

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.

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Your Host



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TODAY'S AGENDA

Kristen Smith – (12:00PM-12:05PM)

- Introduction

Christa Cook – (12:05PM-12:15PM)

- Compliance Update on Revised Title IX Regulations

Marc Krawiec – (12:15 PM-12:25PM)

- Artificial Intelligence in Insurance Underwriting and Pricing

Alice Stock – (12:25PM-12:35PM)

- Congressional Hearings on NLRB Performance – A Look Under the Hood

Compliance Update on Revised Title IX Regulations



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Amended Title IX Regulations

- On April 19, 2024, the U.S. Department of Education released amended Title IX regulations. The 2024 regulations became effective on August 1, 2024
- Revised regulations are not retroactive so new policies and procedures only apply to discrimination/harassment occurring on or after August 1, 2024, regardless of when the conduct is reported.
 - The 2020 regulations and policies compliant with the 2020 Title IX regulations will continue to apply to institutional responses to conduct and incidents occurring prior to August 1, 2024.
- New regulations clarify that discrimination on the basis of sex includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.

Status and Scope of Injunctions

- At least six federal courts have issued injunctions barring enforcement of the Department of Education's 2024 Title IX rule in about half of the states. (New York is not one of the enjoined states). The U.S. Court of Appeals for the Eleventh Circuit issued a very broadly worded injunction that led to uncertainty as to its scope.
- The Department of Education has announced that it will not require schools subject to the 26 state-based injunctions and/or identified on lists filed with a Kansas court due to a student or parent's membership in a plaintiff organization to comply with the revised Title IX regulations. (At least for now.) Legal developments in this area are fluid and evolving daily.
- The Department of Education expects all other schools not subject to an injunction to comply with the 2024 Title IX regulations, effective Aug. 1, 2024.

Amended Title IX Regulations – Policy Mandates

The 2024 Title IX regulations made significant changes to the scope and definitions that were required to be adopted by IHE in their policies, including what constitutes discrimination and harassment under Title IX.

Sex-based harassment is a form of sex discrimination, including:

- Sexual Harassment (quid pro quo and hostile environment)
- Other forms of harassment on the basis of sex (pregnancy harassment, harassment based on gender identity, sexual orientation harassment, etc.)
- Sexual assault, dating violence, domestic violence and stalking as defined in VAWA regulations

Expansion of “Mandatory Reporters”

- **Confidential** employees must, upon disclosure, provide reporting individual with Title IX Coordinator’s contact information and that complaint process, supportive measures, informal resolution and adjudication are available through Title IX Coordinator
- **Non-confidential** employees are subject to a two-tier reporting obligation.
 - Those with responsibility for administrative leadership, teaching or advising or authority to institute corrective measures (**this includes faculty!**)
 - must be required to notify the Title IX Coordinator when the employee has information about conduct that reasonably may constitute sex discrimination
 - Those without responsibility for administrative leadership, teaching or advising or authority to institute corrective measures
 - are obligated to notify the Title IX Coordinator or provide the reporting individual with Title IX Coordinator’s contact information and information on how to make a complaint to the school (IHE are free to require one or the other)

Amended Title IX Regulations – Adjudication Procedures

- The 2020 Regulations required a one-size-fits-all model for the investigation and adjudication of policy violations falling within the scope of Title IX.
- Under the revised regulations, IHE had several points of policy choice which afforded institutions with flexibility and discretion with respect to adjudication procedures, including whether to use a single investigator model, hybrid model, or live hearings (with cross examination by advisors or questioning by parties through the decision-maker) and whether to use an investigative report.
 - The grievance procedures implemented in response to the revised regulations will likely differ significantly from the adjudication processes that have been utilized for the past four years under the 2020 regulations. IHE may now have multiple variations of those grievance procedures and will need to educate their campus communities on all of these changes.

