

SNIFFEN & SPELLMAN, P.A.

EDUCATION LAW ALERT October 2018

Trump Administration to Define Transgender for Federal Agencies

The Trump administration has authored policies which would eliminate the concept of transgender and narrow the avenues available for transgender students to seek redress for complaints based on their gender identities. These policies would apply to several agencies that enforce civil rights, including the Department of Education.

Current draft policies utilize the following definition: “Sex means a person’s status as male or female based on immutable biological traits identifiable by or before birth...The sex listed on a person’s birth certificate, as originally issued, shall constitute definitive proof of a person’s sex unless rebutted by reliable genetic evidence.”

During the Obama administration federal agencies recognized gender identity as a protected class and considered complaints brought by transgender students. Last year the Department of Education’s Office for Civil Rights reversed course and indicated that it would handle complaints of transgender students as it did prior to the Obama administration.

Even with the above mentioned changes, some claims for gender bias against transgender students would still be covered by federal gender-based discrimination laws; however the scope of such claims would be limited.

Read more [here](#).

\$215 Million Settlement in Lawsuit Alleging University’s Failure to Prevent Sexual Abuse by Health Center Gynecologist

The University of Southern California reached a \$215 million settlement in a lawsuit filed by hundreds of current and former students who alleged health center gynecologist Dr. George Tyndall subjected them to sexual harassment and abuse. The current and former students allege Dr. Tyndall routinely made inappropriate comments, took inappropriate pictures of them, and groped them while claiming to render medical treatment. The claims of abuse range from 1988 until 2016.

The students alleged the University failed to prevent the sexual abuse by failing to take action after learning of reports of abuse against Dr. Tyndall spanning decades and the school failed to report him to the medical board even after a University investigation concluded there was evidence that Dr. Tyndall sexually harassed students during physical examinations.

Read more [here](#).

Proposed Rule Sets Maximum Term for Student Visas

A [proposed federal regulation](#) establishes a maximum term of stay for student visas holders. Currently, student visa holders can stay in the United States for an indefinite period so long as they maintain their status as a student, which is referred to as “duration of status.” The proposed rule intends “to decrease the incidence of nonimmigrant student overstay” by replacing the “duration of status” with a fixed maximum term. International exchange advocates worry the proposed regulation could adversely affect efforts by U.S. universities to recruit international students, as well as limit international students’ flexibility in their course work.

Read more [here](#).

Clery Violations Cost the University of Montana

The University of Montana has been fined \$966,000 for violations of the federal Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”). The Clery Act requires institutions that receive federal funding to provide accurate crime statistics.

The Department of Education determined that the University omitted more than 130 crimes in violation of the Clery Act from 2012 to 2015. The omitted crimes ranged from alcohol related incidents to forcible sexual conduct.

The University has corrected the data, indicating that it does not dispute the findings; however, it is appealing the amount of the fine.

Read more [here](#).

Graduate Student Assistants Advocate for Minimum Living Wage

Recently Amazon made news announcing that it would pay employees at least \$15 per hour, an amount which has been championed by some as the “minimum living wage.” Colleges and universities have not been immune to calls for such pay increases and have faced increased pressure from graduate student assistants.

Graduate student assistants have advanced the position they are full-time, full-year employees, even if their institutions have otherwise classified them. Under the above framework, the graduate student assistants would earn \$600 per week or \$32,000 annually.

Read more [here](#).

From the Lighter Side: Not the Happiest Place on Earth

What New York resident Marc Rubin thought would be the most important moment in his life rapidly changed, so naturally, he filed a lawsuit. Mr. Rubin was scoping out the perfect place to propose to his future wife in front of Cinderella Castle at the Magic Kingdom when he was asked to move by a Disney employee. The employee told authorities that she asked Mr. Rubin to move back 3 feet from the parade route, and he responded in kind by screaming in her face and grabbing her. Mr. Rubin pleaded no contest to disorderly conduct and was fined \$100 plus court costs.

Mr. Rubin has a civil suit against Walt Disney Parks and Resorts pending in Orange County Circuit Court. His suit alleges negligence and false arrest or imprisonment.

Read more [here](#).

Firm News

Robert J. Sniffen was invited to serve as a guest lecturer for a human resources class at Flagler College-Tallahassee.

Robert J. Sniffen has become a member of the Economic Club of Florida.

Michael P. Spellman spoke at the annual conference of the Florida Association of Police Advisors and presented an update on Legal Developments in cases involving Section 1983 and Police Civil Liability.

Jarrett B. Davis has been admitted to practice in the United States District Court, Northern District of Florida.

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