

Courtney Bullard:

Hello, and thank you for tuning in to the Law and Education Podcast, and the last episode of 2023. I'm your host, Courtney Bullard, founder and CEO of Institutional Compliance Solutions. I wanted to jump on before the year ends to share a few ICS reflections and updates, and then some legal developments and updates in the Title IX world. Let's start with ICS.

I'm currently recording in Atlanta. A few hours after the conclusion of our team retreat, our team flew or drove in to a really quaint, restful and lovely place called Serenbe outside of Atlanta. We worked, we laughed, we ate, we had time at the spa. We fed goats, horses and pigs. We worked some more. We took long walks. It was like an epic girls trip that was also for business. We were missing a few important team members in person, but they joined us virtually and we had outside presenters participate virtually as well. I found myself throughout these two and a half days continuously looking around at what I started and is now being built with the help of these amazing humans. And felt gratitude, humility, wonder, excitement, or as Betsy calls it, nerve-citement, nervous excitement over where we've been and where I know we are going. Through these days of connection, rest, and work, we just had the most wonderful time together as a team, and the notes I'm receiving from the team as they let me know they're home safely have honestly brought me to tears.

If you're still listening through this mushy part, hang with me because my mission and vision for ICS is playing out in ways I never dreamed and it is all directly tied to our core value of care and support. I work hard to ensure our employees feel supported and cared for personally and professionally, and that is what this retreat was about. In turn, we really strive to provide care and support for our clients and community partners. We have some fun updates coming in January, including some revisions of our mission, values, and goals statements.

I'll go ahead and tell you our mission is to provide the best care and support for our clients, community partners, employees, contractors, collaborators, vendors, and all others who encounter our company. So there's a little preview and you'll hear more about those things in January.

Along the lines of care and support, I write a note from Courtney. If you're not on our email list, let us know. We'll make sure you're on it that we send out to both our community partner [inaudible 00:02:58] and to our larger email group every month. In this month, I wrote about a time for reflection and a note of gratitude, and I talked about how I sit down and try and write personal notes in all of the holiday cards that we send out as a company. And it really does serve as a time for personal and professional reflection and gratitude. And this year I reflected on our first two community partners, the University of the South and Tennessee Technological University, who both continue to remain part of our community partners today. Since then, we've multiplied tenfold or more and it continues to be an active space for practitioners to learn, connect, and share.

I also reflected on the early days of ICS when it was just myself and a vision. And so again, at this retreat, this week, to see it all playing out in real time is truly amazing. My hope for you as a Title IX practitioner during this holiday season is that you have some time to reflect on all that you have accomplished this year. I also hope that the care and support that ICS provides allows you the extra space to provide care and support to the parties, administrators, colleagues, and others that you interact with and impact each day.

Finally, I hope it allows you the space for care and support for yourself, but looking ahead, there is a lot of work to be done. The team has put together a lot of training opportunities in the spring for you that are already live and on our website. So I hope that you will join us for some of those. And one that I want to highlight for you is our sixth annual year-end review on January 18th. We have one time for K-12, and one time for higher ed. And I am thrilled to be joined this year again by Steven Richard. We will

cover all the changes and developments in the Title IX landscape from 2023, and it will be packed with a lot of information. Steven will discuss litigation trends, current Title IX litigation informing best practices going forward, and some lessons learned to date, all from the lens of an experienced Title IX litigator.

I'll discuss the status of the NPRM, which I'm about to talk about here in a minute too, and other updates out of the Department of Education and Office for Civil Rights. So please join us. It's filling up fast and furious. Go ahead and get your spot today.

We have lots of live virtual trainings on the spring 2024 calendar. We also have an in-person level two civil rights investigator training in April. We have a K-12 regional training that should be posted any day. That's going to be in June in Bethesda, Maryland, and a corresponding higher ed one, most likely in Chattanooga, Tennessee. So stay tuned for those dates and times and we hope you'll join us in person for what will likely be a training on the new 2024 regulations.

So speaking of updates, while we're at the retreat, the Department of Education revealed a new release date for the Title IX regulations. Most of you have probably already seen this posted either on our social media or our colleague social media, but in case you haven't, originally the Department of Education, as I stated in my last episode, noted that they were going to release the new Title IX regulations in October 2023. They posted an updated regulatory agenda for fall of 2023, and that list includes both Title IX regulations that we've been talking about at length over the past several months.

The Department of Education now plans to issue both of its final Title IX rules by March 2024, which is a year after its original May 2023 goal. We think but we don't know, that if they come in March of 2024, we will have an implementation deadline of fall of 2024. And there is a lot of scuttlebutt out there. Will they really come in March? Will they not? I think this is the most likely timeline we've had so far, a March timeline, and I think it's pretty likely, but I don't have a crystal ball, so it's hard to say and we'll of course continue to provide you with any updates as we become aware of them.

A few other notes about what was contained in that regulatory agenda for fall of 2023. They also included an update on the proposed rule for 504. So there is a scheduled first major update in four decades to the regulations for section 504 of the Rehabilitation Act of 1973. In 2022, the Department of Education first announced it would be taking a fresh look at the rules, and a proposed rule was originally scheduled to be published in August. The most recent regulatory agenda said that it expected a November publication, but it looks like we'll be waiting a bit longer.

So these updates to 504 will impact the requirements in K-12 and higher education for how schools accommodate students with disabilities. So we're going to keep our eye on that as well as an update on another one of the department's earliest priorities under the Biden administration, which was to combat a rise in anti-Semitism and ensure racial equality in education. So since that time, the department released multiple Dear Colleague letters on related issues, and the department's attention has increased on this recently in the wake of the Israeli-Hamas war and subsequent reports of increasing Islamophobia and anti-Semitism in schools and on college campuses.

So in November, the department made clear the current administration interprets Title VI to protect students from discrimination based on shared ancestry or ethnic backgrounds. It's also doubled down on school district investigations in related matters. We have a great blog post that I will connect in our show notes to this podcast for on Department of Education's release of a Dear Colleague letter in November reminding schools of their obligations under Title VI.

In the midst of all this, we had a big decision come down November 15th from the US Court of Appeals for the Sixth Circuit that really underscores the importance of ensuring proper steps are taken when Title IX complaints are first received by a school for sexual harassment, and that post-incident sexual harassment allegations stemming from student-on-student harassment are also promptly addressed.

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The case *S.C. v. Metro Government of Nashville and Davidson County* evaluated whether recipients could be liable for deliberate indifference that occurred before and after the plaintiff's Title IX claims. This decision is chocked full of information and key takeaways for those of you on the ground doing the work. And it is something that I know we will cover in detail or that Steven will cover in detail in our year-end review. So I hope again that you grab your spot in that year-end review to get all those takeaways and we'll also have a blog post here soon that we'll be posting for those as well.

That's really everything I have for this episode. Like I said, fantastic retreat with my team, reflecting on 2023, preparing for 2024. I hope all of you have a safe, restful, healthy holiday season. We're here for you if you need us. We've had a lot of inquiries for external services this week and last week as coordinator or investigator or decision maker and so on. We have some exciting announcements coming out in January. We have a very action-packed training schedule for 2024 that incorporates training on the new regs when those are released. So stay tuned for that as well. And with that, I will sign off for 2023, and I will see you in our first episode in 2024.

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