Training Requirements

- **All employees** must be trained on:
 - IHE's obligation to address sex discrimination in its education program or activity;
 - Scope of conduct that constitutes sex discrimination under Title IX and the IHE's policy, including the definition of sex-based harassment; and
 - All of the IHE's notification and reporting requirements, including:
 - The employee's responsibility to provide a student who has disclosed her pregnancy to the employee with the Title IX Coordinator's contact and other information about the availability of reasonable modifications (unless the employee reasonably believes that the Title IX Coordinator has been notified).
 - The employee's responsibility to notify the Title IX Coordinator and/or provide the Coordinator's contact information when the employee has information about conduct that may reasonably constitute sex discrimination (depending on the employee's role - i.e., mandatory reporter obligations)

Training for Title IX Coordinator, investigators, decision-makers, informal resolution facilitators

- Training must be provided to the Title IX Coordinator, investigators, decision-makers, and any person who facilitates an informal resolution process or has the authority to modify or terminate supportive measures on the following (to the extent related to their duties):
 - All of the training components provided to all other employees, including IHE's obligations to respond to sex-based discrimination under Title IX and other relevant laws;
 - The IHE's Title IX policy and grievance procedures under 106.45 & 106.46;
 - The IHE's formal and informal resolution processes;
 - The meaning and application of the term "relevant" in relation to questions and evidence, and the types of evidence that are impermissible regardless of relevance under in the formal resolution process;

Training for Title IX Coordinator, investigators, decision-makers, informal resolution facilitators (cont)

- There are a many other areas of training required for this group of individuals involved in the Institution's response to reports of sex discrimination, including but not limited to:
 - The effects of trauma;
 - The requirement to treat parties equitably and the right to a presumption that the Respondent is 'not responsible' until a finding is made;
 - The Institution's recordkeeping requirements;
 - How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias;
 - How to conduct prompt and fair investigations and hearings that protect the safety of Complainants and Respondents;
 - Training on any technology to be used at a live hearing,

Final Thoughts on Training Requirements

- Training must be completed within thirty (30) days of hire or when an employee changes role/designation & annually thereafter.
- Note that under the new regulations, IHE can choose to have the same person serve as both investigator and decisionmaker, or different people may be assigned to those roles. The decision on this discretionary point will obviously impact the number of individuals who may need training at each IHE.
- Training must be completed, not just made available

Final Thoughts on Training Requirements

- Training should be confirmed/documented
- While the revised regulations do not require role-specific training for confidential employees, it is recommended that they are provided some degree of information and/or training on their specific responsibilities under Title IX.
- Training materials are no longer required to be posted on the institution's website, but must be made available for review to the public upon request.

Artificial Intelligence in Insurance Underwriting and Pricing



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New York Department of Financial Services Circular No. 7

- *“Use of Artificial Intelligence Systems and External Consumer Data and Information Sources in Insurance Underwriting and Pricing”*
 - Draft Publication – January 17, 2024
 - Close of Comment Period – March 17, 2024
 - Publication of Final Circular – July 11, 2024

Themes of NYDFS AI Circular

- Fairness
- Governance
- Transparency/Disclosure

Overview of NYDFS AI Circular

- Fairness:
 - Data Validity
 - Non-Discrimination
 - Analysis and Periodic Testing

Overview of NYDFS AI Circular

- Transparency/Disclosure:
 - Cancellation/non-renewal of certain P&C policies
 - Cancellation/changes to accident and health policies
 - Disclosure of adverse underwriting decisions

Congressional Hearings on NLRB Performance – A Look Under the Hood



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Questions?



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Artificial Intelligence in Insurance Underwriting and Pricing

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Congressional Testimony on the NLRB

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Sexual Harassment Prevention Training

To combat harassment in the workplace, every New York State employer must provide harassment prevention training for all employees annually.

For more information on Bond's online sexual harassment training [click here](#) or email bondonline@bsk.com

Thank You

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It is not to be considered as legal advice.
Laws can change often, and information may become outdated.

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