



# Oregon SATF Planning Guide for Sexual Harassment Policy & Procedure Implementation & Revisions 2020-2021

## INTRODUCTION

**Thank you for your continued work to make our campus communities and educational programs in Oregon safe for all students.**

### **About Oregon SATF**

The Oregon Attorney General's Sexual Assault Task Force is a private, non-profit, non-governmental statewide agency operating three programs and coordinating over 100 multi-disciplinary members who serve as advisors on our Task Force Advisory Committee: Campus, Criminal Justice, Legislative & Public Policy, Medical-Forensic, Men's Engagement, Offender Management, Prevention Education, and Victim Response.

In organizing and maintaining a membership body, the Oregon Attorney General's Sexual Assault Task Force seeks to facilitate cross-discipline collaboration and cultivate victim-centered approaches to sexual assault primary prevention, victim advocacy, medical forensic care, criminal prosecution and sex offender management and treatment.

### **Our Mission**

Our mission is to facilitate and support a collaborative, survivor-centered approach to the prevention of and response to sexual violence. We accomplish our mission by advancing primary prevention and providing multi-disciplinary training and technical assistance to responders in Oregon and nationally.

### **About the Oregon SATF Campus Program**

The Oregon SATF Campus Program provides training and technical assistance to campus-based professionals who are engaged in sexual violence prevention, advocacy, and response. SATF works to support the efforts of campuses across Oregon in making their communities safe and free from violence, and in supporting students, staff, and faculty who experience violence and harassment. SATF offers dedicated support to campus advocates and advocacy programs, and join our campus partners in envisioning a world free from violence by supporting campus-based prevention programs. We also provide a variety of trainings and assistance related to campus compliance, investigation, and response.



# Oregon SATF Planning Guide for Sexual Harassment Policy & Procedure Implementation 2020-2021

## ABOUT THIS GUIDE

### About This Guide

This guide has been created to assist Oregon Institutions of Higher Education (including public, private and community colleges and universities) to implement and sustain changes to sexual harassment and misconduct policies required by the Federal Office of Civil Rights / Department of Education's new Title IX Rule, and synthesizing this Rule with Oregon's legislative requirements of institutions of higher education (including House Bill 3415 requiring training and response to sexual harassment, Senate Bill 759 requiring notification of rights and options, and others).

### Oregon-Specific

This guide has been created to address the dynamics and laws unique to Oregon, and thus may not be as applicable in other states. If you work at an institution outside of Oregon and are in need of assistance, please feel welcome to contact our campus program. Staff emails are available on our website at [www.oregonsatf.org](http://www.oregonsatf.org).

### Use this Guide to Start the Conversation, or Review Your Ongoing Work

As each of our institution's have unique needs, student body and staffing resources, this guide will not be a "one-size-fits-all" document.

Instead, it can serve as a starting point (collecting all the necessary documentation and questions that your stakeholder teams should review in order to best align Oregon's legislative requirements and federal requirements), or a tool to reflect on the work your institution has completed thus far, identifying any areas that you may want to revisit or strengthen over the course of the academic year.

We recognize that many schools have already implemented changes to their policies in order to be compliant with State and Federal law by August 14, 2020.

Because of the short timeframe provided to implement changes to Title IX policies and procedures, we hope that this guide can serve as a starting point for your campus stakeholders to 1) identify any necessary policy revisions for the 2021-2022 school year and 2) create more sustainable policies and procedures to support your campus communities.

