

BOWDITCH

ATTORNEYS



AUGUST 22, 2024

TITLE IX REGULATIONS COMPLIANCE CHECK-IN: TITLE IX IMPLEMENTATION CHALLENGES

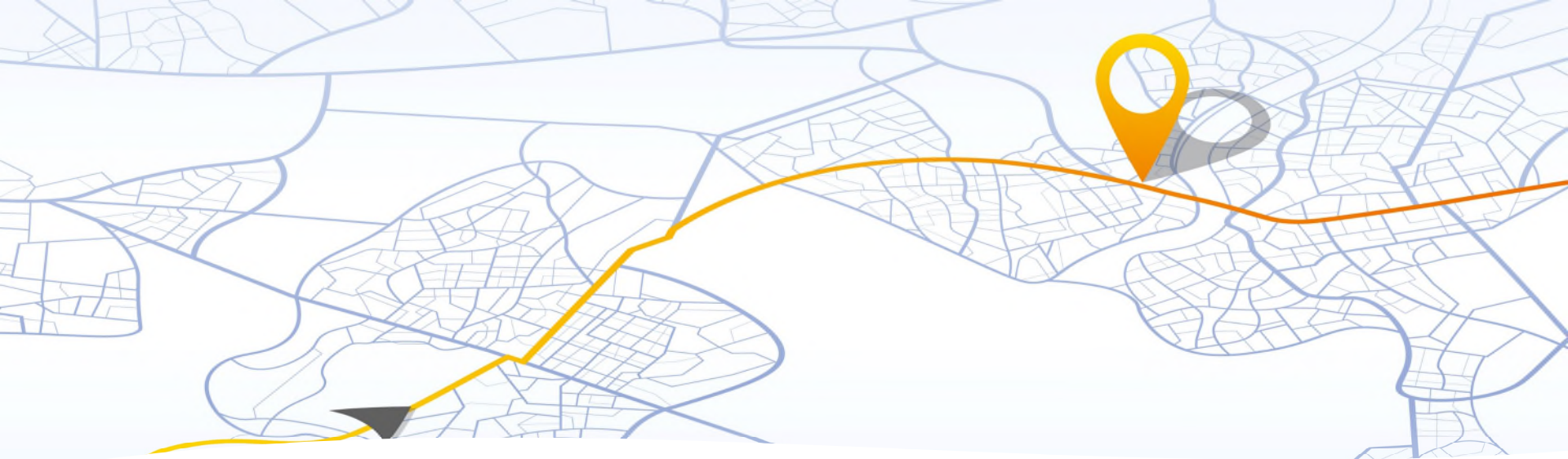
BRIGID HARRINGTON , CHELSIE VOKES



Brigid Harrington

Chelsie Vokes





WHERE ARE WE?

- Some institutions implemented Title IX policies on August 1, 2024
- Others have been enjoined
 - District of Kansas injunction – enjoins OCR only, but may affect decision-making
 - Updated list issued July 31, 2024

WHERE HAVE WE BEEN?

IF YOU IMPLEMENTED, HAVE YOU:

- Published new policy and procedures, notice of non-discrimination
- Trained Title IX personnel
- Planned for all employee training



WHERE HAVE WE BEEN?

(CONT'D)

IF YOU DID NOT IMPLEMENT,
ARE YOU:

- Ready to implement if/when an injunction is lifted?
- Considering implementing enhanced protections for pregnancy and related conditions?
- Monitoring changes to state law?





WHERE ARE WE GOING?

WHAT IS GOING TO HAPPEN WITH THE INJUNCTIONS??

- USSC denied emergency request from DOE to narrow injunction
- Injunctions may be removed by courts as cases progress, at multiple stages
 - Immediate compliance could be expected
 - What if your state law conflicts with the rules?
- Injunctions could remain in place for pendency of litigation



WHERE ARE WE GOING?

(CONT'D)

NO REST FOR THE WEARY!

- Athletics regulations
- Title VI



BOWDITCH

ATHLETICS REGULATIONS

- NPRM issued in April 2024
- More than 150K comments
- Final rule???
 - May be unlikely

TITLE VI

- OCR issued guidance in November 2023, March and May 2024
- Resolution agreements: Brown, CUNY, Michigan, Lafayette
 - 150+ pending
- Regulations?



TITLE VI (CONT'D)

- OCR increasingly applying Title IX process requirements to Title VI matters
- Courts and OCR: First Amendment considerations cannot be used to avoid further process, particularly for private institutions
- Courts look favorably on using disciplinary process to address Title VI concerns



TITLE VI (CONT'D)

WHAT CAN I DO?

- Look at your Title VI policy/procedures
 - Amendments? Consolidating with Title IX?
- Review how your campus handles speech, including academic freedom, student speech
- Review processing of Title VI concerns
 - Other remedial measures





QUESTIONS?



Brigid Harrington

bharrington@bowditch.com
508-926-3351

Chelsie Vokes

cvokes@bowditch.com
508-926-3394

