

Episode 1: About this podcast and your host, Courtney Bullard

Welcome to the Law and Higher Ed podcast. My name is Courtney Bullard, CEO of Institutional Compliance Solutions and your host.

I'm a Tennessee attorney, and I began ICS after serving as campus council for eight years at a university system. In that role, I handled all legal matters affecting the campus. Whereas I like to say I did everything but divorces. I bring that on the ground experience with me and working with clients today. And that experience shaped the mission behind ICS, which is to provide legally sound, but also practical advice to the institutions that we partner with.

Today, I specialize in compliance with Title IX and related laws and regulations, as a result of my experience in the area on campus, since the Title IX boom in 2011.

This podcast provides relevant, tangible information that you can utilize in your professional life right now, and even maybe your personal life. Through interviews with campus leaders and subject matter experts and informational episodes, you have access to information at any time, any day that has both legal and practical implications for your career and your campus. So let's get to it.

You are listening to episode one of the Law and Higher Ed podcast. I'm thrilled to have you listening in today as I kick off my first ever podcast. This episode, you get to listen to me talk, but I promise more often than not on this podcast, you will be listening to interviews with some really interesting folks, subject matter experts in their field, and a little bit less of me and my voice.

I'm so excited to have this podcast kicking off, for reasons I'll explain more in this episode, but truly stepping outside of my comfort zone and doing this, but with the intentions of getting some great information out to you all in real time that you can use today, as you go about your work on college campuses across the country.

This episode is focused on a few things. First, an introduction, laying the foundation for the podcast, which includes a little bit of a legal primer on the laws and regulations that we'll be touching on. Second is what to expect from this podcast. What exactly am I going to be talking with folks about and why?

Finally I'll finish this podcast as I do with all of them with a little bit of fun. As you know from the intro, I'm a Tennessee lawyer who specializes in higher ed law, which most often includes working with colleges and universities on compliance with Title IX and related laws and regulations. If you're wondering what that even means, just bear with me.

So what is a lawyer doing starting a podcast, you may ask. I've been practicing law for 17 years and during eight years of that time, I served as the first and only attorney for the University of Tennessee's Chattanooga campus. That experience was not only amazing, but it was invaluable professionally and personally. Professionally, I thought I knew a lot about higher ed law. That is until I actually worked on a campus practicing law.

Faculty senates, political pressure, silos, athletics, donors, the press, you name it. It was not something I had to navigate in private practice in the same way, working with institutions. It was not until I actually

became a part of a campus, helping them comply with the law while making sound business decisions that I fully get it.

The campus encountered some high profile matters involving sexual misconduct that necessitated hiring outside counsel. I quickly found that there was a gap between our outside counsel's knowledge of the law and the application of the law on a campus in real time. These are really good lawyers. They work in very large firms. They get paid a lot of money. It was nothing against them personally, as a lawyer. But the reality is that they simply did not have the full breadth of experience to understand all sides of what the campus was facing in each and every situation.

So my entrepreneurial side kicked into high gear and I took a leap of faith, left a job that I truly, truly loved and started ICS, Institutional Compliance Solutions. And the mission behind ICS is to provide legal advice, yes, but more importantly, it is to provide legal advice and guidance through the lens of someone who knows, truly knows how a campus works and actually effectuating the advice, or not. Who truly understands the players involved, the pressures involved and so on.

The mission with ICS is to partner with institutions sometimes when they are in a crisis and to get to know that institution. And then for that institution to become a part of the ICS family.

Another part of my mission is accessibility. Let's face it, institutions are under enormous financial pressure, big and small campuses alike. The resources out there, especially on the topic of Title IX compliance are costly. Yet everyone needs access to as much information as possible, not only to be legally compliant, but also to create a safe learning environment for your campus.

So I started with webinars. I did one a month, my first year for free, dedicated to a different area of campus and their role in Title IX compliance. My work has put me on the road and a good deal of travel visiting campuses, and it was then that I discovered podcasts. I love to listen to them, to help with my business, my speaking, my personal life, whatever I can find. And so the Law and Higher Ed podcast idea was born.

My hope through this podcast is to provide information that you can access anytime, anywhere. Most of you listening are campus administrators that wear multiple hats and carry a full workload, not to mention your personal life. You can listen to these episodes during your commute, maybe while you're working out or even during your kid's soccer practices, which is what you would see me doing a lot. I often put in my headphones and walk the track while they practice.

