



Oregon SATF Legislative Onboarding Guide: Getting Familiar with the Laws/Policies Related to the Prevention of and Response to Sexual Harassment on Campus

HOW TO USE THIS RESOURCE

The attached document serves as an introduction to Federal and State legislation that governs school's response and prevention work related to sexual harassment, sexual assault, dating violence, domestic violence, and stalking.

This resource can be helpful for teams and individuals orienting themselves with the many laws and policies that impact our work on college and university campuses related to sexual violence response, advocacy, and prevention.

Examples of roles, groups, or organizations that may find this document useful include (but are not limited to):

- Title IX Coordinators and Deputies
- Sexual Harassment Investigation Staff and Decision Makers
- Conduct Professionals
- Advocates working with Survivors
- Preventionists
- Vice President of Student Affairs and similar leadership positions
- Community Advocates and Domestic Violence/Sexual Assault Agencies serving students
- Campus Sexual Assault Response Teams (SARTS) or Behavioral Intervention Teams (BITs)
- Community Sexual Assault Response Teams (SARTS)
- Campus Safety
- Policy makers
- Student Governments
- Student Advocates

This resource is not intended as legal advice, nor should it be treated as such.

The attached resource is meant to provide an overview of the many laws and policies that impact sexual harassment prevention, advocacy, and response work in Oregon. Please be advised that although we update materials on a continual basis, as new legislation, professional guidelines, or case law changes, certain portions of content may become temporarily outdated.



Oregon SATF Legislative Onboarding Guide: Getting Familiar with the Laws/Policies Related to the Prevention of and Response to Sexual Harassment in Oregon

TITLE & WHO THE LAW APPLIES TO (SCHOOLS + SPECIFIC ROLES)	IS THIS A STATE OR FEDERAL LAW? WHEN DID IT TAKE EFFECT?	PURPOSE OF LEGISLATION AND IMPORTANT HIGHLIGHTS	RESOURCE LINKS
<p>Advocate Privilege</p> <p>Applies to all schools that employ or work with confidential victim/survivor advocates</p> <p>Applies to Campus-based Advocates</p>	<p>State of Oregon ORS 40.264</p> <p>applies to portions of ORS 40.225 to 40.295</p> <p>Took effect on passage in 2015</p>	<p>Advocates that have completed at least 40 hours of advocate training, 2 hours of privilege webinar specific to Oregon and work for a Qualified Victim Service Program <u>as an advocate</u> have legal privilege in Oregon.</p> <p>This means that they must not share information provided by a survivor without an informed, explicit, written and time-limited release of information form.</p> <p>Only parties identified on the release of information form may have information shared with them by the advocate, and only for the purposes outlined on the release of information form. The survivor is the holder of privilege.</p>	<p>ORS https://oregon.public.law/statutes/ors_40.264</p> <p>Bill Language https://olis.oregonlegislature.gov/liz/2015R1/Downloads/MeasureDocument/HB3476/Enrolled</p> <p>Advocate Legal Toolkit from Oregon LawHelp https://oregonlawhelp.org/files/CCDACC15-944D-570E-7F1F-7BBF3DEC0018/attachments/1AE3BF12-D72C-4A8D-B8C2-3DEFD466C3F0/advocate-manual-072517.pdf</p>
<p>Certified Advocate Training Requirements</p> <p>Applies to any Advocate working in the State of Oregon</p>	<p>State of Oregon OAR 137-085-0080</p>	<p>Outlines the training standards for certified victim and survivor advocacy training in the state of Oregon, requirements for training to adhere with Advocate Privilege law.</p>	<p>OAR https://oregon.public.law/rules/oar_137-085-0080</p> <p>Oregon SATF 40-Hour Online Campus Advocate Training https://oregonsatf.org/training/40-hour-campus-advocate-training-online/</p>

