

RÉSUMÉ DIGEST

ACT 439 (SB 230)

2021 Regular Session

Mizell

Prior law provided for the Campus Accountability and Safety Act.

New law contains the following:

Administrative reporting requirements:

- (1) Title IX coordinator submits written report to chancellor no later than October 10 and April 10 of reports received involving power-based violence. Requires immediate reporting of incident if coordinator believes the safety of any person is in imminent danger.
- (2) Chancellor submits report to institution management board within fourteen days of receiving report from coordinator.
- (3) System president submits annual system-wide summary to Board of Regents by December 31st for posting on the Board's website.
- (4) Board of Regents annually submits report, including systemwide and statewide information with any recommendations for legislation to the governor, legislative presiding officer and legislative education committees by January 15th.

Immunities:

- (1) Persons acting in good faith who reports or assists in investigating a report of an incident of power-based violence or who testifies or participates in a disciplinary process or judicial proceeding arising from an incident are:
 - (a) Immune from civil and criminal liability that might otherwise be incurred or imposed as a result of their actions.
 - (b) May not be subject to any disciplinary action by the institution in which they are enrolled or employed for any violation by the person of the institution's code of conduct reasonably related to the incident for which suspension or expulsion is not a possible punishment.
- (2) Immunity does not apply to a person who perpetrates or assists in the perpetration of the reported incident.

New law provides that a responsible employee determined by the institution's disciplinary procedures to have knowingly failed to make a report or, with intent to harm or deceive, made a report that is knowingly false is to be terminated.

Confidentiality

New law provides that unless waived in writing by the alleged victim, the identity of an alleged victim is confidential and not subject to disclosure except in the following cases:

- (1) A person employed by or under contract with the institution to which the report is made, if disclosure is necessary to investigate the report.
- (2) A law enforcement officer as necessary to conduct a criminal investigation of the report.
- (3) A person alleged to have perpetrated the incident, to the extent required by law.
- (4) A potential witness to the incident as necessary to conduct an investigation of the report.

Requires that the victim has the right to obtain a copy of any report that pertains to them.

Retaliation

New law provides that an institution shall not discipline, discriminate, or otherwise retaliate against an employee or student who in good faith either:

- (1) Makes a report as required by new law.
- (2) Cooperates with an investigation, a disciplinary process, or a judicial proceeding relating to a report made by the employee or student as required by new law.

Provides that protection from retaliation does not apply to an employee or student who either:

- (1) Reports an incident of power-based violence perpetrated by the employee or student.
- (2) Cooperates with an investigation, a disciplinary process, or a judicial proceeding relating to an allegation that the employee or student perpetrated an incident of power-based violence.

Coordination with local law enforcement

New law requires that on or before January 1, 2022, requires each institution and law enforcement agency execute a and maintain a written memorandum of understanding to clearly delineate responsibilities and share information in accordance with applicable federal and state confidentiality laws, including but not limited to trends about power-based violence committed by or against students of the institution.

Requires that each memorandum of understanding include:

- (1) Delineation and sharing protocols of investigative responsibilities.
- (2) Protocols for investigations, including standards for notification and communication and measures to promote evidence preservation.
- (3) Agreed-upon training and requirements for the parties to the memorandum of understanding on issues related to power-based violence for the purpose of sharing information and coordinating training to the extent possible.
- (4) A method of sharing general information about power-based violence occurring within the jurisdiction of the parties to the memorandum of understanding in order to improve campus safety.

Requires that each memorandum of understanding be reviewed annually by each institution's chancellor, Title IX coordinator, and the executive officer of the criminal justice agency, and shall be revised as considered necessary.

New law requires each public postsecondary education management board to institute policies incorporating the policies and best practices prescribed by the Board of Regents regarding the prevention and reporting of incidents of power-based violence committed by or against students of an institution.

Requires that each person designating a person as a confidential advisor under new law, shall complete a training program that includes information on power-based violence, trauma-informed interactions, Title IX requirements, state law on power-based violence, and resources for victims. Requires completion of annual training relative to power-based violence and Title IX developed by the attorney general in collaboration with the Board of Regents, and be provided through online training materials.

Provides for obligation and duties of the confidential advisor in performing his functions.

Requires institutions to implement a uniform transcript notation and communication policy, developed by the Board of Regents in consultation with the management boards, to effectuate communication regarding the transfer of a student who is the subject of a pending power-based violence complaint or who has been found responsible for an incident of power-based violence pursuant to the institution's investigative and adjudication process.

Requires each institution to adopt a victims' rights policy, which, at a minimum, shall provide for a process by which a victim may petition and be granted the right to have a

perpetrator of an incident of power-based violence against the victim barred from attending a class in which the victim is enrolled.

Requires each institution to administer an anonymous power-based violence climate survey to its students once every three years. Provides that participation in power-based violence climate survey be voluntary and no student shall be required or coerced to participate in the survey nor shall any student face retribution or negative consequence of any kind for declining to participate.

Requires that each institution make every effort to maximize student participation in the survey. Also requires the institutions to send report to the institution's management board and publish the survey results on the institution's website. Otherwise retains prior law.

Effective upon signature of the governor (June 21, 2021).

(Amends R.S. 17:3399.11 and 3399.13-3399.17; adds R.S. 15:624(A)(3) and R.S. 17:3399.12 and 1399.13(1)-1399.3(5))