

40.264 Rule 507-1. Certified advocate-victim privilege. (1) As used in this section:

(a) "Certified advocate" means a person who:

(A) Has completed at least 40 hours of training in advocacy for victims of domestic violence, sexual assault or stalking, approved by the Attorney General by rule; and

(B) Is an employee or a volunteer of a qualified victim services program.

(b) "Confidential communication" means a written or oral communication that is not intended for further disclosure, except to:

(A) Persons present at the time the communication is made who are present to further the interests of the victim in the course of seeking safety planning, counseling, support or advocacy services;

(B) Persons reasonably necessary for the transmission of the communication; or

(C) Other persons, in the context of group counseling.

(c) "Qualified victim services program" means:

(A) A nongovernmental, nonprofit, community-based program receiving moneys administered by the state Department of Human Services or the Oregon or United States Department of Justice that offers safety planning, counseling, support or advocacy services to victims of domestic violence, sexual assault or stalking; or

(B) A sexual assault center, victim advocacy office, women's center, student affairs center, health center or other program providing safety planning, counseling, support or advocacy services to victims that is on the campus of or affiliated with a two- or four-year post-secondary institution that enrolls one or more students who receive an Oregon Opportunity Grant.

(d) "Victim" means a person seeking safety planning, counseling, support or advocacy services related to domestic violence, sexual assault or stalking at a qualified victims services program.

(2) Except as provided in subsection (3) of this section, a victim has a privilege to refuse to disclose and to prevent any other person from disclosing:

(a) Confidential communications made by the victim to a certified advocate in the course of safety planning, counseling, support, or advocacy services.

(b) Records that are created or maintained in the course of providing services regarding the victim.

(3) The privilege established by this section does not apply to the disclosure of confidential communications, only to the extent disclosure is necessary for defense, in any civil, criminal or administrative action that is brought against the certified advocate, or against the qualified victim services program, by or on behalf of the victim.

(4) The privilege established in this section is not waived by disclosure of the communications by the certified advocate to another person if the disclosure is reasonably necessary to accomplish the purpose for which the certified advocate is consulted.

(5) This section does not prohibit the disclosure of aggregate, non-personally identifying data.

(6) This section applies to civil, criminal and administrative proceedings and to institutional disciplinary proceedings at a two-year or four-year post-secondary institution that enrolls one or more students who receive an Oregon Opportunity Grant. [2015 c.265 §2]

Note: Section 5, chapter 265, Oregon Laws 2015, provides: **Sec. 5.** (1) Sections 2 [40.264] and 4 [147.600] of this 2015 Act and the amendments to ORS 40.252 by section 3 of this 2015 Act become operative on October 1, 2015.

(2) The Attorney General may take any action before the operative date specified in subsection (1) of this section to enable the Attorney General, on or after the operative date specified in subsection (1) of this section, to exercise all the duties, powers and functions conferred on the Attorney General by sections 2 and 4 of this 2015 Act.

(3) Section 2 of this 2015 Act applies only to proceedings occurring on or after the operative date specified in subsection (1) of this section.

(4) Sections 2 and 4 of this 2015 Act and the amendments to ORS 40.252 by section 3 of this 2015 Act apply to communications and records made before, on or after the operative date specified in subsection (1) of this section, unless the communications were disclosed to a third party before the operative date specified in subsection (1) of this section. [2015 c.265 §5]