be administered via an online platform. There may be costs for institutions to establish an account with a secure online platform if they do not currently have one. Institutions will have to pay an employee with appropriate training or a third-party vendor to review responses in the survey database to remove extraneous personally identifiable information from microdata sets.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

(1) The Higher Education Coordinating Commission already pays for licenses for Qualtrics and SurveyMonkey, two widely used online platforms that meet the security requirements; but each user increases the cost of the license. HECC staff entered the survey into the platforms and will make the files available to institutions to minimize the cost of institutional staff time required to mount the survey. No impacts are expected for other agencies, units of local government, or members of the public.

(2)(a) HECC does not track employment at licensed degree-granting institutions but estimates that up to 20 may meet the definition of small businesses required to administer the survey.

(b) Institutions will be required to add their contact information to the base survey provided by HECC, which is estimated to require less than one hour of staff time. Institution staff will identify and implement survey recruitment and dissemination practices that are specific to their campuses. The cost will vary depending on the number of staff involved in establishing the recruitment and dissemination plan; it is estimated to require a minimum of two hours. Institution staff will be required to identify and implement secure data handling procedures to protect the confidentiality of data. Some institutions may need to develop procedures that meet the requirements.

(c) Educational licenses for online survey platforms like SurveyMonkey and Qualtrics can cost a minimum of \$280 (if an institution already has a license for the platform there will be no additional cost). Labor costs for the survey planning team and data handlers will vary by institution. The number of students responding to and completing the survey will also affect labor costs because surveys must be reviewed to ensure respondents did not include personally identifiable information. Costs are estimated at approximately 10 hours per employee per 1000 students. Institutions of higher education may elect to use a survey provider to administer the survey, which could result in professional services costs.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Small businesses were not involved in the development of these rules.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

An Administrative Rule Advisory Committee was not consulted. The Sexual Misconduct Survey Council was consulted.

RULES PROPOSED:

715-030-0001, 715-030-0010, 715-030-0011, 715-030-0012

AMEND: 715-030-0001

RULE SUMMARY: The rule adds definitions for terms used in discussing protection of the confidentiality of student sexual misconduct survey data and for reporting survey response and completion rates.

CHANGES TO RULE:

715-030-0001

Definitions

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 De-identified information: Previously identifiable information that it has the effect, intended or unintended, of unreasonably interfering with an individual's been de-identified, and for which a code 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 association for re-identification no longer exists. ¶

(2) "Complainant": For the purposes of ORS 350.345, the other person is incapacitated term "complain 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" means a student or employee who was the target 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. misconduct. ¶

(3) "Completion rate": the number of students who complete a survey and submit their answers. ¶

(34) "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. ¶

(45) "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 De-identified information: Records that have had enough personally identifiable information removed or obscured so that there is no reasonable past or current. Other terms for this might include "dating violence" or "relationship abuse." is to believe that the information can be used to identify an individual. ¶

(56) "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. ¶

(67) "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 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 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 undepression, 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 othreater verbal, nonverbal ofr 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 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 in a place where the person has a reasonable expectation of privacy would have such an effect on a reasonable person.¶¶

(7b) "Stalking" means repeated and unwanted contact that causes the victim reasonable apprehension regarding the personal safety. Gender-based violence means any form of violence against an individual based on 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, sir biological sex, gender identity or expression, or perceived deviation from socially defined expectations of male-female binary gender stereotypes. This includes physical, sexual, and psychol, 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 behavior. sogical abuse; threats; coercion; and arbitrary deprivation of liberty, whether in public or private life.¶¶

(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 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.¶¶

(10) "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."¶¶

(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) "Microdata": the data set of one individual based on their biological sex, gender identity or express; responses to the survey by one person.¶¶

(13) "Personally identifiable information (PII)": any information about an individual maintained by an institution or its agent that can be used to distinguish or trace an individual's identity, including: (1) direct identifiers such as name, student identification number, or email; (2) indirect identifiers that may be combined to identify an individual , such as membership in on-campus organizations and clubs, residences, and area of study; (3) any other information; or perceived deviation from socially defined expectations of male-female binary gender stereotypes. This includes unwelcome gender-based advances, economic manipulation, records that can be linked to an individual, such as medical, educational, financial, and employment information.¶¶

