

# SNIFFEN & SPELLMAN, P.A.

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## EDUCATION LAW ALERT April 2017

### **Title IX Claims Are Increasingly "Heightened Risk" and "Post-Reporting" Claims**

A U.S. District Court Judge recently denied Baylor University's Motion to Dismiss claims brought by several women alleging Baylor violated Title IX when it acted with deliberate indifference after the women reported they were victims of sexual assault.

The women allege that Baylor's indifference after they reported the incidents caused them further sexual assault and harassment or created a hostile educational environment. Baylor responded that the complaint does not allege plaintiffs informed the appropriate individuals of the assaults or that they were subjected to further harassment, and that Baylor's non-compliance of Department of Education regulatory guidance did not rise to the level of deliberate indifference. Accordingly, Baylor requested the Complaint be dismissed; the Judge rejected Baylor's arguments.

The plaintiffs also alleged that Baylor's handling of sexual assault reports created a heightened risk of sexual assault throughout the University. The court agreed that the plaintiffs had plead plausible claims and allowed them to move forward.

This case demonstrates that courts will allow expansively pled and diverse pleadings to remain in Title IX lawsuits.

Read more [here](#).

### **Florida School Testing Bill Passed Final Senate Committee**

SB 926 is aimed at reducing the number of standardized test administered in Florida; it has passed its final Senate committee. The bill, proposed by Senator Anitere Flores, would require school districts to begin testing later in the year, eliminate requirements that high school students take four tests at the end of their courses, and allow students who achieve certain scores on college-entrance and national exams to skip some state tests.

The bill has been amended since being proposed and now includes other issues, such as school recess provisions which require elementary schools to give students 100 minutes of "free-play recess" each week. The bill also contains provisions dealing with excused absences for treatment of autism spectrum disorders, teacher bonus, and exemptions from physical education tests for varsity sports athletes.

Learn more about SB 926 [here](#).

### **Education Secretary Hires Department Aides**

On April 12, Education Secretary Betsy DeVos announced the hiring of nine senior staff members. Prior to the announcement, the Department of Education had gone almost three months without naming appointees to many positions.

James Manning was named acting under secretary and is the most senior official in the Department. He has lengthy experience with the Department dating back to the Carter administration. The Department also named such staffers as the Chief of Staff, Josh Venable, the Deputy Chiefs of Staff, and the White House Liaison, Jana Toner. The only position requiring Senate confirmation will be the Assistant secretary.

Read more [here](#).

### **Ruling: Judge Dismisses NCAA Labor Lawsuit**

On April 26, a California Federal District Court Judge dismissed a lawsuit claiming that the National Collegiate Athletic Association and Pac-12 Conference violated labor laws and owed money to plaintiff, a former Division I football player. The suit is of many aiming to redefine college athletes as employees who are entitled to compensation.

Judge Richard Seeborg relied on similar Seventh Circuit cases and found that “the long tradition of amateurism in college sports, by definition, shows that student athletes – like all amateur athletes – participate in their sports for reasons wholly unrelated to immediate compensation.”

Read the Order [here](#).

### **The U.S. Department of Education Announced New Press Secretary**

The U.S. Secretary of Education announced that Liz Hill will become the Education Department’s new press secretary. Before joining the Education Department, Ms. Hill served as the communications director for U.S. Representative Jeb Hensarling in Texas. Prior to that Ms. Hill was a television news reporter and news anchor.

Read more [here](#).

### **From the lighter side: Man in “Drunk Lives Matter” Shirt Charged with Drunk Driving**

Pennsylvania police arrested a man wearing a t-shirt advocating the politically charged message: “Drunk Lives Matter.” The political renegade had a blood-alcohol content of two and a half times Pennsylvania’s legal limit when he was pulled over.

Read the breaking press release [here](#).

## Firm News

**Mark Logan** authored “Lobbying Registration in Florida,” published in the March/April 2017 issue of Florida Society of Association Executives’ *Source* magazine.

**Jeff Slanker** and **Rob Sniffen** co-authored “Examining Potential Labor and Employment Law Changes Under President Donald Trump’s Administration,” published in the Spring 2017 issue of the Defense Research Institute’s *In-House Defense Quarterly* magazine.

**Rob Sniffen** was appointed to the Board of Advisors of the James Madison Institute, a Florida-based public policy research organization.

### Join Us for the Sniffen & Spellman Lunch and Learn Seminar Series

This year Sniffen & Spellman is proud to offer quarterly lunch and learn seminars for our clients and friends to discuss and answer questions on important labor and employment and business liability issues.

The first seminar took place on March 30 and **Jeff Slanker** presented on labor and employment compliance changes to look out for in 2017.

If you would like to attend this seminar, please contact Hannah McKinney at [hmckinney@sniffenlaw.com](mailto:hmckinney@sniffenlaw.com) or at 850-205-1996.

Tentative dates (topics to be announced later) for the rest of the 2017 series are as follows:

June 29

September 28

December 7

These dates are subject to change.

The seminar will be held at the Firm’s office at 123 North Monroe Street in Tallahassee. Lunch will be provided. Space is limited.

We hope you can join us for lunch and a great discussion!