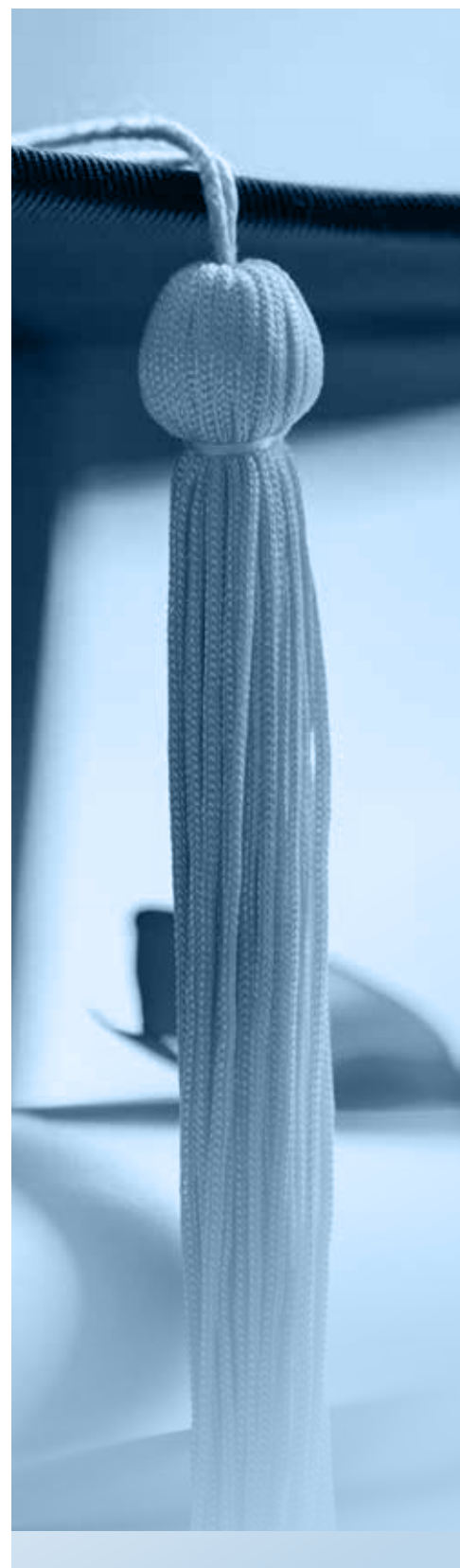


HIGHER EDUCATION 2025 IN FOCUS:

Lessons Learned and the 2026 Roadmap

Higher education saw rapid change in 2025, with institutions managing shifting regulations and guidance, financial pressures and evolving campus climate issues. For example:

- After a federal district court vacated the 2024 Title IX Final Rule on Jan. 9, 2025, institutions again revisited policies, training and procedures, while navigating overlapping federal and state rules on discrimination, harassment, and free expression under heightened scrutiny.
- The collegiate athletics landscape continued to evolve. Developments in the potential for student-athlete employment and organizing, compensation models and name, image, and likeness (NIL) remained front and center, while conference realignment and media-rights pressures prompted governance and compliance updates and reassessments of resources and risk. In response to these shifts, we are seeing the rise of private equity in collegiate athletics, at both the conference and school level.
- Campus operations reflected intensified oversight and public accountability. Institutions addressed campus demonstrations with clear time, place, and manner frameworks, content-neutral enforcement and robust incident response protocols, while allegations of discrimination and harassment continued to draw internal reviews and external investigations.
- Cybersecurity, data privacy, and AI governance remained priorities as institutions weighed innovation against risk.
- Transitions in the federal government shaped priorities and enforcement, with additional rulemaking and interpretive shifts unfolding throughout 2025. Boards and senior leadership teams refreshed governance, scenario planning, and enterprise risk management to address enrollment volatility, budget constraints and regulatory change while maintaining a student-centered mission.