# Oregon SATF Planning Guide for Sexual Harassment Policy & Procedure Implementation 2020-2021

## GATHER THESE DOCUMENTS AHEAD OF TIME

Oregon SATF recommends compiling and creating copies of the following documents for your stakeholder team prior to the Title IX review process:

- **Your institution's current Title IX policy and procedures, outreach materials related to the Title IX process, and any other written resources disseminated to students, staff and faculty.**
- **"Title IX Regulations Addressing Sexual Harassment (Unofficial Copy)"** (U.S. Department of Education)
  - <https://www2.ed.gov/about/offices/list/ocr/docs/titleix-regs-unofficial.pdf>
- **"Title IX: Summary of Major Provisions of the Department of Education's Title IX Final Rule"** (U.S. Department of Education)
  - <https://www2.ed.gov/about/offices/list/ocr/docs/titleix-summary.pdf>
- **"Summary of Major Provisions of the Department of Education's Title IX Final Rule and Comparison to the NPRM"** (U.S. Department of Education)
  - <https://www2.ed.gov/about/offices/list/ocr/docs/titleix-comparison.pdf>
- **"Title IX: U.S. Department of Education Title IX Final Rule Overview"** (U.S. Department of Education)
  - <https://www2.ed.gov/about/offices/list/ocr/docs/titleix-overview.pdf>
- **Oregon House Bill 3415 (2019) Enrolled Text**
  - <https://olis.leg.state.or.us/liz/2019R1/Downloads/MeasureDocument/HB3415/Enrolled>
- **"Intersections of HB 3415 & Title IX New Regs"** (Title IX Education Specialists, Portland OR)
  - This handout is included at the end of this document
- **Oregon Senate Bill 759 (Student Notification, Rights & Options) Enrolled Language**
  - <https://olis.leg.state.or.us/liz/2015R1/Downloads/MeasureDocument/SB759/Enrolled>
- **"Oregon Senate Bill 759 Considerations Checklist"** (Oregon SATF)
  - <http://oregonsatf.org/wp-content/uploads/2018/03/SATF-SB-759-checklist.pdf>

# Oregon SATF Planning Guide for Sexual Harassment Policy & Procedure Implementation 2020-2021

## Step One: Implementation Team & Information

- **Ensure that your implementation team involves and solicits meaningful feedback from all necessary community stakeholders**, including Title IX Coordinator, Deputies, Conduct/Investigatory bodies, Diversity/Equity/Inclusion specialists, Students, Faculty, Prevention Staff, Advocacy Staff, representatives from your Hearing Board (if your institution already has one in place), and Campus Safety.
- **Ensure all stakeholders have equal access to necessary information, including:** new Rule, overview documents from US DOE, Oregon HB 3415 overview documents, Oregon Advocate Privilege language (if your campus utilizes advocacy services) and university/college current policy and procedures. *Please refer to the end of this document for referenced materials.*

## Step Two: Deciding a Policy "Path"

- **With stakeholders, decide:**
  - Will you adapt your current policy and create an additional policy to address Oregon's HB 3415 requirements (one policy to adhere to Title IX, one for 3415), or include elements of either in your current policy?
  - Will your institution offer an Informal Resolution process for students?
  - Does your campus utilize privileged campus-based advocates? Where in policy language is the advocate included by name? Where do changes need to be made in order to adhere to Oregon's Advocate Privilege law in light of the new regulations? *(NOTE: Advocates should not conduct cross-examination in accordance with National Advocate Ethics Standards and ORS 40.264 Rule 507-1)*

# Oregon SATF Planning Guide for Sexual Harassment Policy & Procedure Implementation 2020-2021

## Step Three: Conduct a Staffing Audit

- **With your stakeholders, identify any additional staffing changes that need to happen** to ensure that your institution has the necessary staff to receive reports, support Reporting and Responding parties (for the purposes of making a report, receiving support resources and navigating your process/processes), conduct thorough investigations, make decisions, conduct appeals, navigate or implement any informal processes, and implement supportive measures.
- **Ask:**
  - What staffing is necessary to implement the new Rules?
  - What staffing is necessary to fulfill our requirements under Oregon HB 3415?
  - What staffing is necessary to provide support to Reporting and Responding parties?
  - What staffing is necessary to implement informal processes?
  - What community partners (on and off campus) do we need to notify or establish MOUs with to address staffing changes?
  - What has our stakeholder group done to address bias and potential conflicts of interest for each role?
  - What staffing and policy changes might need to be made to address potential leaves of absence by any staff involved in the process?
  - What staffing and policy changes are needed to address reports made against senior level administrators, including Title IX Coordinator, Deans (including Academic deans), Board of Trustee members, etc.?
  - What policy and procedure changes are needed to address Title IX and HB 3415 requirements for cases involving this level of leadership?

