

Episode 8: Part 1 – Due Process, Strong Title IX Policies, How to Create an Effective Title IX Team and More with Leigh Parker

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 counsel for eight years at a university system. In that role, I handled all legal matters affecting the campus, or as I like to say, I did everything but divorces. I bring that on the ground experience with me in 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.

Lee Parker:

I'm very much about the spirit of Title IX and not only doing it right, but kind of the, how is this serving my community. So I want to get at the best practice in that, okay, if my colleague says, "Yeah, we did this, but this really was difficult on the respondent or this is [inaudible 00:01:36] resource wise, or this was really difficult," then I know, "Okay, I'm confident because I know how to write policy. I'm confident my policy is good. I'm confident my process is good, but how do I actually operationalize it in the best way?" And that's, I think, what your peer institutions are for.

Courtney Bullard:

What does a fair Title IX process look like? What exactly is "due process"? Who should serve on a Title IX team on a campus? Lee Parker, Title IX coordinator at Life University and my guests this week, talk about all of these topics and more in this episode. Lee holds a JD from Stetson University, which has the only Center for Excellence in higher education. From there, she advised 14 independent colleges and universities and their compliance efforts with Title IX, [BAWA 00:00:02:25], and other laws through the first collaborative initiative.

She provides great tips and thoughts on how to address the unique challenges faced by independent institutions. Her philosophy on matching the mission of the institution with the legal requirements and crafting a Title IX policy and self care. Something anyone in this business should consider. Here is part one of our conversation.

It's so great to have you on the podcast, Lee, yet another example of the connections and networks of folks that I've met, starting ICS, which is part of what I've enjoyed so much about the business.

Lee Parker:

Thank you. Thanks for having me.

Courtney Bullard:

All right. So let's start from the beginning. Tell about your journey in higher education.

Lee Parker:

Okay. I began, I guess, well, I started in student affairs, actually. I have a Master's degree in higher education administration from George Washington University. And I worked in student affairs in new student programming and Greek life at a couple of schools in the DC area, and saw my career going into upper level administration, and then just kept seeing. This was at a time where there were still kind of a lot of risks in education and not a whole lot of education on risk management or how to mitigate that risk in administration. And I kept just looking at that law degree, thinking this would be a really useful degree.

And then as I continued to work in Greek life, actually, I became interested in Title IX, not by what I think is the usual route, which is oftentimes advocacy, but more actually gender based discrimination in regard to single sex organizations and how fraternities and sororities can legally be structured in the way that they are. And that kind of really made me interested in Title IX. And I found Stetson University College of Law, which has the only center for education law in the country and decided to really focus my legal education on higher education law and policy.

I went there and then had the wonderful opportunity right out of law school to start the first compliance collaborative in the country with the Georgia Independent College Association. So I had 14 college ... well 13 at the time that I was hired and I added a 14th when I was there of private colleges in the state of Georgia and a consortium, and I advised them all on a handful of laws we focused on those first two years, which were the Violence Against Women Act, Title IX, Cleary Act, and the Americans with Disabilities Act.

So I did training and reviewed their policies, and I worked on a statewide grant with the Department of Health and Human Services, responding to sexual assault on 19 colleges and universities in the state of Georgia, did a lot of policy work for those and the system, and the technical college system, and then made a decision to go, I guess you could almost call it in house. I went and I took a position as Title IX coordinator at Life University, which is where I am now, which was one of those colleges within the collaborative. And so now I'm on the ground doing the Title IX work as the administrator in charge at Life University.

Courtney Bullard:

In the collaboration component, when you're advising all the different institutions, were you advising them as a lawyer or as a consultant?

Lee Parker:

No, and thank you so much for making that distinction.

Courtney Bullard:

I'm just curious. I'm listening and I'm like, "Huh." It's interesting.

Lee Parker:

I would said that up front. No, and I couldn't, that could have been very problematic. No. So as a consultant, and we really were deliberate about, I mean, not that I couldn't engage them as their attorney. So really deliberate about what constituted advice. So it really was policy revision. I wasn't giving any kind of specific legal advice at all, but I journeyed to every campus and was readily available to review policies as they needed to change them, and to review them, or to write them. And I did a lot of trainings. That was really the bulk of my work, which I want to do.

