

**SOUTH DAKOTA BOARD OF REGENTS**

**Academic and Student Affairs**

**AGENDA ITEM: 5 – Q**

**DATE: October 7-8, 2015**

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**SUBJECT: Title IX: Online Training System and System-Wide Readiness Assessment**

Over the last three years, the Board of Regents and the Regental institutions have carried forward significant initiatives to enhance the ability of the system and its constituent institutions to prevent behaviors that lead to sexual violence and to intervene effectively where such violence occurs. These initiatives include measures:

- (1) to revise Board and institutional policy documents, clarifying the administrative responsibilities of institutional staff, capturing evolving regulatory expectations and requirements, and revising investigatory and hearing procedures;
- (2) to provide programming designed to increase the number of staff who have been trained to conduct investigations and participate in hearings as well as provide programming designed to inform students about behaviors that may increase the risk of sexual violence, strategies to intervene, institutional resources to assist victims, and victim rights under Board policy and South Dakota law; and
- (3) to secure an independent review of the progress made to date and garner expert recommendations for additional measures;

**Policies & Procedures**

United States Education Department, Office of Civil Rights Dear Colleague Letters issued in 2011, 2013 and 2015, together with The Violence Against Women Reauthorization Act of 2013 and its implementing regulations, prompted the Board of Regents to review and to amend Board Policies No 1:17, 1:18, 1:19, and 3:4 and to adopt a new policy, Board Policy No.1:17.1.

In December 2013, the Board adopted an initial set of policy revisions, which required, among other things, that:

- Each Regental institution appoint a Title IX Coordinator and Deputies and implement a strategic communication strategy to inform the campus community about institutional policies, including investigative and hearing procedures, educational programs to prevent sexual violence, services available to respond and support persons affected by sexual

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**RECOMMENDED ACTION OF THE EXECUTIVE DIRECTOR**

Information and discussion.

violence, and contact information for persons wishing to report incidents of sexual violence.

- The Regental System financed programs to train administrators about their responsibilities to report and respond to Title IX complaints, as detailed below.

The initial policy revisions were amended further in June and August in response to publication by the United States Department of Education of its Final Rule implementing amendments to the Violence Against Women Act as adopted in the Violence Against Women Reauthorization Act of 2013; the Final Rule took effect on July 1, 2015.

These new requirements affected Board Policy No. 1:17.1, 1:18 and 1:6. The June Board actions revised certain sexual offense classifications and addressed certain procedural requirements that apply to investigations and the review of complaints alleging sexual assaults, and to respond with comprehensive training and staffing requirements and appointing clarity for the responsibility of the compliance functions.

Additional clarifications were enacted by the Board of Regents in August 2015. These matters involved revision of definitions of sexual violence to conform to Final Regulation requirements to use federal definitions and to provide for better coordination between procedures for investigations carried out by Title IX Coordinators and investigations carried out by student affairs administrators.

The present agenda includes revised hearing procedures under the Student Conduct Code, Board Policy No. 3:4, to implement requirements of the Final Rule in a manner consistent with constitutional standards for due process.

#### Training and Prevention/Awareness Programing

The Board's investment in training for administrators with responsibilities for the administration of its policies to prevent sexual violence and to respond in a consistent manner to complaints and incidents.

#### 2013

South Dakota State University hosted two day training program for Title IX Coordinators and Investigator in which 38 people attended. The training was facilitated by Daniel C. Swinton,

J.D., Ed.D. Managing partner of NCHERM Group & Association of Title IX Administrators (ATIXA).

## 2014

The Board of Regents sponsored a four day system-wide workshop in which 134 people attended. The presenters included Dr. Daniel Swinton, Dr. David Lisak, Fran Sepler and two speakers from the Office of Civil Rights, Kansas City Division.

The Board Office agreed to sponsor campus visits featuring Fran Sepler, a regionally recognized expert in conducting investigations for administrators and faculty leaders. Ms. Sepler spoke to BSHU, DSU, SDSU and USD in fiscal year 2015 and will visit NSU and SDSM&T in fiscal year 2016.

Each campus intensified their awareness programs during new students, residential staff, research/lab staff, faculty and employee orientation, as well as reorientations programs for ongoing members of the campus. In addition, campuses have initiated outreach programs and training to members of Greek organizations. NSU hosted a two-day seminar featuring Dr. Alan Berkowitz, national expert in Social Norms Theory and bystander intervention in October. This program was widely attended by most of the Regental institutions.

South Dakota State University implemented a third party 24/7 internet/phone anonymous reporting line. Each campus now has a standing Title IX stakeholder committee that meets regularly to improve awareness and to advise the Title IX Coordinators around on-campus programming. Student groups have been actively working with the Office of Student Affairs to host specialized programs at their respective campuses.

At the beginning of the Fall 2014 term, each campus adopted a supplemental on-line training program for students. It was not a unified approach and the vendors of the on-line programs included Haven, Workplace Solutions, and Campus Clarity. The quality of the programs varied as did the response by the students. As a result, a decision was made to seek a uniform solution for on-line training for students and employees for fiscal year 2016.

## 2015

The Board of Regents sponsored two day training program for Title IX Coordinators and Investigators in July in which 60 people attended. Dr. Swinton returned to facilitate this workshop.

The University of South Dakota also hosted a workshop on Bystander Intervention in August 2015. This program was open to all the Regental campuses. As in the past, the campuses continued to expand their orientation programs at the beginning of the Fall 2015 term.

As a result of participating in the 2014 Bystander Program with Dr. Berkowitz and submitting the Cutting Edge Grant application, Black Hills State University was awarded a grant through Cutting Edge Approaches to Preventing Sexual Assault. This will help enable them to implement a campus climate survey, extend bystander intervention, and implement social norming awareness programs.

Since the Regental universities decided to seek a uniform solution for on-line student and employee training as a result of its experience in fiscal year 2015, it coordinated the selection of a single vendor through an RFP process to provide supplemental on-line training for the entire campus community including volunteers. The Board Office coordinated this effort in conjunction with the universities' Title IX Coordinators and representatives from Student Affairs. The group selected Campus Clarity/Lawroom as its vendor of choice and it worked to implement the system over the summer. The program was rolled out on August 24 and will continue throughout the year.

#### System-wide Readiness Assessment

The Board of Regents agreed to undertake a system-wide readiness assessment designed to obtain an independent and comprehensive review of its policies, procedures, response to complaints, and available resources to respond to Title IX (specifically sexual harassment and sexual violence). For this purpose, Margolis Healy and Associates (MHA) was retained in May 2015. MHA is a nationally recognized leader in preventive assessments and after-action reviews from the U. S. Department of Education and Office of Civil Rights.

Throughout the summer, MHA has been reviewing Board Policies and information from the School for the Blind and Visually Impaired and School for the Deaf. MHA teams have scheduled two-day visits to each university over the next three months to conduct interviews and review Title IX cases. MHA's report is due no later than April 2016.