(14) "Response rate": the percentage of enrolled students that open a survey. The response rate includes all those that complete and submit the survey and those that do not.¶¶

(15) "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.¶

(16) "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 gender-based 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.¶

b) Gender-based" ORS 350.330(2)(a).¶

(17) "Sexual 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 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 Science University; community college or sexual abuse.¶

(18) "Stalking" means repeated 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 provide 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 in the same county as; property damage; and threats. Stalking may involve the campus of the institution of higher education or parties to accomplish the behaviors.¶

(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

AMEND: 715-030-0010

RULE SUMMARY: This rule is amended to set requirements for secure data handling, clarify how institutions can mount the base survey in an online platform as required by ORS 350.337 and ensure fidelity in implementation to the base survey provided by the Sexual Misconduct Survey Council as required by ORS 350.338.

CHANGES TO RULE:

715-030-0010

Survey of Enrolled Students; Information to be Posted on Website

(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 other than what is required to be included in the sexual misconduct survey by ORS 350.337. ¶

(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~~ be aggregated and de-identified.¶

(6) An institution shall administer the survey using any online platform that provides data security and that can be set to not collect or to discard personally identifiable information and metadata, including internet protocol (IP) addresses. If an institution does not use online survey platform files provided by the commission and enters the survey directly into an online platform, it shall ensure that all contents of the survey are included unaltered except for Sexual Misconduct Survey Council-approved institutional personalization. If an institution chooses not to use the online survey platform files provided by the commission, the text and order of the questions and response options, as well as all skip patterns, shall be maintained as provided by the commission. Upon request, institutions shall provide access to the survey for review by commission staff.

Statutory/Other Authority: ORS 350.346

Statutes/Other Implemented: ORS 350.338, ORS 350.339

ADOPT: 715-030-0011

RULE SUMMARY: Maximizing Survey Response Rates – HECC is authorized by ORS 350.339 to establish rules that promote effective survey solicitation by institutions to achieve the highest practicable response rate by students. This rule establishes guidelines for institutions to use in developing survey solicitation practices and provides guidance on ensuring that the practices are developed using a trauma-informed framework.

CHANGES TO RULE:

715-030-0011

Maximizing Survey Response Rates

(1) Institutions shall implement survey solicitation, recruitment and dissemination practices that will encourage students to respond to the survey. In implementing these practices, institutions shall adhere to trauma-informed frameworks and consider the Oregon Campus Sexual Misconduct Survey Implementation Guide published by the Commission.¶

(2) Strategies or practices adopted by institutions to maximize response rates shall not require students to respond to the survey or penalize students for not responding to the survey.¶

(3) Institutions may use incentives to encourage student participation in the survey. To avoid coercion, incentives must be equally available to all students responding to the survey including students that do not complete and submit their responses.¶

(4) Institutions shall include survey response rates and completion rates in the summary of results submitted to the Commission and published on the institution's website.

Statutory/Other Authority: ORS 350.346

Statutes/Other Implemented: ORS 350.339

ADOPT: 715-030-0012

RULE SUMMARY: This rule requires institutions to utilize standard research and data security measures to protect the very sensitive information collected by the sexual misconduct survey and prevent re-identification of student responses to the survey. It also protects the right of students to be informed about who has access to the survey data.

CHANGES TO RULE:

715-030-0012

Protecting Student Anonymity

(1) Institutions shall ensure any survey results or reports released contain only anonymized information and shall remove personally identifiable information not required by ORS 350.337 from microdata sets.¶

(2) Institutions shall ensure that survey data is protected. Raw survey data shall be stored, accessed, and preserved following secure-data procedures that are consistent with the level of data and information security required for other sensitive data at the institution.¶

(3) Institutions shall ensure that access to the survey database is restricted to those with appropriate professional training and experience in handling and maintaining confidential information. Institutions shall include the titles of all people who will have access to the survey database, including employees and third-party vendors, in survey recruitment materials and on the institution's website.

Statutory/Other Authority: ORS 350.346

Statutes/Other Implemented: ORS 350.338