So we would do ... We'd have regional trainings or maybe five different schools would send all of their investigators and I would do a basic investigator training for all the investigations at that institution. Or I would, as far as advice is concerned, I would make myself available when there was a policy consideration. Okay, lee, in general, we need to figure out how we are going to operationalize our new emotional support animal policy. I could advise on that. I couldn't speak to any specific case or any specific situation.

Courtney Bullard:

Sure. That makes sense. And I really ... You were working with independent colleges, right? In the collaboration, and so I do believe, and I know we might talk about this a little later, but that collaborating is so crucial in this time. I mean, not just for independent colleges, but definitely, especially for independent colleges. And I say all the time, even in this business in general and the work I do, I'm like, there's plenty of work to go around, number one. So I love connecting with colleagues and knowing who else is doing this type of work, because there's always situation where there might be a conflict or what have you. And there's just varied and sorted needs out there with institutions, but even more so with the smaller schools. I think that's such a great thing that happened with the organization you were working with.

And I know a lot of other organizations have thought about it, but maybe haven't done it. And this is me talking too much, but just to give some context. When I was in-house at a state school, I just didn't know how many organizations were out there that institutions belong to. That was a big eye opener for me when I went out on my own, and then the independent college organizations that are in each state.

So my point being, there's a lot that are considering it, but not many that have done it. I don't even know if any others have since Georgia. So what did you see as the benefits besides just the cost alone of having that collaboration for those independent colleges? And how would somebody go about doing that as an organization, do you think?

Lee Parker:

Well, as an organization, there's a lot to consider there. I think there's so much value, but part of it you already hit on, which is, it's almost the peer support. It [inaudible 00:08:24] the space, and that sounds like I'm just implicating something collegial. Like it's nice to have the support. Well it is, professionally, and I also, and I could get on a tangent with this, but I think that we, and I'm actually developing some training on this, the impact of care for the caregivers. I don't think we give enough respect to what people in the space are doing, and say things like, "Hashtag self care, take care of yourself." How do you

operationalize this? Because there really is a lot of energy involved in this in multiple space. So having that support system is valuable, absolutely. [inaudible 00:09:01]

Courtney Bullard:

I agree with you as far as the self care. I could get on the same soapbox, and I talk about it all the time and it sounds so cheesy, but it is exhausting, hard, it's heavy, heavy work and it's nonstop. And there's often not the depth at institutions if someone needs to go on vacation, like a true vacation. I was talking, some stuff just hit the news lately and I texted it to the Title IX coordinator at the institution that I'm friends with and said, "Well, it looks like things are challenging at the moment." And she was like, "Well, I'm in Vegas trying to be on vacation and all of this just hit, and the attorneys are needing information." And she's like, "I'm just trying to get some headspace, but there's never any headspace." And so I completely agree with you on that. And so having some self care is huge, and how do you operationalize that in an institution? Or how do you, I don't know, professionally create organizations or atmospheres where folks can have that much needed support? But I could see where the collaboration would be really helpful with that.

Lee Parker:

Well, and I think it helps to know you're not alone. And then really, then we could do a whole other podcast about the self care. But the true detachment is the key, at least for me, is learning how. And I had to learn it. But how to, and I can get into my yoga practice later, but that's what I do in order to go, "Okay, I really have to be in a different place mentally. I have to detach. If I'm going to not only serve myself, but also be clear and alert and devoted to the people that I'm serving because this is very important." That all work is important, but this can change someone's life. So I need to be fully on. That's why [inaudible 00:10:45] that self care and then also that safety numbers, and then the collaborate that way. But just from a policy and procedure aspect, one of the wonderful things about the collaborative was the, I mean, don't reinvent the wheel with some things.

So after having worked with all of these different institutions, I got to the point where I could go onto campuses and say, "Let me tell you what you're about to ask me." It's only because of practice because it could be regional, it could be cultural, it could be whatever it is, just the fact that I'm based in Atlanta, that I could see trends and I could get ahead of it. And because I knew people, I was able to not shortcut in the sense of trying to just save time, but kind of get to the heart of what some of the issues were and have other institutions who could weigh in on what they did that worked or didn't work. So every time we're countering a problem, because it's going, I mean you know this. Every day, the cases that you get in case studies oftentimes are not representative of what you see every day.

