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TITLE IX: WHAT YOU NEED TO KNOW

(Title IX of the Education Amendments of 1972, 20 U.S.C. A§ 1681 Et. Seq.)



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Michael E. Ginsberg is the managing partner at PSGG. He was a member of the 40 Under Forty in 2005. He is the former President of the Rensselaer County Bar Association and a member of the House of Delegates, NYS Bar. Michael is the former acting General Counsel to RPI. He is Chief External Litigation Counsel to RPI and the City of Troy. He has published articles on legal topics such as protecting against corporate liability and the usefulness of employee non-compete agreements. His areas of practice include Title IX, Education Law, Business and Litigation. He is a member of the National Association of College and University Attorneys (NACUA).

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TITLE IX

Title IX of the Education Amendments of 1972 is a comprehensive federal law that prohibits discrimination on the basis of gender in any federally funded education program or activity. One of the major functions of Title IX is to prohibit sexual misconduct (including rape and assault) and sexual harassment in schools and universities. Title IX applies to all students, faculty and staff. An overview can be found on the Department of Justice website at www.justice.gov/crt/overview-title-ix-education-amendments-1972-20-usc-1681-et-seq and on the US Education Department website at: www2.ed.gov/policy/rights/guid/ocr/sex.html

Pattison, Sampson, Ginsberg & Griffin, PLLC has represented and guided universities and schools in Title IX matters for more than two decades. Non-compliance is not an option!

With the constant regulation changes being implemented by the Government and the rise in lawsuits brought by students, it is more important than ever to actively manage policy compliance. The Federal Government, largely through the U. S. Education Department Office for Civil Rights, is actively prosecuting those in violation of the Title IX Regulations and mandates. We can help. The firm has successfully defended Title IX suits and complaints.

WHAT IS REQUIRED OF A UNIVERSITY OR SCHOOL?

- Schools must provide a fair and impartial process that provides a meaningful opportunity to be heard (Due Process is required from a State school).
- To adopt and publish a grievance procedure outlining the complaint, investigation, and disciplinary process for addressing sexual violence, sex discrimination and sexual harassment.
- The process must be “prompt and equitable.” There must be a reasonably timely response to the allegations and both parties must be given equal rights during the disciplinary process.
- Schools may not retaliate against someone for having a complaint filed against them and the accused must be treated with dignity.
- Schools cannot discourage the continuation of studies.
- Every school receiving federal funding is required to have a Title IX Coordinator.
 - The Title IX Coordinator must ensure compliance with Title IX, and coordinate investigations and disciplinary processes.
- Notice to the parties of the outcome of the complaint must be provided.
- The evidentiary standard is by a “preponderance of the evidence”, which means more likely than not.
- New York State Enough is Enough laws must also be adhered to.

CURRENT LAWSUIT TRENDS:

Where a school has failed to comply with the requirements of Title IX, failed to follow its own policies and procedures or reached an unsupported conclusion the accused may contest the same through use of the State and Federal Courts.

Courts generally review Title IX matters to see if school policies were followed, if legal standards were complied with and whether the school made an arbitrary decision based on the evidence.

We have recently seen a great increase in Title IX litigation. Currently the majority of lawsuits being brought by those accused of or found in violation of sexual misconduct policies has shifted to claims of breach of contract (non-compliance with policy) by the university and gender-based bias (discrimination) in the application of university policies and practices. Generally the determinations of a school will not be reviewed by a Court unless there is proof of arbitrary decision making or practices which demonstrate gender-based bias.

LESSONS TO BE LEARNED:

The current litigation climate emphasizes the need for Title IX compliant policies and the strict adherence by universities and schools to them. Failing to do this will lead to potentially devastating public relations, loss of funding, support and student base and fines.

TITLE IX SERVICES:

Pattison, Sampson, Ginsberg & Griffin, P.C. provides guidance in complying with Title IX and Enough is Enough laws, including:

- Drafting Title IX compliant policies
- Implementation and application of those policies
- Training for coordinators, investigators
- Support personnel
- Public safety officers
- Administrators and hearing officers

We also have experienced Title IX investigators on staff that can provide impartial investigations.

TITLE IX RESOURCES:

Colleges, Universities, Institutions, and School Districts:

www.psgglaw.com/site-map/title-ix-lawyer-troy-new-york/families-and-individuals/

Families and Individuals:

www.psgglaw.com/site-map/title-ix-lawyer-troy-new-york/families-and-individuals/

New York State Enough is Enough Law:

(NYS Education Law Article 129-B)

<https://www.psgglaw.com/site-map/new-york-state-enough-is-enough-law/>

U.S. Department of Education – Laws & Guidance:

www2.ed.gov/policy/rights/guid/ocr/sex.html

US Department of Justice – Title IX Overview

www.justice.gov/crt/overview-title-ix-education-amendments-1972-20-usc-1681-et-seq

Know Your Title IX Rights

www.knowyourix.org/college-resources/title-ix/

NYS Dept of Education: Sexual Harassment Guidance – Title IX

www2.ed.gov/about/offices/list/ocr/docs/shguide.pdf

In an emergency, call 911.

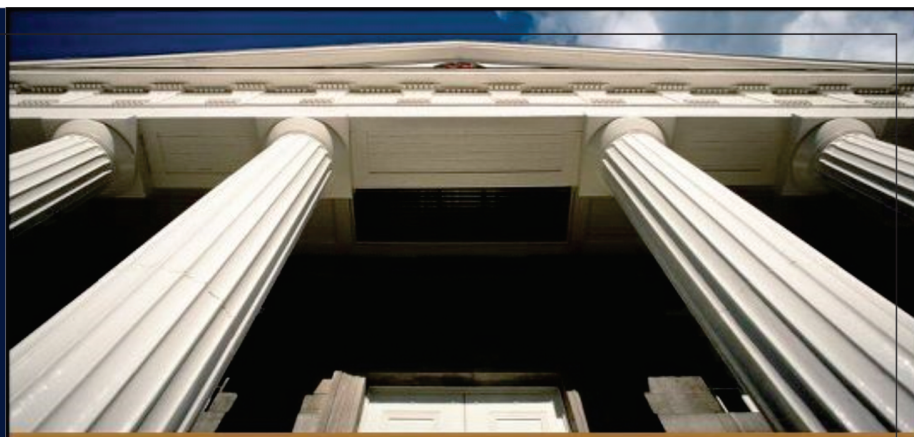
Call 1-844-845-7269 to report sexual assault on a New York college campus to the New York State Police

Call the New York State Domestic & Sexual Violence Hotline for assistance and options: 1-800-942-6906/NYC: 1-800-621-HOPE (4673) or 311.

For over 100 years the Pattison Firm has provided legal advice and guidance to Colleges and Universities in the following practice areas:

- Academic Affairs and Policy Issues
- Institutional and Entity Governance
- Student Life and Affairs
- Title IX Investigations and Compliance
- Risk Management/Crisis Management
- Student Exchange/Faculty Exchange/Study Abroad
- Construction
- Federal, State and Municipal Compliance
- Government Relations
- Research Administration and Technology Transfer
- Charitable Gifts and Bequests
- Other Related Practice Areas

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"Pattison, Sampson is one of the oldest established firms in the area with a tradition of quality and professionalism."