

POWER-BASED VIOLENCE REVIEW PANEL

Minutes

Tuesday, August 3, 2021, 10:00 a.m. – 12:00 p.m.

Via Zoom

WELCOME, ROLL CALL AND INTRODUCTIONS

Commissioner Kim Hunter Reed called the meeting to order at 10:00 a.m., Tuesday, August 3, 2021. The meeting was conducted via Zoom. The roll was taken, and a quorum was established.

Members Present	Affiliation
Senator Beth Mizell	The President of the Louisiana Senate or his designee.
Representative Tony Bacala	The Speaker of the Louisiana House of Representatives or his designee.
Senator Regina Ashford Barrow	The Chair of the Louisiana Senate Select Committee on Women and Children or his designee.
Vacant	The Chair of the Louisiana House Select Committee on Women and Children or his designee.
Monica Taylor	The attorney general or his designee.
Dr. Kim Hunter Reed	The commissioner of higher education or his designee.
Dr. Jim Henderson	The president of the UL System or his designee.
Dr. William Tate	The president of the LSU System or his designee.
Dr. Ray Belton	The president of the SU System or his designee.
Dr. Amber Blair	The president of the LCTC System or his designee.
Sarah Stafford	A student representative from each of the postsecondary management board appointed by the respective board's president. (UL System)
Angelina Cantelli	A student representative from each of the postsecondary management board appointed by the respective board's president. (LSU System)
Kevin Taylor Jarrell	A student representative from each of the postsecondary management board appointed by the respective board's president. (SU System)
Jack Waguespack Almeida	A student representative from each of the postsecondary management board appointed by the respective board's president. (LCTC System)
Captain Treone Larvadain	The superintendent of the Louisiana State Police or his designee.
Chief Bryan Zeringue	The president of the Louisiana Association of Chiefs of Police or his designee.
Amy Dupuy	A member of the Domestic Violence Prevention Commission appointed by the secretary of the Department of Children and Family Services.

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Ayn Stehr	A licensed social worker with experience related to power-based violence appointed by the president of the Board of Directors of the Louisiana Chapter, National Association of Social Workers.
Dr. Douglas W. Walker	A licensed psychologist with experience related to power-based violence, appointed by the Louisiana State Board of Examiners of Psychologists.
Rafael de Castro	The executive director of the Louisiana Foundation Against Sexual Assault or his designee.
Airzola Cleaves	The president of Sexual Trauma Awareness and Response or his designee.
M. Amanda Brunson	The Governor or his designee.
Dr. Jane Cassidy	A Title IX Coordinator representing a public postsecondary education system. The Title IX coordinator shall serve for one year, and the membership shall rotate between the higher education systems in the following order: the Louisiana State University System, the Southern University System, the University of Louisiana System, and the Louisiana Community and Technical College System. Each coordinator shall be appointed by his system president.

2021 LEGISLATIVE UPDATE

Commissioner Reed thanked everyone for their attendance and turned to Senator Regina A. Barrow for updates from the 2021 Legislative Session. Senator Barrow thanked everyone for their participation and shared the motivation behind the creation of the Power-Based Violence Review Panel under Act 441. Senator Barrow thanked Commissioner Reed, Dr. Jim Henderson, Dr. Ray Belton, Dr. Monty Sullivan, Tom Galligan, Governor John Bel Edwards, Senator Cleo Fields, Senator Beth Mizell, President Cortez, Speaker Schexnayder, legislative staff and students for their work in helping to pass legislation around Title IX and Power-Based Violence. Sen. Barrow highlighted the Panel's duties outlined in Act 441 to (1) define power-based violence in the criminal code, (2) define power-based violence panel membership, (3) define annual meeting requirements, and (4) define the duties of the panel in an effort to keep current of happenings and trends in the arena of sexual misconduct, sexual harassment and sexual abuse.

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Commissioner Reed introduced Senator Beth Mizell to speak about the comprehensive legislation she authored in Act 439 (as twin legislation to Representative Aimee Freeman’s Act 472) to close any gaps in the existing law. Commissioner Reed summarized Act 1 by Representative Freeman, which allows victims of sexual assault to terminate a lease early if the assault occurred at their residence. She then summarized Act 439 by Senator Mizell and Act 472 by Representative Freeman, which called for updates to BOR policy, replaced “sexual misconduct” with “power-based violence,” required up-the-chain reporting for administrative officials, explicitly listed termination as a penalty for employees’ failure to report and/or false reporting; and included mandatory transcript notation, communication and withholding provisions. Lastly, Commissioner Reed described the additional reporting campuses must complete as defined in Act 447 by Representative Neil Riser. This reporting, to be published online twice annually, by October 10th and April 10th, must at a minimum contain campus security policies and campus crime statistics. The BOR is charged with oversight of this reporting and required to notify the legislative education committees and the State Bond Commission of non-compliant institutions. Failure to comply with this statute will result in the State Bond Commission not authorizing debt for a period of two years.