So you're seeing something new every day and you're going, "Huh. I wonder if someone else similarly situated in my collaborative has been through this?" And I can pick up the phone and say, "Courtney, X, Y, and Z is going on this campus. I never considered that. What do you think I can do?" And you can say, "Well, this is how we responded. I would change it this way going forward as an X, Y, and Z." And there you go. And you're already at ...

I'm very much about the spirit of Title IX and not only doing it right, but kind of how is this serving my community? So I want to get at the best practice in that, okay if my colleague says, "Yeah, we did this, but this really was difficult on the respondent, or this was more difficult resource wise, or this

was really difficult," then I know, okay, I'm confident because I know how to write policy. I'm confident my policy is good. I'm confident my process is good. But how do I actually operationalize it in the best way? And that's, I think what your peer institutions are for. It's not a textbook. You always, constantly have access to real life best practice in a [inaudible 00:12:50] .

Courtney Bullard:

Yeah, and I love when you say that about the spirit of the law, because that's something I talk about all the time, and trying to implement the legal guidance in processes. But I also love what you're saying about the collaborative, because it's exactly what I've found in my own practice, and being able to help my clients in that, before I was at one institution. And so I saw one way of doing it, although I had the benefit of being part of a system, so I saw the way other campuses were doing it, which was a little different for sure. Now seeing many different institutions, many, many, many, and the things they face. I always say it's like the same movie different actors. Which is oversimplifying it, of course. It's not quite that.

But you do see trends, and I call them seasons where you kind of see the same thing coming up. And so anyways, anyone out there who is an independent college and can try to figure out a way for our collaborative, I think, it could be so beneficial. And that leads me to my next question for you, which is, you went from working with 13, 14 institutions on training and policy drafting, and now you are on the ground as the Title IX coordinator. So how has that transition gone? And I mean, I know there's huge differences between the two roles, but what would you say has been the biggest difference?

Lee Parker:

Okay. I love being on the ground. I just like that visual. It seems very exciting. I think that's part of it is, it's not ... Not that it was ever simply theory, because I was constantly interacting when I was working with these institutions. But the ones that utilized me the most, I got to know the most. And Life University being one of them, which was really cool when this opportunity opened.

Now, part of that is ... So I think you cannot, in my opinion, you cannot, right ... First of all, you should never cut and paste policy, and there's that temptation to do it. People do it all the time, [crosstalk 00:00:14:48], especially with some kind of a school into resolution, or I'll take that policy and I'll cut and paste it, and maybe as bones or his framework, and if you're really sophisticated, you could do that.

But we know you're responsible for doing what it is you publish. So [crosstalk 00:15:06] you're going to need to do it and do it well, and know what you're talking about. And we take these concepts and things that might work in a different system or a different culture that don't necessarily apply to us.

So one of the cool things, I mean, I couldn't think of a better lesson in that than being at Life. And I already touched their policy before I came here and I knew them culturally, but we're a very, well as any institution is, but especially independent colleges, have their unique missions and we were begun as a chiropractic college. So we've got a large graduate population. Most students are very interested in our vitalistic way of thinking about life and health. And so there's a definite cultural mindset here. There's services built into our mission.

So there are certain things that resound with Life that people in the Life University community that need to be included in our policy or else, it wouldn't make sense and it wouldn't translate. We wouldn't be doing the law, like I said, correctly. So, I mean, I could cut and paste and make a sound Title IX policy in two seconds where you just pulled it up, you go, "Okay, it checks the boxes." But is it doing the law?

And at the end of the day, I don't see that my job is just to keep us out of legal trouble. I see it as doing the law correctly. And if you're doing the law correctly, it will keep you out of trouble because if someone were to come and investigate our policy, I'm pretty confident they could say, "Okay, you took the time to make a policy that is unique to and operationalized correctly and resourced correctly at Life University. And therefore, any decisions you make are well thought through. And they're fair."

At the end of the day, we're looking for fair and something uniquely curtailed, something unique to the institution. So that's been the fun thing here is really getting in the weeds and at every turn going, "Okay, but is this in keeping with our specific ... Is this doing the two roles of being legally compliant while serving the needs of this community?"