SOME NOTABLE WINS

- McGuireWoods represented the University of Virginia in Department of Justice investigations and a resolution with the United States arising from inquiries into the University's compliance with federal anti-discrimination laws. The Department of Justice closed two out of the seven investigations without any findings against the University of Virginia. The remaining investigations were resolved through an agreement between the University of Virginia and the United States. The Washington Post and Wall Street Journal editorial boards both published articles, "**Trump put universities in a bind. U-Va. charted a way out,**" and "**The UVA Model for a Trump Deal,**" respectively, lauding this agreement as the best agreement brokered with President Trump's Administration thus far.
- McGuireWoods successfully defeated a motion for temporary restraining order filed against a top private R1 institution by a former medical student challenging dismissal from the medical school. The student claimed his dismissal resulted from the misapplication of school policies, arbitrary grading decisions, a flawed appellate process, and failure to accommodate his disability. Accordingly, he asserted claims for breach of contract, breach of the implied covenant of good faith and fair dealing, disability discrimination, and related allegations. The student premised his contract claims on, among other things, the Student Handbook. But the Handbook's inclusion of certain disclaimer language that it was not a contract and reserving the school's unilateral right to update its policies was fatal to the student's claims. McGuireWoods has been able to leverage this holding to make similar arguments in another pending case.
- In a landmark trademark case in the Middle District of Pennsylvania, McGuireWoods successfully represented a major public university against a merchandise company. The lawsuit centered on the company's unauthorized use of historic university imagery on merchandise, which misled consumers and infringed the university's trademarks. After a six-day trial, the jury found the company and its founder guilty of wilful trademark infringement, rejecting their defenses of nominative fair use and aesthetic functionality. The jury awarded the university \$28,000 in compensatory damages; a critical validation of the university's licensing program established to protect its brand integrity. This matter is significant due to its implications for trademark enforcement in the collegiate licensing space and the university's ability to protect its brand. This case not only reaffirmed the value of the university's trademarks but also established a significant precedent for trademark law and the protection of academic institutions' branding efforts.
- McGuireWoods represented Norfolk State University in its hire of Michael Vick, four-time Pro Bowl quarterback and No. 1 NFL draft pick in 2001. Vick was named head coach on Dec. 20, 2024. Virginia Attorney General Jason Miyares appointed McGuireWoods as special counsel to facilitate the smooth transition from the former coaching staff to Vick. After shoring up the former coaching staff's transition, McGuireWoods went on to craft a university-friendly agreement for Vick's hire. With the agreement and an NSU presidential directive to close the deal, McGuireWoods engaged with Vick's counsel over an intense five-day exchange. Ultimately, NSU secured Vick as the 19th head football coach. Once the parties finalized the deal, McGuireWoods successfully advised the client through the ensuing media storm and the board's final vote. At the press conference announcing the hire, Athletics Director Melody Webb voiced NSU's "sincere appreciation" for McGuireWoods' "diligence and support in ensuring every step of [the] process was seamless and successful."
- McGuireWoods represented a Division I institution in an investigation by the NCAA's enforcement staff regarding the school's men's basketball program and student athlete eligibility. The matter was closed with no adverse finding against the institution.
- McGuireWoods secured the regulatory approvals for a career-focused online university to conduct an initial public offering, showcasing the firm's private equity, education and regulatory prowess. McGuireWoods made several arguments under the Administrative Procedure Act to obtain the approvals from the U.S. Department of Education, which recently changed its regulations and process for a university's change of ownership and control. The team also advised the university on structuring the IPO to avoid ownership or control issues, working alongside co-counsel, which filed the client's S-1 with the U.S. Securities and Exchange Commission.



RELEVANT PROGRAMMING

Hot Topics in Higher Education Webinar Series

McGuireWoods partners **Farnaz Thompson** and **Sarah Wake**, co-leaders of our **Higher Education Enforcement & Regulatory Counseling Practice Group**, hosted our team's **Hot Topics in Higher Education** webinar series, drawing more than **630 attendees**. The series featured subject matter experts across the firm and addressed timely issues impacting colleges and universities, with programs providing concise overviews of executive compensation and coaching contract tax risks; proposed IPEDS admissions reporting changes; the shift to NIBRS definitions related to sexual misconduct; accreditation developments with constitutional and antitrust implications; the evolving DEI landscape and related executive orders; coordination considerations under ACA Section 1557; immigration updates, including DHS's rescission of "protected areas" guidance; and OCR's reversion to the 2020 Title IX rule. Each session emphasized enforcement trends and practical steps—policy design, training, reporting, and internal controls—to mitigate litigation, regulatory, and reputational risk. Please see the **Hot Topics in Higher Education** webinar series page to access the February, June, and October programs. We look forward to continuing these sessions in 2026.