Which brings me to my next portion. What is this podcast about? Law? Higher ed? Will it only cover Title IX? Yes and no. This podcast is not dedicated exclusively to Title IX compliance, but my guests are experts in a field that more often than not dovetails with Title IX.

For example, you'll hear an interview with Michelle Rigler, who is an expert in ADA compliance. She is doing amazing things with an amazing team at the University of Tennessee, Chattanooga. And some of that work includes interfacing with Title IX and students on the spectrum. You'll hear from Tiffany Cox who has a strong Title IX background, but also has a wealth of information on microaggressions, an area that touches every square inch of your college campus, including Title IX. And so we'll explore that.

If you're a Title IX coordinator, yes, this podcast is definitely for you. If you're a student affairs professional, you will gain something from this podcast. Truly, any college administrator will find

something useful out of these podcast episodes, because in my opinion, the more a campus administrator knows about others and their roles on campus, not just their own role, the better and more effective they will be.

Courtney Bullard:

Hey there, Courtney Bullard, did you know that ICS has a membership? Are you a Title IX coordinator that feels you can never keep up with the changing Title IX landscape? Or you just need access to tools that can help you stay current and perform your job at the highest level for your institution? Perhaps your campus needs help with training.

Put our knowledge to work for you with an ICS membership. Over 15 courses that can be utilized to train your campus. Unlimited access to all ICS webinars. Compliance aids and tools that are legally current. Discounts on services. And information to assist you with Title IX and other laws and regulations such as [Cleary 00:00:07:46], FERPA and the ADA are just a few of the benefits of an ICS membership.

Whether you're interested in one for your institution or as an individual, contact us today, or visit our website at www.icslawyer.com to become a part of our fast growing ICS family. We'd love to have you.

I want to provide you with a quick Title IX legal primer. Please do not put me on triple fast forward, I promise to make this as painless as possible. But I think it's important to give a little bit of background for those of you who've never heard of it, new to the field or otherwise.

So, Title IX of the Education Amendments Act of 1972 is a federal law. It's pretty short. It states that no person in the United States shall on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance.

So breaking down that last component about an educational program or activity receiving federal financial assistance, that is the majority of colleges and universities, whether they're public or private, are subject to Title IX and must comply with it, as well as your state K-12. So it's not just something for college campuses, it also applies to primary school as well.

Historically, we have thought about Title IX as it applies to athletics, where schools have to comply with three different components in order to be in compliance with Title IX. One being that they require that women and men be provided equitable opportunities to participate in sports. That female and male student athletes receive athletic scholarship dollars proportional to their participation. And the equal treatment of female and male student athletes with respect to equipment and supplies, scheduling of games, travel and daily allowance, access to tutoring, coaching, locker rooms, which you hear a lot about when it comes to athletic programs being challenged for violating Title IX. Usually you hear a lot about challenges to the facilities being provided to the women's sports versus the men's sports. And so on.

Ultimately over the many, many years, for a long time, if you were to ask somebody, "What is Title IX?" They would say, "Oh, that's the law that requires gender equity in athletics." And that is still true and that is still alive and well and something that campuses that have a athletic program have to keep in mind.

But in 2011, the spotlight was put on to Title IX, with respect to compliance and matters involving sexual misconduct on college campuses. And under the Obama administration, the Office for Civil Rights, who is tasked with enforcing Title IX, issued a Dear Colleague letter back in 2011.

And the first tidbit I'm going to throw out there for you is a lot of people call it the Office of Civil Rights. And I did that too back in the day. I admit it as a lawyer. But it is the Office for Civil Rights. So just a little tidbit for you guys when you're writing things. But the Office for Civil Rights issued a Dear Colleague letter in 2011, and that's what started what I would call the Title IX boom.

It was much more prescriptive than what we were used to, in what colleges and universities had to do when they were put on notice of something that constituted sexual misconduct. Sexual misconduct can mean anything from sexual harassment, all the way up to sexual assault. And the reason behind this 2011 Dear Colleague letter was because the vice president at the time had headed up a task force looking at the issue of sexual assault on campus, and they came back with some alarming statistics.

And basically the spirit behind the Dear Colleague letter was to ensure that victims of sexual assault felt comfortable coming forward on college campuses and that the process that they were put through as a campus investigated those matters did not revictimize them, or as the term you typically would hear. So it was really, there was a large focus on how these complaints were handled by institutions, how investigations were handled by institutions. And that essentially created an entirely new profession of Title IX coordinators.