TITLE IX AND POWER-BASED VIOLENCE UPDATES AND BEST PRACTICES

Commissioner Reed introduced Nina Gupta of Nelson Mullins, LLP, who specializes in field of Title IX and power-based violence. The BOR contracted with Nelson Mullins, LLP during the 2021 Legislative Session to review all public postsecondary Title IX and sexual misconduct policies, including those of BOR, to identify gaps in policy. Ms. Gupta presented information on system-level responses to the Title IX data inquiry that was sent out by BOR, current federal Title IX regulations, and recommendations for best practices to prevent sexual violence including power-based violence on campus, then answered audience questions.

Ms. Gupta shared that the overarching goal of this work is to eradicate sexual misconduct and power-based violence, regardless of any difference in definition between federal regulations and state

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legislation. She then pointed out that the BOR policy would need to be updated to reflect changes in state law and noted that one of the more consistent gaps among inquiry responses from the institutions was the usage of a single-investigator model. The single-investigator model, in which the same person is responsible for taking the complaint, investigating the complaint, and determining sanctions, is explicitly prohibited by new federal Title IX regulations. Additionally, Ms. Gupta shared that inconsistencies in definitions of sexual harassment were discovered in the review of institutional policies. Next, she highlighted three broad themes of existing Title IX regulations: (1) a strong emphasis on due process; (2) equal treatment for all parties involved; and (3) a robust investigation process. In explaining the general process by which Title IX investigations are conducted, Ms. Gupta shared that both parties (the alleged and the accused) are entitled to have opportunities to present evidence, provide information for the investigative report and have an advisor throughout during a very prescriptive process.

In her recommendations related to the BOR, Ms. Gupta suggested the following: (1) an update to the BOR uniform policy on power-based violence and sexual misconduct to reflect both state and federal regulations, followed subsequently by system adoption; (2) the removal of any single-investigator models; and (3) the pooling of prevention and response resources across institutions. She also provided insight on anticipated changes to the current Title IX regulations, noting that the Biden Administration has stated it will go through the rulemaking process to institute changes. Ms. Gupta also noted that the Biden Administration has indicated that it interprets the protections of Title IX to include the rights of transgender and non-binary students.

In discussing the prevention of sexual violence in Louisiana's institutions, Ms. Gupta highlighted the Centers for Disease Control and Prevention's "Sexual Violence on Campus Strategies for Prevention" as a reputable national resource from within the federal government. She discussed the CDC's five recommended prevention strategies: (1) a comprehensive prevention that works across the socio-ecological model; (2) an emphasis on having infrastructure in place to implement strategies; (3) an

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awareness and acknowledgement of the audience for these strategies and the diversity of that audience; (4) an emphasis on partnerships and sustainability; and (5) a focus on evaluation and data. Ms. Gupta reiterated the need for a “whole-campus” approach to create a culture of campus safety and prevention and the reestablishing of acceptable community norms, including through partnerships with student groups such as Greek organizations. She also included the need to elevate the physical layout and safety of our campuses by eradicating locations that are unsafe due to conditions such as poor lighting.

Ms. Gupta shared the importance of using data-informed approaches, trauma-informed practices, evidence-based practices, community partnerships, and consistent messaging to communicate new policy changes, cultural shifts, and safety expectations to campus community members. Additionally, she reiterated that this cannot be the job of the Title IX coordinator alone nor can it be a one-time program to effectively create a culture of prevention for students.

Commissioner Reed thanked Ms. Gupta for her presentation and opened the floor for questions. Dr. William Tate IV, President of LSU, thanked Ms. Gupta for her presentation and asked for examples of individuals using trauma-informed approaches in a way consistent with the rules of Title IX. Ms. Gupta suggested that in our truth-seeking purpose, we should accordingly support alleged victims so that we are more likely to receive honest, transparent, candid, and truthful information while not violating any prescriptive federal regulations. She also indicated that, though sexual harassment cases under Title IX regulations do follow a very prescriptive process, other instances of power-based violence are not required to follow that process and can allow for different resolution options. Rafael de Castro of the Louisiana Foundation Against Sexual Assault, Monica Taylor of the Louisiana Office of the Attorney General, and Chief Bryan Zeringue of the Louisiana Association of Chiefs of Police shared information about their existing and ongoing collaboration around trauma-informed practices.