January's upcoming Hot Topics in Higher Education Webinar With Paul Moore, U.S. Department of Education Deputy General Counsel and Chief Investigative Counsel

Sports Investing Symposium

On Oct. 29, 2025, McGuireWoods convened leading team and league executives, sports investors, university leadership and other industry innovators at the Waldorf Astoria in New York City for the **Sports Investing Symposium**. The program featured four timely panels examining the forces shaping the future of investment in sports and a consistent set of themes emerged across the discussions: institutional capital is accelerating the professionalization of the sports ecosystem; value creation is shifting toward operations, infrastructure and intellectual property; and colleges and universities are advancing new governance and financing models to sustain their programs in an anticipated revenue-sharing environment.

Moderated by McGuireWoods Partner **Jason Griffith**, the panel, *Collegiate Sports Monetization – The New Playbook for College Athletics*, featured Marcus Stroud (Co-Founder & Managing Partner, Sequence Equity), Jonathan Marks (CBO, Elevate), Ross Bjork (Senior VP and Wolfe Foundation-Eugene Smith Endowed Athletics Director, The Ohio State University), Michael Drake (CEO, Clemson Ventures), and Kyle Vasey (Deputy Athletic Director, CFO, University of Alabama). The discussion explored how college athletics is rapidly moving into a new era of disciplined commercialization, where creative, compliant capital structures – often leveraging foundations, endowments, or a unified commercial entity – are now essential to monetize enterprise value without sacrificing educational mission or governance control. Speakers emphasized that strategy must come before capital: universities and conferences should prioritize multiyear, EBITDA-generating initiatives — from premium inventory and mixed-use facilities to modernized ticketing systems and NIL activations — and favor flexible, non-dilutive financing over equity in core athletic assets. The implications are generational: universities and conferences that professionalize revenue operations, prioritize recurring EBITDA projects, and partner with patient capital at the conference and campus levels will be best positioned to generate transformational value while preserving control.



RECENT INSIGHTS FROM OUR TEAM

DOJ Promulgates Final Rule Removing Disparate Impact Regulations Under Title VI
(Dec. 12)

Renewed Scrutiny: Intensified Oversight of Foreign Gifts, Contracts and Ties in U.S. Higher Education
(Dec. 3)

Third Circuit Resets the Play on NCAA Athlete Eligibility
(Nov. 26)

High School NIL Moves to the Forefront: Ohio Authorizes Compensation Amid Litigation
(Nov. 25)

College Sports Commission Proposes Agreement to Division I Schools on the Authority of CSC
(Nov. 20)

Department of Education Enters Six Interagency Partnerships
(Nov. 20)

U.S. Department of Education Narrows Collection Request for Integrated Postsecondary Education Data System
(Nov. 19)

Legislation Seeks to Prohibit Certain Private Capital Firms from Making Plays in College Sports
(Oct. 9)

With DOL Increasing H-1B Visa Enforcement, Employers Should Audit to Ensure Compliance
(Sept. 25)

H-1B Workers Should Avoid International Travel Until Presidential Proclamation Details Clarified
(Sept. 22)

The Goals of the SCORE Act: What Lawmakers Aim to Achieve
(Sept. 11)

FBI Update of Criminal Sexual Contact Definition May Warrant Changes to Title IX Policies
(Sept. 9)

Department of Education Seeks Input on Expanding Scope of Integrated Postsecondary Education Data System
(Aug. 18)

DOJ Issues Guidance to Recipients of Federal Funding for Compliance With Federal Antidiscrimination Laws
(July 31)

A Federal Playbook: How the White House Is Approaching the Future of College Sports
(July 25)

One Big Beautiful Bill Act Provision Would Modify "Endowment Tax" Paid by Certain Private Colleges and Universities
(June 11)

DOJ Announces Initiative to Use False Claims Act to Investigate DEI Practices
(May 20)

HHS Dear Colleague Letter Outlines Nondiscrimination Requirements for Medical Schools
(May 8)

Executive Order Seeks Reform of Higher Education Accreditors' Processes
(May 2)

Colleges and Universities Face New Scrutiny Over Foreign Gifts
(April 28)



RECENT INSIGHTS FROM OUR TEAM

Termination of Student Visa Registrations Reversed
(April 23)

Department of Education Issues Request for Certification of Compliance with Civil Rights Laws
(April 9)

Anticipating the Play as the House Settlement Nears Approval
(April 4)