Speaker 3:

Did you know that ICS has a membership? Are you a Title IX coordinator that feels you can never keep up with the ever-changing Title IX landscape? Or do you 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 used 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 regulations such as Cleary, FERPA, and the ADA are just a few of the benefits of an ICS membership. Whether you are interested in one as an institution or as an individual, contact ICS today, or visit www.icslawyer.com to become a part of the ICS family.

Courtney Bullard:

You touch on another one of my soap box issues, which is, if a policy is no good, if you don't follow it, and your process doesn't follow it, I've sat with so many institutions and said, "Explain to me what happens when someone makes a complaint or a report of sexual misconduct." And then we map it out. And then I look back, we cross-reference it against their policy. And there's all kinds of places where it veers off. And it's not on purpose. It's just, people start getting in the groove of their policy.

But the other thing that you touch on, oftentimes, me as an outsider, people are coming to me and they're like, "We want you to do this policy or look at our policy." And I don't know if you agree with me on this but, doing an audit or review of a policy, really can't just be about checking the boxes. And so I'm always putting it back on them. Will this work for your campus? Having all these different steps, is that something that is going to make sense for your campus? Or fear of faith based institution. There's different things to consider.

And oftentimes, [inaudible 00:19:07] coordinator just wants to kick it right back to me. Well, we just want to know, is this right? And I'm like, "Well, whether it's right or wrong, legally, that's great, but we still have to do the deeper work of, is this fitting with not only your mission, but the framework and the structure you have on your campus? Is this really doable?" And I know when the Title IX boom hit,

and there are certain organizations that came out with a one policy, or a this or a that, and campuses just kind of latched on because they were desperate for information. Understandably so. But then it just doesn't work in practice.

And so everything you're saying, I'm like, "Girl, we could ..." Any of my guests really, I tend to gravitate towards people who were like minded, of course. But it is so true.

Lee Parker:

And it's fun. And the thing that unfortunately is the way all of this rolled out, people are ... And again, like you mentioned, rightly so, they were frightened. And so they wanted to make sure they were doing it right. And often, one of the most saddest things are when people are really trying to do it right, but they just don't know. Okay. I went to law school wanting to do this. That's very specific.

Courtney Bullard:

And not many people do. I mean, like you already mentioned, Stetson is the only law school. I didn't even know it existed when I went to law school that you could do higher ed law. So it's pretty cool that you were able to have that focus. So quickly in your career.

Lee Parker:

Thank you. I mean, it was exactly my fit, but I'll admit, very specific and [inaudible 00:20:40] still well meaning aren't able to do it on campus and they're afraid. And what happens is we miss ... I mean, this is going to sound odd for me to say the fun and the art, because this is such a serious and heavy subject. But there can be, there should be, a lot of art and a lot of ability to make it work for you. In a very difficult area, it absolutely should be a snug fit. And we miss that because of fear. And so I think that's where, we've already made this point, but the art can be, and where you really are getting into more sophisticated processes and stuff is if you know that you can ...

The Department of Education is not ... I mean, nothing is written. The guidance, I mean, we have things we need to do, but really there still is, there should be room to be able to develop a policy that works for you.

Courtney Bullard:

Yes, and to tailor. Totally agree with you. And I think some of that might be a result of, there are a lot of Title IX coordinators who were voluntold that they're going to be a Title IX coordinator. And so there's a very different approach to, "Hey, I want to do this," versus I'm being told I have to do this and trying to find the joy and the art in it. Because I always say it sounds sick, but I love what I do. I love it, even the difficult days. But I imagine if you're administrator on campus and you've just been tasked with this, it's difficult enough. And then to not really appreciate everything you're about to get yourself into, it just compounds it.

So we're talking a lot about compliance and there are so many facets to Title IX compliance. One being, having a good grievance policy. Another being, how an institution responds to a report, and investigates and adjudicates a matter. And we've touched on a lot of this already, but what are any other kind of touchstones that you have to help those that are listening on this? These are some things you really need to make sure you have in a good Title IX policy. And I really feel like you've touched on

the one huge one that I don't think most people talk about, which is matching the policy with the mission, with the practice. But any others we haven't covered?

Lee Parker:

Okay. So to that end, so I'm kind of going to expound on that a bit then. So one of the ways that you do to match to the mission is ... And you and I talked about this a little bit. I have the wonderful blessing of inheriting this, and I think some campuses have this and some people don't. But having kind of an inter departmental advisory committee, and especially in an institution that's not, I don't want to say well-resourced, but as an independent college where resources are different than at a state institution. It's good to be able to have a bunch of different people represented in a bunch of different areas of the campus represented at the table.

