

Louisiana Board of Regents



BOARD *of* REGENTS
STATE OF LOUISIANA

Special Meeting

August 10, 2021
8:00 a.m.

AGENDA ITEM II.

Roll Call



AGENDA ITEM III.

Certification for Virtual Meeting



AGENDA ITEM IV.

Oath of Office - Student Board Member



Cameron T. Jackson
Grambling State University

AGENDA ITEM V.

Public Comments



AGENDA ITEM VI.



BOARD OF REGENTS UNIFORM POLICY ON POWER-BASED VIOLENCE

AUGUST 10, 2021



BOARD of REGENTS
STATE OF LOUISIANA

DUAL POLICY MODEL

POWER-BASED VIOLENCE

(Acts 439/472)

- Power-based violence in this Policy includes conduct which is beyond the scope of Title IX Regulations' definition of "sexual harassment."
- Includes sexual offenses and interpersonal violence (which in some instances is not sexual).
- May include conduct that occurs off campus.

SEXUAL HARASSMENT

(34 CFR §106.44-.45)

- The Grievance Procedure covers a narrower subset of conduct that must be addressed according to the defined formal grievance process required by US Department of Education's Regulations (effective August 14, 2020).
- The Title IX Grievance Procedure applies to "sexual harassment" in an Institution's "education program or activity" against a person in the United States. 34 C.F.R. §106.44(a)
- The Procedure does not apply to conduct that has occurred off campus.

MAJOR POLICY UPDATES

- Significantly extends the policy environment to power-based violence, which includes but expands beyond sexual misconduct and Title IX conduct.
- Requires reporting for employees and up-the-chain reporting for administrative officials.
- An employee who falsely or knowingly fails to report shall be terminated in accordance with the institution's disciplinary procedures.
- The State Bond Commission shall not authorize the Institution to incur any debt for an Institution's failure to publish their semiannual campus security policies and crime statistics report.
- Includes mandatory transcript notation, communication, and withholding provisions.

REGENT'S OBLIGATIONS

Policy Development

- BOR must establish uniform policies and best practices to address:
 1. Power-based violence prevention (PBV);
 2. Reporting of PBV;
 3. Communications between institutions regarding incidents of PBV (transcript notations); and
 4. Provision of medical and mental health care for PBV victims.

Accountability

- Must submit an annual report to the Governor and the Legislature by January 15th to consist of administrative reports from each of the systems. Must also publish reports on BOR's website.
- Must develop a PBV climate survey in consultation with victims' advocacy groups and student leaders who represent a variety of student organizations.
- Must determine on an annual basis the adequate number of confidential advisors for an institution based upon its size beginning January 1, 2022.
- Must monitor institutions' websites for compliance with the obligation to publish a semiannual security report on the institution's website containing updated campus security policies and campus crime statistics.
- Provide staffing for the PBV Review Panel.

Training

- Develop annual trainings for Responsible Employees on PBV in collaboration with the Attorney General's office.

COLLABORATIVE PROCESS



4

Planning meeting with the System Presidents and Board Chairs.

1

Expert guidance from Nelson Mullins, LLP, a nationally recognized Title IX/power-based violence specialist.

50+

BOR engaged and collaborated with a wide cross-section of postsecondary education stakeholders appointed by System Presidents.

22+
PARTICIPANTS

Transcript Notation Workgroup
(including registrars, Title IX coordinators, systems' counsel, and deans of students).

28+
PARTICIPANTS

Policy Workgroup
(including Title IX coordinators, academic affairs staff, deans of students, and systems' counsel).

POLICY ORGANIZATION

ACTS 472/439/447

- V - Safety Education
- VI - Retaliation Prohibition
- VII - Reporting Power-Based Violence
- VIII - Transcript Withholding, Notation, & Communication
- IX - Victims' Rights Policy
- XI - Training
- XII - Data Publication
- XIII - Memoranda of Understanding
- XIV - Campus Power-Based Violence Policies
- XV - Website Compliance

BOR BEST PRACTICE

- A - Initial Steps & Determination of Appropriate Procedures
- B - Initial Contact with Potential Complainant
- C - Supportive Measures
- D - Filing a Formal Complaint
- E - Power-Based Violence Grievance Procedure
- F - Investigation Process
- G - Findings & Investigative Report
- H - Resolution
- I - Sanctions
- J - Grievance Procedure Appeals

KEY PROVISIONS

01

Content:

Incorporates the following laws into the Policy:

- Act 439 (Mizell)
- Act 472 (Freeman)
- Act 447 (Riser)

Elevates safety education as a critical prevention measure when addressing PBV.

Acknowledges the importance of systems/campuses in policy development, implementation, and campus culture.

02

Term Usage:

This Policy will utilize the term PBV as an overarching term that refers to both PBV and Title IX conduct.

Reporter - An individual who reports sexual misconduct.

Complainant - Alleged victim.

Respondent - Alleged perpetrator.