Department of Education Issues Guidance on Student Privacy and Parental Rights, Imposes Reporting Requirements for State Educational Agencies
(April 3)

EEOC and DOJ Issue Guidance and Warnings on DEI-Related Discrimination at Work
(Mar. 21)

Fourth Circuit Allows Anti-DEI Executive Order Provisions Involving Federal Contractors and Grantees to Proceed
(Mar. 19)

Federal Court Temporarily Blocks Parts of Executive Orders Impacting DEI in Government Contracting
(Feb. 25)

Department of Justice Suggests "Aggressive" Enforcement of False Claims Act
(Feb. 24)

Education Department Extends Financial Value Transparency and Gainful Employment Reporting Deadline to Sept. 30, 2025
(Feb. 18)

Department of Education Opines That Any Separation Based on Race Is Illegal, Including Dorms, Graduations and Scholarships
(Feb. 17)

Biden-Era Guidance on How Schools Analyze NIL Activity Under Title IX Rescinded
(Feb. 12)

New Executive Order Aims to End "Radical Indoctrination" in K-12 Schools
(Feb. 3)

U.S. Department of Education Confirms 2020 Title IX Final Rule in Effect
(Jan. 31)

Higher Education Institutions Cautioned Against Misleading Statements About External Service Providers
(Jan 29)

Pause on Federal Financial Assistance Does Not Include Pell Grants, Direct Loans or Title IV Funds to Individuals
(Jan 28)

Presidential Executive Order Targets DEI in Higher Education
(Jan 22)

Department of Education OCR Issues Guidance on How Schools Analyze NIL Activity Under Title IX
(Jan. 17)

Stop Campus Hazing Act Creates New Requirements for Colleges and Universities
(Jan 10)

Title IX Final Rule Vacated Nationwide
(Jan 9)

Department of Education Withdraws Proposed Rule Governing Participation on Athletic Teams Based on Gender Identity
(Jan. 8)



LAUNCH OF THE SPORTS LAW TEAM

McGuireWoods recently launched a **Sports Industry Team**, leveraging the firm's experience in precedent-setting litigation and groundbreaking transactions that have helped shape the modern sports landscape. The team is co-led by Charlotte Partner **Robert Muckenfuss**, New York Partner **Seth Goldsamt**, and Chicago partner **Sarah Wake**, a co-leader of the firm's Higher Education Enforcement & Regulatory Counseling Practice Group. The team brings together the firm's nationally recognized capabilities in complex finance, M&A, enforcement defense, and higher education. Leveraging McGuireWoods' leading **Private Equity Industry Team**, the practice advises companies, investors, management teams, and talent on mergers, acquisitions, minority and control investments, joint ventures, and other strategic transactions across every major sports league and within collegiate athletics. The firm's **Syndicated Finance** Practice Group underpins large-scale stadium construction loans, leaguewide credit facilities, and team and owner financing. In addition, McGuireWoods' Sports Industry Team provides sophisticated counsel to higher education clients, including schools in the Ivy League, Big Ten, Atlantic Coast Conference and Southeastern Conference.

A LOOK AHEAD

On Tuesday, January 27, McGuireWoods will resume our **Hot Topics in Higher Education** webinar series with special guest Paul R. Moore, U.S. Department of Education Deputy General Counsel and Chief Investigative Counsel. The program will examine the administration's renewed focus on foreign gifts, contracts, and affiliations in higher education, including an executive order prioritizing Section 117 enforcement, the Department of Education's forthcoming 2026 reporting portal, and potential legislative developments such as the House-passed DETERRENT Act. The session will also address related House measures aimed at curbing improper foreign influence and the administration's proposed Compact for Academic Excellence, which promotes enhanced "know-your-customer" screening and best practices for managing foreign entanglements.

Register for the program [here](#).



Our Higher Education team is unique among firms of our size. Our lawyers bring deep, sector-specific knowledge and an understanding of campus partners, stakeholders, missions, and values. In 2025, we worked with colleges and universities on the issues noted above and on a wide range of matters, including the following:

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

We are grateful for the opportunity to support higher education institutions on such complex and sensitive matters throughout the year.

As we look ahead to 2026, we remain committed to partnering with you to navigate evolving legal and policy developments and to fortify compliance programs. The summary above highlights some of our 2025 work and outlines key priorities for 2026.

Thank you for your continued trust and collaboration.

