

TITLE IX

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PRACTICE

The Title IX Insider

Welcome

Welcome to the Winter edition of the **Title IX Insider**. Warshaw Burstein's Title IX and College Discipline Practice has continued to successfully advocate for our clients in campus disciplinary proceedings and in the court of law, particularly against the growing use of social media smear campaigns aimed at ostracizing respondents and extrajudicially forcing them off of campus. This included a **resounding \$5.3mm trial win** in South Carolina for defamation and civil conspiracy claims based on defendants' false statements made outside the Title IX process to plaintiff's peers.



We have also actively engaged with the Department of Education regarding its efforts to amend the Title IX regulations by providing our unique perspective, having represented both complainants and respondents, to the Department via teleconference and through a **written comment**. We will continue to monitor the Department's efforts to push through sweeping changes to the Title IX regulations in May.

- Kimberly C. Lau, Chair

FEATURE STORY

Anticipated Changes to Title IX

Warshaw Burstein has represented students, faculty, complainants, and respondents in disciplinary matters **across the country**. In April 2022, we spoke with the Department of Education to discuss the Title IX regulations, and provide our unique insight given our experience in representing all sides in Title IX cases. On July 12, 2022, the Department published its notice of proposed rulemaking for Title IX, and we subsequently submitted a **written comment** addressing the major changes and shortcomings of the NPRM.

The Department is now working to respond to more than 235,816 public comments, and expects to release the final rule by May 2023. This will give schools just a few months to finalize new Title IX policies before the start of the 2023-24 school year. As proposed, the final rule would grant schools new, overarching discretion over their formal and informal Title IX proceedings. For example, schools may refuse live hearings, and lower their evidentiary standards without maintaining a uniform standard across Title IX and non-Title IX proceedings or student vs. faculty Title IX proceedings. The regulations also grant schools the ability to empower just one individual, including the Title IX coordinator, with the authority of the investigator and decisionmaker in formal Title IX proceedings. This individual would assume the roles of judge, jury, and executioner. Title IX coordinators are also required to “monitor” and “seek out discrimination and harassment,” creating a new proactive duty. Additionally, schools now have expanded jurisdiction over Title IX complaints.

IN THE NEWS



INSIDE
HIGHER ED

Our Title IX and College Discipline Practice team obtained a unanimous jury verdict for our client in defamation and civil conspiracy claims against defendants resulting in an award of \$5.3mm following a week-long jury trial in South Carolina.

©CBS NEWS

Newsweek

Rolling Stone

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the guardian

Partner Kimberly C. Lau was interviewed by CBS news and quoted by multiple outlets regarding her legal insight into the *Depp v. Heard* defamation case and the implications that social media has had not only on that case, but also on the likelihood of accusers speaking up in the future.

NATIONAL
REVIEW

Kimberly C. Lau and her client were featured in an in-depth article that discusses the proposed changes to the Title IX regulations. In the article, which outlines the story of her former client, Ben Feibleman, who sued Columbia University in a high-profile Title IX case, Ms. Lau discusses the importance of due process.

AWARDS AND RECOGNITIONS



Congratulations to Kimberly C. Lau for being named 2022 Super Lawyers in Schools & Education for the ninth consecutive year. The annual Super Lawyers list recognizes the top five percent of lawyers in New York for their professional achievements. Lawyers are selected through a process that includes independent research, peer nominations and peer evaluations.

AT THE PODIUM



On November 11, 2022, our Title IX and College Discipline Practice team presented, "How to Win at Trial" as part of a full-day CLE for Title IX lawyers in Washington D.C.



On September 21, 2022, Kimberly C. Lau joined a panel hosted by the Coalition of Women's Initiatives in Law to discuss the intersection of defamation and Title IX.



On September 15, 2022, our Title IX and College Discipline Practice team presented "Understanding the Recent Proposed Changes to Title IX," a webinar addressing the proposed Title IX changes that could take effect later this year.

Learn More About the Title IX and College Discipline Team



Kimberly C. Lau
Partner and Chair



James E. Figliozzi
Counsel

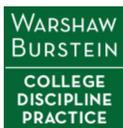


Madison N. Kelley
Associate



Branden P. Lynn
Associate

Warshaw Burstein's College Discipline Practice is committed to helping clients continue to safeguard your future and reputation. Our highly trained professionals led by partner Kimberly C. Lau are prepared to act quickly on your behalf. Our experience includes trials, arbitration, mediations and appeals in both state and federal jurisdictions.



Visit our [**College Discipline Law Microsite**](#) for timely information and resources on all issues related to Title IX and college discipline issues.

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