TX HB 1735

INSTITUTION PREVENTION AND RESPONSE TO SEXUAL MISCONDUCT

HB1735 builds on the requirement for institutions to have established sexual misconduct policies, specifically regarding sexual assault, sexual harassment, dating violence and stalking, which apply to all enrolled students and employees of the university.

POLICY REQUIREMENTS

- Definitions of prohibited behavior
- Possible sanctions for violations
- Protocol for reporting
- Interim measures during a discipline/investigative process

PROHIBITED BEHAVIOR

SEXUAL HARASSMENT

SEXUAL ASSAULT

STALKING

DATING VIOLENCE

SEXUAL HARASSMENT DEFINED AS:

Unwelcome, sex-based verbal or physical conduct that:

- in the employment context, unreasonably interferes with a person’s work performance or creates an intimidating, hostile, or offensive work environment

- in the education context, is sufficiently severe, persistent, or pervasive that the conduct interferes with a student’s ability to participate in or benefit from educational programs or activities at a postsecondary educational institution.

CONFIDENTIALITY PROTECTIONS

Confidential information may only be disclosed to:

- to institution employees to the extent necessary to conduct an investigation of a report of misconduct;
- a law enforcement officer for criminal investigation; or a health care provider “in an emergency situation, as determined necessary by the institution.”
MANDATORY REPORTING REQUIREMENTS FOR EMPLOYEES

requires university employees to report sexual harassment, sexual assault, dating violence, or stalking against a student or employee to the institution’s Title IX coordinator. Significantly, the bill creates a criminal offense for failure to report an incident or making a false report.

POLICY REQUIREMENT

Employees “in the course and scope of their employment” who witness or receive information about an incident that constitutes sexual harassment, dating violence, sexual assault, or stalking against a student or employee must promptly report the incident to the university’s Title IX Coordinator. A report must include “all information concerning the incident known to the reporting person and including whether the alleged victim expressed a desire for confidentiality.

EXCEPTIONS

- Employees designated as "confidential employees" by the university
- Employee who was a victim of sexual harassment, sexual assault, dating violence or stalking
- an incident in which the person received information due to a disclosure made at a public awareness event sponsored by a postsecondary educational institution or by a student organization affiliated with the institution

FAILURE TO REPORT

For any employee who is required to make a report and knowingly fails to make the report:
- Class B Misdemeanor punishable by a maximum of 180 days in jail and/or a maximum fine of $2,000
- terminate any employee who it determines in accordance with the institution's disciplinary procedure to have not made a required report.