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<p>Mandatory Reporting of Child Abuse Applies to all colleges and universities in Oregon Applies to all Staff</p>	<p>State of Oregon ORS 419B.005 (3)</p>	<p>All employees of an institution of higher education must report child abuse to law enforcement or Oregon Department of Human Services, unless prohibited by licensure or law (for example: doctors, advocates, counselors, etc.).</p>	<p>ORS https://oregon.public.law/statutes/ors_419b_005 Department of Human Services Mandatory Reporting Website https://www.oregon.gov/dhs/abuse/pages/mandatory_report.aspx</p>
<p>Written Sexual Assault Protocol Applies to all colleges and universities</p>	<p>State of Oregon ORS 350.255 Took effect 2016-2017 academic year</p>	<p>Requires all Oregon-based universities and colleges to adopt written protocols to ensure that victims of sexual assault receive necessary services and assistance in situations where:</p> <p>(a)The alleged victim of the sexual assault is a student at the university or college and the alleged sexual assault occurred on the grounds or at the facilities of the university or college; or</p> <p>(b)The alleged perpetrator of the sexual assault is a student at the university or college, or a member of the faculty or staff of the university or college, regardless of where the alleged sexual assault occurred.</p> <p>Protocols must ensure that each victim who reports a sexual assault must receive information about:</p> <ul style="list-style-type: none"> ● Victim’s rights ● what legal options are available, including civil and criminal options as well as campus-based disciplinary processes; ● information about campus-based and community-based services available to the victim; and ● information about privacy rights and limitations. <p>This information must be made available:</p> <ol style="list-style-type: none"> 1) when a sexual assault is reported; 2) during student orientation; and (3) on the website of the school. 	<p>ORS https://oregon.public.law/statutes/ors_350.255 Bill https://olis.oregonlegislature.gov/liz/2015R1/Downloads/MeasureDocument/SB759</p>

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<p>Limitations on Investigations Involving Sexual Assault, Domestic Violence or Stalking</p> <p>Applies to all colleges and universities in Oregon.</p>	<p>State of Oregon ORS 350.257</p> <p>Took effect in 2017</p>	<p>A public university listed in ORS 352.002 (Public universities), a community college or an Oregon-based private university or college may not use the threat or imposition of student discipline or other sanction to influence the decision of a victim of an alleged incident of sexual assault, domestic violence or stalking regarding whether or not the victim will report the alleged incident or participate in an investigation or adjudication of the alleged incident. [2017 c.57 §1]</p>	<p>ORS https://oregon.public.law/statutes/ors_350.257</p> <p>Link to overview document on Oregon SATF website</p> <p>Link to Bill Language (Enrolled Text)</p>
<p>Notification of Victim Advocate Concerning Medical Assessment</p> <p>Applies to medical providers conducting SAFE exams, and county Sexual Assault Response Teams (SARTS).</p>	<p>State of Oregon ORS 147.404</p> <p>Took effect in 2017</p>	<p>Medical providers are required by Oregon law to call an advocate when a survivor presents for a SAFE exam. The survivor may choose to utilize the advocate and advocacy services, or not. Discretion is left to the survivor. Advocate must clearly state that the survivor can choose to decline services, and not impede medical services.</p>	<p>ORS https://oregon.public.law/statutes/ors_147.404</p>
<p>Written Policies on Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence and Stalking</p> <p>Applies to all colleges and universities in Oregon.</p>	<p>State of Oregon ORS 350.253</p> <p>Took effect for the 2020-21 academic year</p>	<p>This bill requires institutions of higher education to adopt written policies concerning sexual harassment, sexual assault, domestic violence, dating violence, and stalking.</p> <p>The bill requires policies to include:</p> <ul style="list-style-type: none"> • a definition of sexual harassment; and • addresses violations that occur on, as well as off, campus property; • Definitions created in concert with stakeholders (primarily student government) on campus. <p>The bill mandates the provision of the information about resources to students, and mandates annual training for campus personnel involved in sexual harassment investigations.</p>	<p>ORS https://oregon.public.law/statutes/ors_350.253</p> <p>Enrolled Bill Language https://olis.oregonlegislature.gov/liz/2019R1/Measures/Overview/HB3415</p>

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<p>Title IX</p> <p>Title IX applies to schools, local and state educational agencies, and other institutions that receive federal financial assistance from the Department.</p> <p>To learn more about current exemptions from Title IX, please visit the US Department of Education's "Exemptions Under Title IX" website: https://www2.ed.gov/about/offices/list/ocr/docs/t9-rel-exemptions/index.html</p>	<p>Federal</p> <p>Title IX of the Education Amendments of 1972</p> <p>20 U.S.C. § 1681: Title IX statute</p> <p>34 C.F.R. Part 106: Title IX regulations</p> <p>Case law regarding interpretation of provisions of Title IX are ongoing</p> <p>Latest rule took effect August 14, 2020</p>	<p>The U.S. Department of Education's Office for Civil Rights (OCR) enforces, among other statutes, Title IX of the Education Amendments of 1972.</p> <p>Title IX protects people from discrimination based on sex in education programs or activities that receive federal financial assistance.</p>	<p>US Department of Education Office for Civil Rights (OCR) website CLICK HERE</p> <p>OCR Policy Guidance Portal Website</p> <p>2020 US Dept. of Education Title IX Final Rule Overview (PDF)</p> <p>2020 Title IX Regulations (Unofficial Copy, information on the Federal Register can be found here)</p> <p>2021 Title IX Q+A Guidance Document from OCR</p> <p>US Dept. of Education Title IX Resource Website (includes rules, policy, and guidance materials)</p> <p>OCR Reading Room</p>
<p>Title VII</p> <p>Applies to employers with 15 or more employees.</p>	<p>Federal</p> <p>Title VII of the Civil Rights Act of 1964</p> <p>(Pub. L. 88-352) (Title VII), as amended, as it appears in volume 42 of the United States Code, beginning at section 2000e</p>	<p>Title VII of the Civil Rights Act of 1964 (Title VII) makes it unlawful to discriminate against someone on the basis of race, color, national origin, sex (including pregnancy, sexual orientation, and gender identity) or religion.</p>	<p>US Equal Employment Opportunity Commission (EEOC) Title VII website</p> <p>EEOC Public Portal Website (includes resources for filing a claim for discrimination) https://publicportal.eeoc.gov/Portal/Login.aspx</p>

