



2024 Look-Back

Last year saw new challenges in the higher education sector, as institutions traversed a fast-paced and evolving regulatory landscape, mounting financial pressures and increasingly complex issues related to diversity and inclusion. Key issues included the implementation of the Title IX Final Rule, which took effect on Aug. 1, 2024, bringing new requirements for addressing sexual harassment and requiring educational institutions in some states to revise their policies and procedures again. A federal district court eventually vacated the **2024 Title IX Rule** on Jan. 9, 2025, leading to more policy reviews and changes.

In addition, the collegiate athletics framework continued to evolve, with schools facing issues related to student-athlete organizing; student-athlete compensation; name, image, and likeness (NIL) challenges; and conference realignments. Schools also faced challenges related to campus protests and allegations of discrimination and harassment, including congressional and government agency investigations. McGuireWoods anticipates these challenges will continue into 2025, as institutions navigate a new presidential administration.

McGuireWoods is grateful for the chance to partner with higher education institutions on these issues and many others, and we look forward to working together in 2025. The following highlights some of our work in 2024 and what's to come this year. Thank you for your partnership and collaboration!



Recent Insights From Our Team

Federal Court Declines to Extend SFFA Into Military Academy Admissions

DECEMBER 16, 2024

Fifth Circuit Continues Nationwide Preliminary Injunction Against “Almost Certainly Unlawful” Borrower Defense Rule

APRIL 10, 2024

Eleventh Circuit Addresses Implied Right of Action Under Title IX for Employees’ Sex Discrimination Claims

NOVEMBER 19, 2024

Education Department Extends Gainful Employment Reporting Deadline, Publishes Milestones Schedule

APRIL 1, 2024

NLRB Issues Guidance for Academic Institutions on Labor and Privacy Laws

AUGUST 22, 2024

Federal Court Strikes Down Race- and Ethnicity-Based Programming Criteria

MARCH 27, 2024

Third Circuit Intercepts NCAA’s Hail Mary Pass on Collegiate Athletes’ Employment Status

JULY 12, 2024

Education Institutions Grapple With Overlap of First Amendment and Anti-Discrimination Laws

MARCH 14, 2024

Multistate 2024 Education Legislative Update

MAY 23, 2024

Donor Advised Funds: Proposed Regs Offer Guidance, But Leave Big Questions Unanswered

FEBRUARY 14, 2024

CFPB: For-Profit School Misrepresented ISAs, Made False Claims About Grads’ Employment Rates

APRIL 22, 2024

SCOTUS Permits Military Academy to Use Race as a Factor in Student Admissions — for Now

FEBRUARY 9, 2024

NCAA Allows Schools to Assist NIL Efforts, Expands Options for Transfer Student-Athletes

APRIL 18, 2024

NCAA Approves New NIL Disclosure and Transparency Rules for Division I Student-Athletes

JANUARY 25, 2024



Relevant Programming

McGuireWoods partners [Farnaz Thompson](#) and [Sarah Wake](#), co-leaders of our [Higher Education Practice Group](#), hosted over 502 registrants and 322 attendees for several “Hot Topics in Higher Education” webinars in 2024, which focused on timely issues impacting colleges and universities. These programs provided an overview of pressing topics in the higher education sector, including significant developments in college athletics, the Title IX Final Rule and how to manage preliminary injunctions, ongoing congressional investigations, as well as the challenges posed by credit pressures and capital project financings. Topics also explored Title VI updates with respect to the Israel/Palestine conflict, which continues to shape the legal landscape across U.S. higher education institutions, and best practices related to insurance recovery efforts. *Please use the links to access the [May](#) and [September](#) Hot Topics webinars. We look forward to continuing these sessions in 2025!*

Our Higher Education Practice Group is unique among law firms of our size, in that we have lawyers with deep knowledge of higher education who understand your campus partners, stakeholders, missions, and values. We worked with colleges and universities on a variety of issues in 2024, including the following.

Accessibility (including Digital) and Accommodations	Civil Rights Compliance — Title VI, Title IX	Intellectual Property	Real Estate and Land Use
Accreditation and State Licensure	Crisis Communications	Investigations	Regulatory Compliance
Admissions	Data Privacy and Security	Labor and Employment (including Campus Organizing Efforts by Faculty, Staff, and Students, and Title VII, ADA, ADEA and Rehabilitation Act)	Research, Commercialization and Technology Transfer
Affirmative Action Programs for Employees	Endowment Management		Student Demonstrations and Free Speech
Antitrust	Export Control and Foreign Influence	Litigation	Student Issues and Conduct (including Student Organizations)
Athletics	Gift Agreements	Mergers and Acquisitions	Taxation
Board Governance	Government Relations and Public Policy	Private Equity	
		Public Finance	Title IV Eligibility and Compliance



Some Notable Wins

A McGuireWoods trial team successfully proved to a federal jury that a public university and manufacturer infringed upon the trademarks of an RI state flagship institution by selling unlicensed merchandise featuring names and vintage images associated with the brand. On Nov 19, 2024, the jury found that the defendants, Vintage Brand, Sportwear Inc. and their founder, willfully infringed Penn State's trademarks, awarding compensatory damages after a six-day trial in the U.S. District Court for the Middle District of Pennsylvania. The jury also rejected the defendants' counterclaim to cancel Penn State's trademark and denied their affirmative defenses of nominative fair use and aesthetic functionality.

McGuireWoods' education team won a nationwide preliminary injunction for a leading wellness education institution and a career school advocacy organization. The U.S. District Court for the Northern District of Texas, Fort Worth Division, granted a preliminary injunction and ordered that "the enforcement and implementation of the Bare Minimum Rule, as described herein and contained in the Department of Education's October 31, 2023 Final Regulations, is hereby ENJOINED pending resolution of this lawsuit." The Bare Minimum Rule refers to the Department of Education's rescission of the 150% Rule for gainful employment programs and implementation of a rule that allows a gainful employment program to receive Title IV funds only if the program length is the bare minimum required for state licensure in the relevant occupation. As a result, the Department's Bare Minimum Rule did not go into effect on July 1, 2024.

On March 27, 2024, the U.S. District Court for the Western District of Virginia granted McGuireWoods and its client, a liberal arts college, over \$166,000 in fees and costs for illegal spoliation, following a successful defense against a whistleblower claim. McGuireWoods first secured a dismissal of the whistleblower case and later obtained an injunction for the return of stolen materials. After a series of legal victories, including a spoliation order, the firm successfully pursued a fee petition, compensating for the extensive effort to prove that the lost materials were unrecoverable.

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A Look Ahead

On Feb. 19, 2025, McGuireWoods will resume our Hot Topics in Higher Education programming. This session will cover Title IX, the Stop Campus Hazing Act, Title VI, and liability for misrepresentations regarding third-party servicers. To register, please click [here](#).

In spring 2025, McGuireWoods will offer a complimentary CLE program focused on ethics in higher education, tailored specifically for in-house counsel. Tysons counsel and resident ethics adviser **Tom Spahn** will focus the session on addressing attorney-client privilege and work product doctrine in higher education, potential ethical hurdles that institutions and affiliated entities frequently face, and how to best navigate those matters.

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