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## DIGEST

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HB 409 Reengrossed

2021 Regular Session

Freeman

**Abstract:** Requires the termination of postsecondary education institution employees for failure to comply with reporting requirements relative to power-based abuse committed by or against students.

### **Mandatory Reporting**

Present law provides relative to the handling of sexually-oriented criminal offenses at public postsecondary education institutions. Proposed law instead uses the term "power-based abuse", which includes domestic abuse, sexual assault, sexual harassment, and stalking, and proposed law provides the following:

- (1) Requires employees to report to the campus Title IX Coordinator upon witnessing or receiving a direct statement regarding of power-based abuse. Provides that reporting is not mandated if information is received during a public forum or awareness event, in the course of reviewing academic work, or in the course of overhearing a conversation.
- (2) Requires the Title IX Coordinator to report to the chancellor.
- (3) Requires the chancellor to report to the system president.
- (4) Requires the system president to report to the management board.
- (5) Requires the management board to report to the Board of Regents.
- (6) Requires the termination of any employee who fails to comply with these requirements.
- (7) Grants victims the right to obtain a copy of any report pertaining to any incident involving them.

### **Memoranda of Understanding**

Present law requires each institution and local criminal justice agency to enter into a memorandum of understanding (MOU) relative to responsibilities, information, investigation protocols, and other aspects of dealing with sexually-oriented criminal offenses. Requires that the MOU be updated every two years. Proposed law requires that each MOU relative to power-based abuse include the campus police department, if any, the local district attorney's office, and any law enforcement agency

with criminal jurisdiction over the campus; be updated on at least an annual basis; be written; and be signed by all parties.

### **Hotline Information**

Present law requires institutions to post certain information on their website, including the phone number and website address for a victims' hotline. Requires this information to be updated "timely". Proposed law instead requires it to be updated on at least an annual basis.

## **Online Reporting System**

Present law authorizes institutions to provide an online reporting system to collect anonymous disclosures of crimes and track patterns of crime on campus. Proposed law requires rather than authorizes such online reporting systems.

## **Training**

Present law requires the Bd. of Regents to have developed a training program relative to handling sexually-oriented criminal offenses by Jan. 1, 2016, and for institutions to have provided such training not later than the beginning of the 2016-2017 school year. Proposed law extends such deadlines to Jan. 1, 2022, and the beginning of the 2022-2023 academic year, respectively, and provides for the training to address power-based abuse; adds that training shall also be provided to members of the Bd. of Regents and each public postsecondary education management board.

## **Student Surveys**

Present law requires an institution to administer an anonymous sexual assault climate survey to its students once every three years. Proposed law changes the terminology to refer to a power-based abuse climate survey and requires results to be posted prominently on each institution's website and for each institution to make every effort to maximize student participation in the survey.

Present law requires the Bd. of Regents to develop the survey in consultation with the management boards and work with such boards in researching and selecting the best method for survey development and administration. Proposed law additionally requires the Bd. of Regents to consult with victims' advocacy groups and student leaders who represent a variety of student organizations and affiliations when performing these responsibilities.

Present law requires the Bd. of Regents to submit a written report on survey results to the House and Senate education committees and governor not later than Sept. 1st following administration of the survey. Proposed law changes this deadline to 45 days prior to the convening of the next Regular Session of the Legislature.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 17:3399.13, 3399.14(A), (B), and (C)(3) and (4), 3399.15(intro. para.), (2)(b) and (f), (3), (5), and (6), and 3399.17; Adds R.S. 17:3399.12)

## Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Education to the original bill:

1. Revise terminology to refer to "power-based abuse" instead of "power-based violence" and revise terminology contained within the definition of "power-based abuse".

2. Add requirement for management boards to report annually to the Board of Regents.
3. Specify that each MOU shall be written and signed by all parties.
4. Revise procedures for communication between institutions about student transfers and transcript withholding between institutions relative to students under investigation.
5. Apply training requirement to members of the Bd. of Regents.
6. Reinstate present law relative to frequency of survey administration.

The House Floor Amendments to the engrossed bill:

1. Revise terminology to refer to an employee's receipt of a direct statement regarding an incident of power-based abuse instead of his receipt of notice of such an incident.
2. Specify that mandatory reporting requirement does not apply if information is received in the course of overhearing a conversation.