# Oregon SATF Planning Guide for Sexual Harassment Policy & Procedure Implementation 2020-2021

## Step Three: Conduct a Staffing Audit (Continued)

- **New Title IX Rule requires that schools have:**
  - Title IX Coordinator
  - Investigator (may be the same person as the Coordinator),
  - Decisionmaker(s),
  - Decisionmaker(s) for Appeals,
  - Advisors / "Process Advisors"
  - and Facilitator
- **Your institution may also wish to address the following in your policy and/or procedures:**
  - Deputy Coordinators / "Designees"
  - Additional Process Advisors (appointed by institution)
  - Campus-based Advocates\* (as resources for Reporting parties)
  - Other Confidential Resources for Reporting and Responding Parties (Counseling, Legal, Clergy, etc.)
  - Referral resources (who will need process training in order to refer Reporting parties to Title IX Coordinator)
  - Human Resources and Other staff involved in cases involving Staff and Faculty on your campus

## Step Four: Write/Rewrite Policy and Procedures

- **Write (or re-write) current policy and procedures to reflect any changes from Steps 2 & 3** (Policy Path and Staffing Updates).
- **When able, include plain language and examples** of behavior that pertain to the policy.
- **SATF strongly recommends that institutions of higher education have a diverse body of students (graduate and undergraduate), staff and faculty (with experience related to the Title IX process and without) review updated policies** to ensure that your intended audience can both understand and navigate the policy. Meaningfully include suggested edits and feedback to improve policy as necessary.

# Oregon SATF Planning Guide for Sexual Harassment Policy & Procedure Implementation 2020-2021

## Step Five: Address Reporting Process Changes

- **With your stakeholders, address the following questions:**
  - What changes have been made to your reporting process with your new Title IX and HB 3415 compliant process(es)?
  - How will your community report experiences of sexual harassment and violence?
    - To the Title IX Coordinator?
    - Through Confidential resources?
  - What mechanisms will be available for Reporting parties to report experiences of sexual harassment (online contact form, in-person with Title IX coordinator, anonymously, etc.)?
  - What role will staff and faculty (that are not affiliated with the Title IX process) have in reporting? Will there be any changes to who was formerly considered a "Responsible Employee" at your institution?
  - How would some who is Deaf, Hard of Hearing and those for whom English is a second language complete the reporting process in an equitable manner?
    - *Note: It is not recommend for staff or faculty of an institution to serve as interpreters for a Title IX reporting process unless this is their official capacity at the university, and they have completed necessary training related to the Title IX process.*
  - What privacy concerns about new reporting processes need to be addressed? How will your institution preserve privacy to the extent that you are able?
  - What forms, outreach materials (including your Institution's Notification of Rights and Options document, as required by ORS 350.255 Written Assault Protocol / Student Notifications of Rights and Options Senate Bill 759), posters and web pages need to be updated to reflect or facilitate reporting?
  - Who will need to receive training related to the new reporting guidelines?
  - How will faculty, staff and students not affiliated with the process receive this training?