And so I think when that helps, that informs good policy and good process. When you, like you said before, oftentimes you have ... We review our policy all the time, especially when something comes up in a certain area. We'll have the meeting and someone will say, "X, Y, and Z just didn't work for us." Or we do kind of a heat map discussion. This theme is cropping up in this area, and then we'll look at the policy and go, "Yeah, you know what? When we did X, Y, and Z part of our policy, it didn't really, it didn't work the way that we thought it should or could in that area. Let's change it."

So I think it's an ongoing thing. It's a growing document, processors growing, and I think you constantly need to have people with buy in and stakeholders involved in it. And it shouldn't be housed in just ... I don't think the Title IX coordinator is the one that should ... Well, of course is responsible for it, but the only person that touches policy when you were wanting to do it right and to respect the mission.

Courtney Bullard:

Right. So expand on this committee, because I get this question a lot from institutions, and everyone does it a little different. Some don't have a Title IX committee, some call it ... there's lots of different names for it. Talk to me a little bit about what you all do at Life University that you've found to be helpful. And diversity, to me, is huge. I wrote something about that at one point. Everybody on campus comes to the table with Title IX compliance from a different perspective, because they have different roles in compliance. So having a diverse group is huge. What are, from an operational standpoint, what are you all doing? Are you meeting monthly? Are you meeting weekly? What is their charge? Talk to me about that.

Lee Parker:

So we meet biweekly, or bimonthly, I mean. Every two weeks, right?

Courtney Bullard:

Yeah. I was like, "That's a lot."

Lee Parker:

[inaudible 00:25:17]. So every two weeks, and if there's something that I need there to pick brains on or something else, I'll send out an email in between. But I usually have an agenda where I start debriefing on cases, or at least concepts that cases implicate, and where I think their different department might

want to help me weigh in from consideration from a departmental standpoint. So this directly implicates some kind of policy in our academics, or this directly implicates.

And I think the way you populate these, I'm not sure that was part of the question, but I think most campuses want to know who should be on this committee. Yeah, I've seen a lot of different ... I've seen people do templates. You should always have X, Y, and Z on this campus. But it really is, it goes back to that mushy answer of, it depends on your unique college. Because just saying, "Oh, HR should absolutely be represented," doesn't necessarily make sense, depending upon A, how your school is structured, but also whether or not there's buy in in that office, or whether quite frankly, politically, whether or not there's clout. You want people that can ...

I love, one of the biggest things is, in that room when we meet together, we need to make changes. And this is one of the cool things about working in an independent college that I really enjoy is, we might not have a whole lot of resources, but we're lean and mean. We can make decisions and affect change immediately because we've got the stakeholders that have buy in and have clout at the table.

We can say, "I see this issue. This is how ... let's shop through how to resolve it." We might call in a few people and we'll have meetings. But it doesn't take months and months of people weighing in. So we're kind of lean and mean that way. And so you populate people that, really, that care. And I think that's the same way we kind of talk ... I'm getting a little bit ... veering off a little bit.

We mentioned people wearing different hats. Oftentimes, people say, "Who should be the Title IX coordinator," if it's kind of a secondary job. And unfortunately, a lot of people are voluntold just because of capacity issues. [inaudible 00:27:20]. The guidance, it says, I mean, as you know, there are offices where the department believes that there are conflicts. So Dean of Students probably shouldn't, and council probably shouldn't, at least according to the guidance. But the rationale behind that is because there's a conflict.

Now, if there's not a conflict or if you have a shining star on campus who really has a passion for this, or someone who is really good at just understanding the law, the process, are really dedicated to your mission, I say examine putting that person on your committee or making that person your deputy Title IX coordinator or someone, because you need someone who is really invested into doing this right.

Courtney Bullard:

So no hard and fast rules, basically.

I hope you enjoyed the first part of my conversation with Lee. Be sure to tune in next week for the second part of our conversation where we discuss more on who should be members of your Title IX team, including considerations for dealing with conflicts of interest. And we also delve into the issue of self care, among many other things. Thanks for listening. See you next episode.

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.