

## **BOR POLICY BACKGROUND**

Over the past few months Title IX has been a major topic of discussion and contention in our state, largely due to significant system failures in response to campus sexual assault and harassment incidents here in Louisiana. As a result, during the 2021 Regular Legislative Session, the Senate Select Committee on Women and Children spent several days and countless hours conducting hearings on this topic. The testimony received and the policy gaps identified informed the comprehensive legislative measures passed this session.

Those laws include the following:

- Act 472 of the 2021 Regular Session of the Louisiana Legislature, authored by Rep. Aimee Freeman, significantly extended the policy environment to power-based violence, which includes but expands beyond sexual misconduct and Title IX conduct. The law charged the Louisiana Board of Regents (BOR) with establishing uniform policies and best practices to address the reporting and prevention of power-based violence at public postsecondary campuses, as well as communication between institutions regarding incidents of power-based violence. The law requires termination of employees who fail to report or falsely report power-based violence incidents in accordance with institutional policies.
- Act 447, by Rep. Neil Riser, requires institutions to publish a semiannual report of campus security policies and campus crime statistics to include, at a minimum, information contained in the Clery Report. If an institution fails to comply, BOR is obligated to notify the Legislature and the State Bond Commission, resulting in the loss of an institution's ability to incur debt for two years.

## **EXECUTIVE SUMMARY**

Campuses are mandated to provide a safe learning environment that is free from sexual misconduct as provided in Title IX of the Education Amendments of 1972 and its implementing regulations, along with other applicable laws. Title IX and its regulations prohibit any form of discrimination or harassment based on sex for all students and employees of educational systems that receive federal funding.

The BOR's Uniform Policy was drafted with collaboration, input and feedback from a wide range of postsecondary education stakeholders, who served on the Transcript Notation Workgroup (including registrars, Title IX coordinators, systems' counsel, and deans of students) and the Uniform Policy Workgroup (including Title IX coordinators, academic affairs staff, deans of students and systems' counsel), as well as public postsecondary system presidents, with expert guidance provided by Nina Gupta, a nationally recognized Title IX/power-based violence attorney and partner at Nelson Mullins, LLP.

## **KEY PROVISIONS**

Key provisions of the updated Uniform Policy on Power-Based Violence include:

- Elevation of safety education as a critical preventative measure when addressing power-based violence;
- An express prohibition of retaliation against individuals who, in good faith, report what they believe is power-based violence;
- Up-the-chain summary reporting of power-based violence incidents submitted by Title IX coordinators, campus heads, system presidents and system management boards, culminating in statewide reporting to BOR. Based on these reports, BOR will annually submit information to the Governor, the President of the Senate, the Speaker of the House and the Senate and House Education Committees;
- Termination of employees who knowingly fail to report or falsely report power-based violence;
- Withholding of transcripts or transcript notations of pending investigations or findings of violations for transferring students;
- Establishment of Memoranda of Understanding (MOUs) between each campus, local law enforcement and other agencies to share information and coordinate training requirements on issues related to power-based violence on or before January 1, 2022;
- Recommendations of best practices for the handling of investigations and grievance procedures;
- Annual mandatory training for Title IX coordinators, confidential advisors and any “responsible employees” who receive direct statements regarding incidents of power-based violence; and
- Publication of Power-Based Violence Survey results every three years, along with annual reporting of Campus Security and Sex Crime Data Reports;

## **CONCLUSION**

Upon formal adoption by the BOR, the Uniform Policy will immediately go into effect. Each institution (or each management board for its member institutions) shall begin establishing policies and procedures in full compliance with this Policy and shall implement those policies no later than October 2021. Each management board must review the policies of its member institutions for compliance with this Policy and applicable laws and regulations. Upon verification of such compliance, the management board shall forward the institutional policies, no later than December 15, 2021, to the BOR. All policies and processes shall be posted on institutional websites as required in this Policy.