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<p>Clery Act</p> <p>The Clery Act applies to all institutions of higher education that receive federal funding.</p>	<p>Federal</p> <p>20 U.S.C. § 1092, with implementing regulations in the U.S. Code of Federal Regulations at 34 CFR 668.46.</p> <p>Enacted in 1990</p>	<p>The Clery Act requires colleges and universities to report campus crime data, support victims of violence, and publicly outline the policies and procedures they have put into place to improve campus safety.</p> <p>This includes:</p> <ul style="list-style-type: none"> Disseminating a public annual security report (ASR) to employees and students every October 1st. This ASR must include statistics of campus crime for the preceding 3 calendar years, plus details about efforts taken to improve campus safety. Institutions must include four distinct categories of crime in their ASR crime data: Criminal Offenses, Hate Crimes, VAWA (Violence Against Women Act) Offenses, and Arrests and Referrals for Disciplinary Action. There are many subcategories for each crime category. Crime Reporting Geography and Availability (including many sub-categories of on and off campus properties). Timely Warnings: When a crime covered by the Clery Act occurs, campus officials are required to evaluate if there is a serious or ongoing threat to the campus community to determine if a timely warning needs to be issued to all staff and students. <p>Clery also intersects with VAWA, FERPA, and Title IX legislation. Please visit the Clery Center’s website for information about these intersections. Information about these laws are also included in this guide, though we do not cover intersections in detail.</p>	<p>The Clery Center https://www.clerycenter.org/</p> <p>Clery Act in the Federal Register https://www.govinfo.gov/content/pkg/FR-2014-10-20/pdf/2014-24284.pdf#page=33</p> <p>Digging Deep into the Clery Act and Title IX Intersections Video Training Series (2020) https://clery.memberclicks.net/titleix</p> <p>Guide to Creating a Written Notification https://www.clerycenter.org/assets/docs/NC-SAM20_Sample-WN.pdf</p> <p>Campus Safety Outreach Starter Guide: https://www.clerycenter.org/assets/docs/NC-SAM19_Outreach_Plan.pdf</p> <p>Clery has over 30 years of policy updates. A full list of the current Clery Act requirements and details can be found here: https://www.clerycenter.org/the-clery-act</p>

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<p>VAWA Amendments to Clery (Campus SaVE Act)</p> <p>Applies to all institutions of higher education that receive federal funding.</p>	<p>Federal</p> <p>79 FR 62751</p> <p>Took effect July 1, 2015</p>	<p>The Violence Against Women Act (VAWA) amendments to the Clery Act expand the rights afforded to campus survivors of sexual assault, domestic violence, dating violence, and stalking, including:</p> <p>Law Enforcement Jurisdiction Institutions must have a policy statement that addresses the jurisdiction of security personnel. It must also note any outstanding agreement(s), such as memoranda of understanding with local or state police, regarding the investigation of alleged criminal offenses.</p> <p>Expanded Crime Reporting Colleges and universities must provide data regarding incidents of sexual assault, dating violence, domestic violence, and stalking. Institutions must also include policy statements specific to these crimes in their annual security report. These policy statements must outline the procedures an institution will follow after an incident of sexual assault, dating violence, domestic violence, or stalking, and identify rights and options available to survivors.</p> <p>Prevention Programming Institutions must put into place prevention programs that aim to stop crimes outlined in the Clery Act before they occur. These programs should promote positive behaviors that foster healthy, mutually-respectful relationships and sexuality, encourage safe bystander intervention tactics, and seek to change behavior and social norms in safe, healthy directions.</p> <p>Confidentiality The annual security report must address how the college or university completes Clery Act public recordkeeping and</p>	<p>Link to Resources and information via The Clery Center: https://www.clerycenter.org/vawa-dfsc-ferpa</p> <p>Clery Center VAWA Checklist for Schools: https://clery.memberclicks.net/assets/docs/VAWA-Checklist_0715-1.pdf</p> <p>Full link to the VAWA Amendments to the Clery Act: https://www.federalregister.gov/documents/2014/10/20/2014-24284/violence-against-women-act</p>