# Oregon SATF Planning Guide for Sexual Harassment Policy & Procedure Implementation 2020-2021

## Step Six: Develop a Training Plan for TIX-Affiliated Staff

- **With your stakeholders, review training requirements as outlined by the US DOE and Oregon House Bill 3415**
- **Answer the following:**
  - Who are the staff involved in your Title IX and HB 3415 process(es)? Name by both Title/Position. If serving as a volunteer capacity not affiliated with their job description, name staff or faculty individually.
  - What training do current staff have that demonstrate they are able to fulfill their role in the Title IX / HB 3415 process? For example: a Title IX Coordinator may have attended SATF Investigator Training, ATIXA training, etc. List these trainings for each staff member.
  - For new staff in the Title IX process, what training do they need before they can start their role?
  - What training is currently offered by your Title IX team or institution that staff can participate in?
  - What funding is available for training?
  - How will your Title IX Coordinator record training history and plan for each staff member associated with the Title IX Process (*see "SATF Sample HB 3415 Training Record Plan" for ideas*)?
- **Develop an aggregate (all staff) training plan that includes:**
  - Training requirements as required by Title IX
  - Training requirements as required by Oregon HB 3415 (see next page for outline)
- **Create a record-keeping system to track, document and make available training records and materials**
  - New Rule requires institutions to make training materials and records reasonably available
  - HB 3415 requires annual training for all persons involved in a Title IX process
- **Develop a training plan and agreement for each individual staff member (including Hearing Board, Decision Makers, etc.)**  
that is affiliated with your institution's Title IX and HB 3415 process(es)



# Oregon SATF Planning Guide for Sexual Harassment Policy & Procedure Implementation 2020-2021

## Step Six: Develop a Training Plan (Oregon HB 3415)

- According to Oregon HB 3415,
  - *"each institution of higher education shall require that all Title IX coordinators, hearing officers, process advisors, institution investigators, third-party contracted investigators, campus security officers and any other individual who works at the institution who may be required to assist in conducting an investigation that is subject to Title IX of the Education Amendments Act of 1972, 20 U.S.C. 1681 to 1688, as amended, participate in annual training. "*
- The training required by HB 3415 must include:
  - (a) The relevant definitions and dynamics of sexual harassment, sexual assault, domestic violence, dating violence and stalking;
  - (b) The prevalence of sexual harassment, sexual assault, domestic violence, dating violence and stalking both overall and, to the extent relevant data exists, within the educational and employment contexts;
  - (c) Trauma-informed best practices for how to serve reporting and responding students, including utilizing trauma-informed principles of support or student-centered frameworks;
  - (d) Best practices for addressing bias and increasing accessibility for students through the use of an anti-oppression framework; and
  - (e) For investigators, how to conduct effective interviews, including best practices for interviewing sexual assault survivors.
- In addition to containing the material described above, training plans and materials required by HB 3415 shall:
  - (a) Include principles related to providing trauma-informed and culturally responsive processes, procedures and victim services;
  - (b) Be gender-responsive, but not reliant on gender stereotypes; and
  - (c) Recognize and account for the unique needs of individuals who identify as lesbian, gay, bisexual, transgender, gender nonconforming or gender nonbinary.

# Oregon SATF Planning Guide for Successful Title IX Policy & Procedure Implementation 2020-2021

## Step Seven: Address Confidentiality and Privilege

- **With your stakeholder team, identify:**
  - **What protections exist to protect Reporting Party, Responding Party and Witness information in the process?**
    - What needs to be updated?
    - What other liabilities may exist?
  - **What protections exist to support staff and faculty that are involved with the Title IX / Conduct /HB 3415 process(es)?**
    - What is the procedure if a staff or faculty member affiliated with the process feels they may be at risk for harm from a party involved with the investigation, their contacts or other party?
    - What will be your institution's procedure if a staff or faculty member affiliated with the process needs to be replaced in the process due to a safety concern?
  - **How will records of Title IX / Conduct / HB 3415 investigations and reports be protected?**
    - Who will have access to online records through systems such as Maxient, Advocate, etc.?
    - Is there a "super user" or IT professional that has access to these systems? What agreements exist or need to be put in place in order to ensure that these records are not accessed?
    - What is the protocol staff and faculty must use when viewing evidence, records and materials in digital format?
      - Is there a preferred record-sharing system available at your institution?
      - Is there a written agreement and protocol in place that persons affiliated with an investigation must sign prior to handling digital records or evidence?
    - Where will be paper records and physical evidence submitted to the institution be stored? Who will have access to these spaces? How will the institution track this access?
    - What protections will the institution utilize (both digitally/with remote-access and in-person) to ensure that privacy is protected during material review during investigations?
      - How are these protections and expectations communicated with parties involved in a Title IX / HB 3415 case?