Senator Barrow asked if the newly passed legislation addressed the identified gaps. Ms. Gupta responded that the Legislature was very descriptive in setting out the response it expected from BOR and

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the systems and helped to set minimum standards. Representative Tony Bacala asked Ms. Gupta whether the Panel should break the work around power-based violence down into smaller workgroups, such as evaluation of current practices, researching best practices, training, and victim support, to which she replied in the affirmative. Commissioner Reed reminded the Panel that the BOR had undertaken work with the systems to develop a uniform policy, inclusive of the very prescriptive Title IX procedures and the more responsive power-based violence procedures, to set minimum standards and that BOR will be ready to update that policy in response to any federal changes to Title IX.

Senator Mizell asked if the BOR was on track to address the gaps identified through legislative testimony and conversations with students, to which Commissioner Reed affirmed that the new BOR policy would address each of their concerns, fully implement the newly passed legislation, and begin training immediately across campuses, rather than waiting until January 1, 2022, as the law required. Dr. Jim Henderson, President of the UL System, shared that after the passage of Act 172 of the 2015 Legislative Session, there was a siloed approach to confronting this issue and that this time has been different, with all systems and the BOR working collaboratively to develop policies and create a culture of safety and prevention for every institution. Ms. Monica Taylor and Mr. Rafael de Castro agreed and reminded Panel members that, as a culture of safety and prevention becomes more prevalent, they should not be alarmed by a spike in reported cases as the goal is to assure students that they have a safe place to report harm.

Governor John Bel Edwards joined the Panel, thanked the members for their willingness to serve and highlighted the critical importance of campus safety as students and families entrusting their safety to our institutions. Governor Edwards also shared that due to a rise in COVID-19 cases he would be implementing a mask mandate in Louisiana to help flatten the curve as hospitals near critical capacity levels. Commissioner Reed thanked Governor Edwards for his commitment to this issue and for his time in joining the meeting.

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RELATIVE AGENCY UPDATES

Commissioner Reed shared the policy development process used for the BOR Uniform Policy on Power-Based Violence, beginning with an initial meeting with System Presidents and Board Chairs on June 15, 2021. In consultation with Nelson Mullins, LLP, BOR then began drafting the policy in mid-June, convening two special workgroups to aid in policy development. One group focused on the overall policy development, while the second group specifically worked on policy's transcript notation component. Workgroups included representation from each public postsecondary management board, campus Title IX coordinators, registrars, legal counsel, campus law enforcement, academic affairs, and student affairs.

Commissioner Reed also shared information about the August 3rd special BOR meeting to adopt the new Uniform Policy on Power-Based Violence, inviting Panel members to attend via Zoom. She also invited panel members to join the Power-Based Violence training, on Zoom, scheduled for August 17th. Chief Bryan Zeringue asked if the Panel members would be invited to the trainings and Commissioner Reed affirmed that Panel members were welcome to attend.

ELECTION OF PANEL OFFICERS

Commissioner Reed solicited nominations for Chair and Vice Chair. Dr. Ray Belton put forward a slate of nominees for both Chair and Vice Chair of the Power-Based Violence Review Panel. Dr. Belton nominated Senator Regina A. Barrow as Chair and Southern University SGA President Kevin Taylor Jarrell as Vice Chair. Dr. Amber Blair made a motion to second both nominations. There being no objections, Commissioner Reed congratulated newly elected Chair Barrow and Vice Chair Jarrell.

PUBLIC COMMENTS

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Ms. Baker informed the Review Panel that there were no virtual public comments. Chair Barrow took a moment to recognize Morgan Lamandre and STAR for their great work and assistance throughout the 2021 Legislative Session.

NEXT STEPS & ADJOURNMENT

Commissioner Reed discussed the statutory requirement that the panel meet a minimum of twice per year, with a maximum of four meetings per year. She then informed the Panel that BOR would be in touch with Chair Barrow and Vice Chair Jarrell for meeting options to present to the Panel.

Commissioner Reed reiterated that BOR would provide Panel members with a copy of the presentations, a link to the upcoming special BOR meeting on August 10th along with the draft BOR Uniform Policy on Power-Based Violence, and an invitation to the upcoming all-higher-ed PBV trainings. She then thanked everyone for their willingness to serve on the Panel, specifically highlighting student participation, and asked for a motion to adjourn. There being no further discussion, Dr. Jim Henderson moved to adjourn, with a second from Monica Taylor. Commissioner Reed adjourned the meeting at 12:51 p.m.

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ADDITIONAL ATTENDEES & GUESTS

Name	Affiliation
Governor John Bel Edwards	Office of the Governor
Nina Gupta	Nelson Mullins, LLP
Allison Smith	BOR
Mellynn Baker	BOR
Chris Yandle	BOR