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<p>VAWA Amendments to Clery (Campus SaVE Act)</p> <p><i>Continued from previous page</i></p>	<p>Federal</p> <p>79 FR 62751</p> <p>Took effect July 1, 2015</p>	<p><i>(continued from previous page)</i></p> <p>data-sharing without including identifying information about the survivor, and while keeping any accommodations or protective measures confidential.</p> <p>Hate Crimes</p> <p>Institutions must share data on incidents of hate crimes within their Clery-reportable geography. The VAWA amendments added gender identity and national origin to the categories of bias institutions must reflect within their statistics.</p>	<p><i>(see previous page)</i></p>
<p>Violence Against Women Act (VAWA)</p> <p><i>Applies to every entity and person in America.</i></p>	<p>Federal</p> <p>Title IV of the Violent Crime Control and Law Enforcement Act, H.R. 3355</p> <p>Enacted in 1994</p> <p>RELEVANT PROVISIONS IN THE 2022 VAWA REAUTHORIZATION TAKE EFFECT ON OCTOBER 1, 2022 UNLESS NOTED</p>	<p>The Violence Against Women Act (VAWA) is aimed at addressing sexual assault and other forms of gender-based violence by expanding access to safety and support for survivors and increasing community-wide prevention efforts.</p> <p>VAWA programs are administered by the U.S. Departments of Justice (DOJ) and Health and Human Services (HHS), aiming to improve federal, tribal, state, and local responses to gender-based violence.</p> <p>This includes codifying sexual assault and other gender-based crimes in federal law. Since its enactment, VAWA has expanded to also provide protections to people that are LGBTQIA+ and men.</p> <p>The law is up for reauthorization every 5 years, and has been reauthorized in 2000, 2005, 2013, 2019 and 2022. Changes are added in every reauthorization.</p> <p>In 2022, the VAWA was reauthorized, and includes many items that directly relate to colleges and universities.</p>	

<p>2022 Relevant VAWA Reauthorizations</p> <p>Applies to all people in the United States, specific provisions in the newest authorization apply to colleges and universities that receive federal funding.</p>	<p>Federal</p> <p>H.R. 2471 “Consolidated Appropriations Act” or the “FY22 Omnibus appropriations bill”</p> <p>Enacted in 2022</p> <p>RELEVANT PROVISIONS IN THE 2022 VAWA REAUTHORIZATION TAKE EFFECT ON OCTOBER 1, 2022 UNLESS NOTED</p>	<p>In the latest reauthorization of VAWA , several provision apply directly to colleges and universities, including:</p> <p>Establishing a Federal Task Force on Sexual Violence in Education</p> <p>Not later than September 1, 2022, the Secretary of Education, the Secretary of Health and Human Services, and the Attorney General shall establish a joint interagency task force to be known as the “Task Force on Sexual Violence in Education”.</p> <p>Definitional Changes</p> <p>Changes were made to certain VAWA definitional terms, including the terms “domestic violence,” “economic abuse,” and “technological abuse.” This reauthorization also includes a definition of the term “restorative practice.” Schools should work with their legal counsel or policy teams to identify definitions that may need to change in Clery, Title IX, or other relevant school policies.</p> <p>Federal Survey Tool for Campus Climate Surveys</p> <p>The latest version of VAWA requires the Secretary of Education to establish a standardized, online campus climate survey, which will be distributed to colleges and universities through an online portal. This survey will solicit information about student experiences with domestic violence, dating violence, sexual assault, sexual harassment, and stalking, as well as students’ awareness of institutional policies and procedures. Individual institutions may add additional questions to this survey at no cost.</p> <p>Institutions of higher education that receive federal funding will be required to administer this survey beginning no later than one year after the survey tool is made available, and biannually thereafter.</p> <p>Individual institutions will be required to publish their aggregate survey results, and results will also be published by DOE.</p>	<p>Link to 2022 Reauthorization in the Federal Register: https://www.congress.gov/bill/117th-congress/senate-bill/3623</p> <p>White House Fact Sheet on Reauthorization of Violence Against Women Act 2022: https://www.whitehouse.gov/briefing-room/statements-releases/2022/03/16/fact-sheet-reauthorization-of-the-violence-against-women-act-2022/</p> <p>Overview article about applicable changes “VAWA Reauthorized: What Does This Mean for Your School or College?” from J.D. Supra: https://www.idsupra.com/legalnews/vawa-reauthorized-what-does-this-mean-3099617/</p>
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