

A hand in a dark suit jacket is shown from the wrist up, pointing upwards with the index finger. The years 2021, 2022, 2023, 2024, and 2025 are overlaid on the hand, with 2024 being the largest and most prominent. The background is a blurred outdoor scene with trees and a bright sky.

# BUSINESS IN 2024

WEEKLY WEBINAR SERIES

The logo consists of a stylized asterisk or star shape made of six thick, 3D-looking bars radiating from a central point.

**BOND** SCHOENECK  
& KING ATTORNEYS

# Your Host



## **Gabriel S. Oberfield**

Senior Counsel

[goberfield@bsk.com](mailto:goberfield@bsk.com)

New York, NY

# TODAY'S AGENDA

**Gabe Oberfield – (12:00PM-12:05PM)**

- Agenda

**Paige Carey – (12:05PM-12:15PM)**

- Revolutionary Settlement Proposal Set to Transform College Athletics

**Lauren Schnitzer – (12:15PM-12:25PM)**

- Safety Reforms Adopted and Cell Phone Ban Considered for New York Schools

**Michaela Mancini – (12:25PM-12:35PM)**

- New Title IX Guidance: What Are the Implications for Institutions of Higher Education?

**Lance Willoughby-Hudson – (12:35PM-12:45PM)**

- Dress Codes: A Thing of the Past in the Workplace?

**G. Oberfield – (12:45PM)**

- Questions / Wrap Up

# Revolutionary Settlement Proposal Set to Transform College Athletics



## Paige L. Carey

Associate

[pcarey@bsk.com](mailto:pcarey@bsk.com)

New York, NY

# Outline

(I) Context

(II) Outline of Settlement

(III) Impact and Collateral Issues

# Context

- *NCAA v. Alston*, 594 U.S. 69 (2021) – Upheld District Court ruling that NCAA rules limiting education-related compensation or benefits violated the Sherman Antitrust Act
  - Kavanaugh Concurrence: The NCAA's remaining compensation rules may also violate antitrust law
- *House v. NCAA*, 545 F.Supp.3d 804 (N.D. Cal. 2021)
  - Filed by former DI swimmer Grant House and women's basketball player Sedona Prince
  - Broadly asserts that NCAA rules prohibiting college athletes from receiving anything of value in exchange for the commercial use of their NILs violate antitrust law
  - Consolidated with *Hubbard v. NCAA*, No. 4:23-cv-01593 (N.D. Cal.) and *Carter v. NCAA*, No. 3:23-06325 (N.D. Cal.)

# Landmark Settlement

- July 26, 2024: Settlement documents filed with the Northern District Court of California to resolve *House v. NCAA*, *Hubbard v. NCAA*, and *Carter v. NCAA*
  - Provides for nearly \$ 2.78 billion in damages, as well as injunctive relief
- Settlement addresses the following:
  - (1) backpay damages for NIL claims;
  - (2) increased benefits from institutions for collegiate athletes going forward, including benefits tied to NIL; and
  - (3) eliminating scholarship limits and establishing roster limits

# Backpay

- \$ 2.78 billion in damages paid to classes of athletes deprived of NIL opportunities from June 15, 2016 – September 15, 2024
- Payments disbursed in annual installments over the course of 10 years beginning in 2025
- Damages owed to each individual athlete will vary



# Prospectively Increasing Benefits

- NCAA Division I schools can provide collegiate athletes with direct benefits worth up to 22% of the Power Five schools' average athletic revenues each year
  - Focuses on schools in the Power Five Conferences, but extends to all Division I schools that choose to participate
- Under this new model:
  - Institutions may pay student-athletes directly for their NIL rights
  - Third parties may continue to enter into NIL agreements with student-athletes
  - The NCAA may implement certain NIL restrictions without fear of antitrust suit
  - Student-athletes may receive \$1.5 billion to \$2 billion in new benefits annually

# Roster Limits Replace Scholarship Limits

- Settlement modifies NCAA rules to eliminate all scholarship limits and implement roster limits
- Provides institutions with discretion to offer partial or full scholarships above the number currently permitted by NCAA rules, but within roster limits

# Next Steps and Collateral Issues

- Multi-Step approval process
- Open question of whether collegiate athletes are considered University employees (see *Johnson v. National Collegiate Athletic Association*, 556 F.Supp.3d 491 (E.D. Pa. 2021))
  - Per its terms, the settlement will not interfere with any collective bargaining efforts in the event that a change in law or circumstances permits collective bargaining between college athletes and the NCAA/member institutions
- Patchwork of state laws
- Title IX implications are unclear

# Safety Reforms Adopted and Cell Phone Ban Considered for New York Schools



**Lauren R. Schnitzer**

Senior Counsel

lschnitzer@bsk.com

Melville, NY

# General Overview

- Amendments to the New York State Regulations of the Commissioner of Education regarding school safety plans.
- Governor Hochul considers legislation addressing smartphone use in schools.

# Amendments to Section 155.17 of the Commissioner's Regulations Regarding School Safety Plan Requirements

- Became effective on July 31, 2024.
- Include definitions for the following new terms:
  - Trauma
  - Trauma-informed
  - Trauma-informed drills

# Amendments to Section 155.17 of the Commissioner's Regulations Regarding School Safety Plan Requirements

- The amendments include the following new key requirements:
  - drills conducted when students are present must be conducted in a trauma informed, developmentally and age-appropriate manner and not include props, actors, simulations, or other tactics intended to mimic a school shooting or other act of violence or emergency;
  - drills may only occur after annual training in emergency procedures have been provided to students and staff;

# Amendments to Section 155.17 of the Commissioner's Regulations Regarding School Safety Plan Requirements

- The amendments include the following new key requirements:
  - drills must be completed on different dates, days of the week and during different times of the school day;
  - parents or persons in parental relation must be given advance notice of each drill within one week before the drill; and
  - at the time a drill is conducted, students and staff must be informed that it is a drill (except, students and staff may not be informed before an evacuation drill).