Now, some people will say to me, it was a new profession, nobody had ever heard of it, but that's really not completely correct. There was a 2001 guidance put out under the Clinton administration that actually requires everyone to have a Title IX coordinator. But if you were to ask campuses prior to 2011, if they had a designated Title IX coordinator, the majority of them would tell you probably no. Or if they did, they didn't even know it.

So after 2011, we saw a major shift with campuses in how they handled their student conduct hearings with respect to sexual misconduct allegations, the hiring of Title IX coordinators and whole offices being created. And a lot of that was a result of the posture taken by the Office for Civil Rights after this Dear Colleague letter.

Which was, they came in and began doing a lot of investigations of institutions across the country. A lot, a lot, a lot. There was what some people call the List of Shame of who was being investigated. And the campus that I worked for was one of those, they actually had two Title IX complaints with OCR.

So from that point until Obama left office, heightened scrutiny on college campuses on how they handle these matters, definitely a huge increase in reporting as folks become more educated and felt that college campuses would be a safe place to report. And a lot of debates. If you watch the Kavanaugh hearing, Justice Kavanaugh of the United States, Supreme Court now, was accused of sexual harassing somebody from way, way, way long ago, and it came up in his confirmation.

And if you've not watched it and you're in the profession as a Title IX coordinator, if you've not watched the hearing where they had Ford, who was his accuser and Kavanaugh testify, it is definitely fascinating to watch. It's like watching a blown up version of what you do every day.

So long story short, 2011, Dear Colleague letter comes out. Some people say, "Well, what is the difference between Title IX and harassment laws in the workplace?" Well, Title VII is the federal law that governs or prohibits sexual harassment in the workplace. And is something that if you worked for a private employer is what they would use or what they must comply with. But it is different, completely different than Title IX. Title VII is enforced by a different agency, federal agency, the Equal Employment Opportunity Commission. Very different than how the Office for Civil Rights operates and all that good stuff.

So in 2017, the Trump administration came in and archived the 2011 Dear Colleague letter. So everything that universities had spent money on building this infrastructure to comply with that 2011 Dear Colleague letter, was sort of up in the air and brought into question. And we saw this renewed focus that had kind of been gaining momentum well before 2017 on the treatment of respondents, or those accused of sexual misconduct in these campus proceedings. And concerns over their due process, rights, concerns over folks getting falsely accused and it destroying their education and all those good things.

So 2017, they rescind the Dear Colleague letter and put out a guidance for colleges and universities, that was just kind of a shorter Q&A that introduced some new concepts we'd not heard of before. And also reiterated the universities, their requirement to respond to and handle complaints of sexual misconduct.

And then here, right before the holidays in 2018, the Office for Civil Rights and the DOE released the Notice of Proposed Rulemaking, or NPRM that we all have come to refer to it as, that is supposed to be, or is going to be if it is approved, more significant than a simple guidance document put out by OCR. It is actually a regulation, and that will change the landscape for campuses as they move forward if it is approved in its form, as we know it today, which is the end of January before the comment period ends.

So look to see this podcast, certainly have some informational sessions as new information comes in. Short tidbits from me about what's coming into play, how your campus can respond, suggestions on how to respond and so forth. But that is the very high level view of Title IX and the legal primer, if you will, behind those laws and regulations.

So the last thing I want to cover in this first episode is my sprinkling of fun. Anybody who knows me, knows that I do not take myself very seriously. I take my profession very seriously and I take what I do each and every day very seriously, but if you can't laugh at yourself sometimes or have fun, then what's the point. In my opinion, sometimes you just got to let loose.

So one thing I want to do in these podcasts is sprinkle a little bit of fun in, so that maybe there's something that you don't learn from a professional standpoint. Maybe you just got a little reminder from a podcast, but maybe personally you hear about somebody's career trajectory, it resonates with you and the career path that perhaps you're on, or you want to be on one day. And then I also like to talk about books, favorite hobbies, something about something nobody would really know about you if they met you and things like that.

So I figured I should go first with respect to that. And so I wanted to just share with you quickly my career path and how I got where I'm going, because I have a lot of people call me and ask me or tell me they want to do what I'm doing one day, and they want to know how I came to this role.