# Oregon SATF Planning Guide for Successful Title IX Policy & Procedure Implementation 2020-2021

## Step Eight: Set the Environment for Compassionate and Trauma-Informed Disclosures

- **With your stakeholder team, identify:**
  - What feedback exists within your community that would assist you in improving your Reporting process and mechanisms related to Title IX and HB 3415 process(es)?
  - Who might your team need to talk to to get insight about how disclosures have been managed on your campus?
- **Develop a plan for how Title IX Coordinators, staff and/or faculty are expected to manage a disclosure of sexual harassment or violence from:**
  - Students
  - Staff / Faculty / Employees of the institution
  - Volunteers, Community Members, or other Third Parties associated with the institution
  - When the reporting party is under the age of 18, and/or affiliated with a K-12 educational institution
    - *Note: all employees of an institution of Higher Education in the State of Oregon, including Campus-based advocates who are employed by the university, are mandatory reporters of child abuse under ORS 419B.005 (3). SATF strongly recommends that institutions outline procedures for cases involving minors (including those that visit campus for camps, educational activities, or as visitors), delineate what (if any) supports can be made available by the institution to minors involved in a Title IX or HB 3415 case, and adopt Memorandums of Understanding (MOUs) with local K-12 schools that facilitate visits or access programs on campus.*
- **When:**
  - The disclosure happens in the process of an academic setting (online, in class, etc.)
  - The disclosure is made to someone who is a senior administrator, Board Member, or similar position
  - Your institution is operating remotely/utilizing distance learning methods like online classrooms
  - A disclosure is made in-person/on-campus to the Title IX coordinator
  - Through a third party (such as a law enforcement report)

# Oregon SATF Planning Guide for Successful Title IX Policy & Procedure Implementation 2020-2021

## Step Nine: Audit your Title IX Coordinator materials to ensure you can receive reports of sexual harassment

- **With your stakeholder team, identify:**
  - Does your institution's Title IX coordinator have adequate support and applicable training to receive reports of sexual harassment via in-person disclosures, reports and online submission forms?
  - What additional support will the Title IX coordinator need?
- **Ask:**
  - Does your institution's Title IX coordinator have a clearly outlined set of criteria by which to "triage" or categorize reports as they come in?
    - For example: Does your policy and procedures outline criteria that assist the Title IX coordinator in deciding whether a report will be investigated/adjudicated under the new Title IX Rule, or under the criteria outlined by Oregon House Bill 3415?
    - Do these criteria include procedures for how a Title IX coordinator should assign cases that:
      - Involve upper-level administrators (including Deans, the Title IX coordinator, etc.)
      - Where the Title IX Coordinator has a conflict of interest
      - When there is a concurrent legal or civil case pending against the school related to the report
      - Where the Responding party has been named in other reports received by the institution
      - When the Reporting party has been named in other reports received by the institution
  - How many reports (assuming each report will be investigated and adjudicated) does your institution have reasonable bandwidth to cover at one time? What staffing changes or volunteers will you need to address in order to staff reports during times of crisis (such as Covid-19), busy times of the year (mid-terms, finals, etc.) and during staffing shortages?
- **Does your Title IX Coordinator have:**
  - Intake form for receiving report?
  - Adequate documentation system (online system or paper?)
  - Private space(s) for receiving disclosure (*see SATF's "Interview Set Up" checklist for additional ideas on configuring your office and disclosure space*)

# Oregon SATF Planning Guide for Successful Title IX Policy & Procedure Implementation 2020-2021

## **INTERVIEW SET-UP CHECKLIST**

### **How to use this checklist**

This checklist has been created to provide Title IX Coordinators and stakeholders to assist with establishing a student-centered approach to conducting interviews and receiving disclosures on campus. It is not a one-size-fits all document, and schools should ensure that the unique needs of their students and staff are reflected in securing, organizing and setting up spaces to conduct Title IX & other sexual harassment-related interviews.