# Amendments to Section 155.17 of the Commissioner's Regulations Regarding School Safety Plan Requirements

- The New York State Education Department (NYSED) recommends that when conducting a drill, the school announce that it is a “DRILL” and “NOT AN EMERGENCY.”
- NYSED further recommends that schools use consistent language to ensure that students and staff know that the school is conducting a drill. For example: “This is a drill, not an actual emergency. This is a drill. We are now practicing how to Lockdown. This is a drill.”

# Amendments to Section 155.17 of the Commissioner's Regulations Regarding School Safety Plan Requirements

- The amendments also require :
  - Policies and procedures for obtaining written parental consent for students to participate in full-scale exercises on non-school days or when school activities are occurring on school grounds in conjunction with local and county emergency responders and preparedness officials that include props, actors, simulations, or other tactics intended to mimic a school shooting or other emergency.

# Amendments to Section 155.17 of the Commissioner's Regulations Regarding School Safety Plan Requirements

- Include new requirements for floor plans and area maps within Building-level Emergency Response Plans, including ensuring that they are clearly labeled and readily understandable to first responders.
- Include new requirements regarding reporting and regarding evacuation, lockdown and emergency dismissal drills.

## Additional Amendments to Section 155.17 of the Commissioner's Regulations

- If adopted at the September 2024 Board of Regents meeting, these additional amendments will become effective on July 1, 2025.
- These amendments are intended to address the confusion that has been reported by parents, students, schools and emergency responders regarding the use of certain terminology and emergency protocols.

# Additional Amendments to Section 155.17 of the Commissioner's Regulations

- The proposed amendments will include definitions for the following emergency terms to standardize terminology in New York schools:
  - Evacuate and evacuation
  - Shelter and shelter-in place
  - Lockdown
  - Hold and Hold-in place
  - Secure Lockout

## Smartphone Use in Schools

- Governor Hochul is currently engaged in a listening tour with educators, parents and other stakeholders regarding smartphone use in schools.
- The Governor has announced that stakeholder engagement will play a key role as she develops a statewide policy proposal to tackle excessive smartphone use in schools.

# New Title IX Guidance: What Are the Implications for Institutions of Higher Education?



**Michaela J. Mancini**

Associate

[mmancini@bsk.com](mailto:mmancini@bsk.com)

New York, NY

# Dress Codes: A Thing of the Past in the Workplace?



## Lance D. Willoughby-Hudson

Associate

lhudson@bsk.com

New York, NY



# Refer to Federal, State, and Local Discrimination Laws

## Federal Laws

- Title VII of the Civil Rights Act of 1964
  - Race, color, religion, sex (including gender, pregnancy, sexual orientation, and gender identity), or national origin
- Americans with Disabilities Act
  - Qualified individuals with a disability

# Refer to Federal, State, and Local Discrimination Laws

## State Law

- New York State Human Rights Law
  - Gender Identity or expression
  - Race, including traits historically associated with race such as hair texture and protective hair styles like braids, locks, and twists
  - National origin, including ancestry

# Refer to Federal, State, and Local Discrimination Laws

## Local Law

- New York City Human Rights Law
  - Gender, including an individual actual or perceived sex and the individual's:
    - Gender identity, self-image, appearance; behavior, or expression.
  - Height (since November 22, 2023)
  - Weight (since November 22, 2023)

# Common Discrimination Claims That Arise from Dress Code Policies

- Race
  - Creating a Respectful and Open World for Natural Hair (Crown) Act
    - Several states, including, the NYSHL, have anti-discrimination laws that includes hairstyles
  - No Beard policies
    - Must have a legitimate business justification
- National Origin and Religion
  - Prohibiting ethnic clothing
  - Clothing or facial hair worn in accordance with a person's religion

# Common Discrimination Claims That Arise from Dress Code Policies

- Sex or gender
  - Requiring women to wear skirts and allowing men to wear pants
  - Requiring women to wear heels
  - Men may not wear nail polish or makeup

# Best Practices for Dress Code Policies

- Make it Gender-Neutral
- Permit Requests for Accommodations
- Create a Legitimate Business Justification

# Your Questions



## **Gabriel S. Oberfield**

Senior Counsel

[goberfield@bsk.com](mailto:goberfield@bsk.com)

New York, NY

## Revolutionary Settlement Proposal Set to Transform College Athletics

Paige Carey, [pcarey@bsk.com](mailto:pcarey@bsk.com)

## Safety Reforms Adopted and Cell Phone Ban Considered for New York Schools

Lauren Schnitzer, [lschnitzer@bsk.com](mailto:lschnitzer@bsk.com)

## New Title IX Guidance: What Are the Implications for Institutions of Higher Education?

Michaela Mancini, [mmancini@bsk.com](mailto:mmancini@bsk.com)

## Dress Codes: A Thing of the Past in the Workplace?

Lance D. Willoughby-Hudson, [lhudson@bsk.com](mailto:lhudson@bsk.com)

### **New York Employment Law: The Essential Guide**

NYS Bar Association Members can buy the book from the bar [here](#).

Non-NYS Bar Association Members can purchase through Amazon [here](#).



# Thank You

The information in this presentation is intended as general background information.  
It is not to be considered as legal advice.  
Laws can change often, and information may become outdated.

All rights reserved.

This presentation may not be reprinted or duplicated in any form without the express written authorization of Bond, Schoeneck & King PLLC.