And most of it you know, because I was in-house counsel, but the one thing I do want to say, I'm raising four children, two children and two stepchildren. And I remind them, or I like to tell them, sometimes, one of them is 16, he is a year and a half away from having to figure out his life. And as you all know, working with young people everyday on college campuses, that's pretty young to really know what you want to do one day when you grow up.

So when I went to college, I thought I wanted to be a chemistry teacher in high school, because I had a really cool female chemistry teacher, Miss Fest. I thought she was pretty, smart. I'd never had a female teacher in the sciences or in math. And from when I was very, very little, my mother worked for Pan-Am airlines and I would travel with her to see my grandparents who lived out of town all the time.

And that was back when the only people on the planes were the businessmen, and then my mom and I. And from a very young age, I told my mother I wanted to be a pilot. And she asked me why, and I said, because there were no female pilots. So apparently it was just something in me very early on. I wanted to do things that not a lot of women had done yet. And when I started college, that was teach chemistry.

Well, it turns out, I got to college, my first semester I was on the dance team at Indiana University. I did what you see people do all the time now, which is didn't go to class like I should, didn't get the grades I needed to get. And on top of it, I was terrible at chemistry. So I was terrible. And it took me a good semester to figure that out. I then changed and said, "Oh, I'm going to go and do computer science and coding." Well, again, I was bad at chemistry, I was no better at math or computer coding.

And I took a philosophy class as an elective, fell in love with it, and next thing you know I was majoring in philosophy and minoring in women's studies. And my parents who, I'm an only child, my parents are great people, did not put a lot of pressure on me in my life growing up. I think my dad was like, "What in the world are you going to do with a philosophy major?"

In researching what I wanted to do as a philosophy major, I learned that some people became professors and other people use it to get a law degree. And so I explored both. I was a teacher's aid and I loved it, and I thought being a professor would be really cool, but ultimately decided to go to law school.

And I hated law school. The entire time I was there, I kept threatening to drop out. I was very young. I graduated young. I was young in my class and I'd never really had any real world work experience. So I was there, I was at the University of Memphis with a lot of nontraditional students, so to speak, a lot of folks that this was going to be their second career and who knew exactly what they wanted to do.

One of those being my ex husband, who's an extremely talented lawyer here in Chattanooga. He had worked in the DA's office. He knew he wanted to be a trial attorney. He knew he wanted to do criminal law. That was not me.

So I graduated, practiced law in private practice for eight years and I loved it, but I hated it all at the same time. Just could not seem to find my groove, but I loved working with institutions. And so when the position opened up at UTC, I was lucky enough to get it. And the rest is history. And now I absolutely am so passionate about my profession, about the niche that I'm in and all of that good stuff.

All to say that I tell people all the time, it took me till my thirties to know what I wanted to be when I grew up and still to this day, I'm always exploring different things, but this is certainly my passion.

Some fun facts. I love to read. I read all the time. I read sometimes a book a day. It's all trash, nothing that requires any brain power. I love to listen to podcasts, as you already know. Some that I really have enjoyed listening to, the cheesy ones would be of course, Oprah in Super Soul Sunday and her masterclasses. I just think no matter what people do in their life, you may think it has nothing to do with your profession, but ultimately you can learn something from everybody. And it's really interesting to hear how these folks have gotten to where they are.

Rachel Hollis, she is an author who doesn't even have a college degree who has made a business out of basically doing online stuff, she's pretty interesting. Renee Brown, love her. She has some really interesting things you can learn from her to use on college campuses, in my opinion. And then I'll surf on TED Talks and things like that, just on presentation or whatever sounds interesting to me at the time with respect to what have going on.

I do, like I already mentioned have four children. In my spare time you'll find me on the soccer field, gymnastics, basketball, swimming. We touch on almost every sport in our family. So that's a little bit about me, a couple of fun facts. We'll dig into even more with our guests that we'll have during this podcast. But I look forward to having you with me each week, as we look at different areas of campus and how the law impacts those areas and at times intersects with Title IX compliance.

I really hope you found today's episode useful, and you got some information that you can use in your professional or personal life, or both. If you enjoyed this podcast, please do me a favor and subscribe to it, provide a review, and also share it with your colleagues and friends. You can find ICS on social media, through Facebook, LinkedIn, or Twitter. So we'd love for you to connect with us there.

Thanks again for tuning in to the Law and Higher Ed podcast. We'll see you next episode.

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