### **A Note on Providing Meaningful Choice During Interviews**

SATF recommends that schools build in opportunities for students and staff participating in interviews (as Reporting parties, Responding parties or Witnesses) to make meaningful choice regarding the environment of the interview, when possible. Think critically about where and when you can offer the interviewee the opportunity to provide feedback: can they choose from multiple spaces/offices to conduct their interview in? Are you able to offer different times of day in which to conduct the interview that can accommodate work and academic schedules? Who can the interviewee have with them during these meetings? Thinking through where you can provide actual choice and control through the process can assist in mitigating stress and additional trauma for participants.

### **Recommendations for Setting up the Space: Pre-Interview**

- Identify at least two (2) ADA accessible locations on campus where interviews can be conducted. Provide interviewee choice of where the interview should be conducted when possible.
- Ask interviewee if they have any safety concerns regarding the space.
- These spaces should have adequate room for participants to be comfortable, have a bathroom facility that aligns with the participant's needs accessible, and have access to a water station or fountain.
- Space should be private. Do you need to address window coverings, white noise machines, or visibility (ability for other community members to witness who is coming and going from the office) challenges?
- When possible, have all checklists, SB 759 notification documents and other necessary support resources available in this space.
- Reduce the amount of personal items (family photos, etc.) visible.
- Do the Title IX coordinator, investigators and/or other staff have any safety concerns about this space (lighting, access to parking lots, etc.)?
- Ensure that no records or private information are sitting out in the open.

# Oregon SATF Planning Guide for Successful Title IX Policy & Procedure Implementation 2020-2021

## **INTERVIEW SET-UP CHECKLIST**

### **Recommendations for Setting Up the Space: During Interview**

- Staff conducting the interview should arrive at least 30 minutes early to ensure that there are no additional challenges (power outage, locked room, etc.) in the designated interview space. If other staff or support people will be joining (including advocates, interpreters, support people, etc.) ask them to arrive with the interviewee or slightly before the start time to ensure they have adequate time to get settled.
- Reduce the amount of personal items (family photos, etc.) visible.
- Ensure that no records or private information are sitting out in the open.
- Make sure that the room is stocked with tissue paper, extra paper, extra writing utensils, and (when possible) snacks and/or beverages.
- Welcome interviewee to space when they arrive. While basic, our staff have observed interviewers that are rushed for time not greet, welcome or introduce interviewees to the staff and space. Use this as your opportunity to build rapport.
- Provide options for interviewee to sit during interview. Ensure that interviewees have an option of where to sit that is accessible to the door (is not blocked by a desk or table), and is accessible for wheelchair users, or those who use other ambulatory devices to get around campus.
- Ask interviewee when their last meal and ability to sleep was. While this may seem intrusive, many students (and staff) engaged in the reporting process may not have safe or adequate spaces to rest, and many experience insecurity in regards to meals and food. Offer food when able, if it is obvious that the interviewee has not slept and notes they are not in a good frame of mind to conduct the interview, consider rescheduling to the next day. If your campus has emergency housing that can provide access to safe sleeping space, consider setting this up for the interviewee (when appropriate).
- Offer breaks throughout the course of the interview. Ensure that interviewee has the opportunity to request breaks.

### **Recommendations for Setting Up the Space: Post Interview**

- Clean space, removing any personally-identifying information and all forms.
- If interviewee has a safety plan for accessing the building (campus safety escort, etc.), ensure that plan is conducted to the ability you are able.