03

Retaliation:

Retaliation is expressly prohibited under this policy against anyone who:

1. In good faith reports what they believe is power-based violence;
2. Cooperates with an investigation or proceeding under this Policy; or
3. Opposes conduct that they believe violates this Policy.



EMPLOYEE MANDATORY REPORTING





Acts 472/439

- Employees who receive a direct statement reporting sexual misconduct or witness sexual misconduct must report to the Title IX Coordinator:
 - a. Identity of the alleged victim
 - b. Identity of the alleged perpetrator
 - c. Type of conduct alleged: PBV/retaliation
 - d. Date, location, and time of the incident
 - e. Other relevant information
- Includes exceptions when reporting is not required:
 - a. During public forum/awareness event
 - b. In the course of academic work
 - c. Eavesdropping
- An employee who falsely or knowingly fails to report shall be terminated in accordance with the institution's disciplinary procedures.
- Best Practice: Inform the reporting source of the employee's obligation as a mandatory reporter and provide information about supportive measures and confidential resources (if needed).



ADMINISTRATIVE REPORTING

Acts 472/439

- Policy includes sample reporting forms to provide required information based on state law:
 - Title IX Coordinator
 - Chancellor 
 - System President 
 - System Board 
 - BOR 
- Best Practice: References of Policy suggestions in Appendix to ensure timeliness and compliance with respect to reporting format and deadlines.

ADMIN	LAW	BOR
Title IX Coordinator	Oct. 10th & Apr. 10th	-
Chancellor	14 days after receipt	Oct. 24th & Apr. 24th
System President	14 days after receipt	Nov. 7th & May 8th
System Board	Dec. 31st	Dec. 1st & June 1st
BOR	Jan. 15th	Early January



Transcript Notation Policy

Acts 472/439

- State law requires that BOR consult public postsecondary management boards to develop a notation policy.
- For any student who is the **subject of a sexual misconduct complaint** and who **attempts to transfer**, an Institution is required to either:
 - a. Withhold the transcript; or
 - b. Notate the transcript
 - i. If student attempts to transfer during a pending investigation.
 - ii. If student is found responsible of PBV.
- A Receiving Institution must make a timely inquiry to the Sending Institution regarding the purpose of the hold/notation.
 - Sending Institution must disclose timely appropriate information consistent with FERPA regulations.
- Respondent must be given an opportunity to appeal for good cause shown.
- Private postsecondary institutions are encouraged to implement their own policy.

KEY PROVISIONS

07

Memoranda of Understanding (Acts 472/439):

Institutions must revise/update their campus MOUs to include:

1. Campus Police Department
2. District Attorney's Office
3. Any other law enforcement agency with criminal jurisdiction over the campus

MOUs must be in writing and reviewed on an annual basis.

08

Grievance Process:

- BOR Policy
 - Best Practice: Institutions must provide a process to resolve complaints of PBV.
- Title IX Grievance Procedure
 - Federal regulations provide for a "live hearing" and "cross examination."

09

Training:

- BOR develops initial and annual training for confidential advisors in coordination with the Attorney General.
- BOR develops annual training for responsible employees in coordination with the Attorney General and in consultation with student campus organizations.

KEY PROVISIONS

10

Data Publications (Acts 439/473/447):

Section dedicated to providing the deadlines for the following data submissions:

1. PBV Climate Survey
2. Campus Security Report
3. Sex Crime Data Report

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Definitions:

- BOR Uniform Policy
 - Appendix provides definitions to include the expansive list of crimes (and accompanying statutes) that constitute PBV.
- Title IX Grievance Procedure
 - Includes definitions from 34 CFR §106.30.

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Effective Dates:

- 8/10 - Board Approval of BOR Policy.
- No later than 10/15 - Institutions implement campus policies.
- No later than 12/15 - System Boards verify compliance of Institutions' policies with BOR Uniform Policy.

POLICY PROCESS



6/17-7/22: Actively Drafted Policy

- 6/15: Met with System Presidents and Board Chairs
- 7/1: Policy work with Nelson Mullins, LLP
- 7/7: Transcript Notation Workgroup Meeting
- 7/19: Preliminary Policy Walk-Through
- 7/20: Transcript Notation Workgroup Meeting
- 7/27: System Presidents Meeting
- 7/29: Policy Workgroup Meeting
- 8/3: PBV Review Panel Meeting
- 8/3: Draft Policy submitted to BOR
 - 8/3 - 8/10: Review Policy

UPCOMING TIMELINE



- 8/10: Special BOR Meeting
- 8/17: Training Session 1
- 8/18: Training Session 2

AGENDA ITEM VI.

RECOMMENDATION

Chair recommends approval of the Dual Uniform Policy on Power-Based Violence and Title IX and to direct staff to work with the systems on automation of the forms needed for uniform reporting.



AGENDA ITEM VII. COVID-19 UPDATE



Dr. Joseph Kanter
State Health Officer
Louisiana Department of Health

AGENDA ITEM VIII.

Other Business



Agenda Item IX.

Adjournment

