

2024 NAIS Annual Conference

Fisher Phillips has developed an exclusive site for attendees of the 2024 NAIS Annual Conference. This site hosts resources to aid educational institutions in navigating the continually changing employment landscape surrounding trending issues.

Education Industry 2023 Recap

SCOTUS Severely Limited Affirmative Action Admissions in Education

In a pair of blockbuster decisions released in June, the Supreme Court restricted higher educational institutions from using race or ethnicity as part of their admissions process, curbing the practice of using affirmative action principles during admissions for schools across the country. The decision has forced admissions teams to rethink and rework a decades-old approach that had become interwoven into the day-to-day practices of many colleges and universities – not to mention K-12 schools.

Private and Independent Schools Prepared for Uptick in Lawsuits

Seeing the barrage of lawsuits following the SCOTUS decision on race-conscious admissions in higher education left many in K-12 independent and private school leaders scratching their heads. While there aren't any silver bullets or magic potions to ensure these schools won't get sued – in fact, few bright lines exist – there are key actions schools can take to help mitigate the risk.

What Will 2024 Bring?

Highly Anticipated Changes to Title IX Expected Soon

The DOE is expected to soon issue two major amendments to Title IX regulations. One rule will address gender identity in athletics and the other is expected to substantially alter the investigation and grievance process for complaints of sex-based discrimination and harassment. Although the

release date for these amendments has been delayed several times, they are now expected in May or June 2024 and [educational institutions should prepare for compliance](#).

SCOTUS May Decide to Weigh In on Transgender Bathroom Policies

Federal appeals courts are currently divided on whether schools can require students to use only the bathroom that corresponds to their biological sex or a gender-neutral bathroom. For example, while the [11th U.S. Circuit Court of Appeals upheld a public school's transgender bathroom ban](#), other circuits have found that similar policies at public schools violated transgender students' rights. The circuit split could pave the way for SCOTUS to ultimately weigh in on this hot-button issue.

When Was the Last Time Your School Had An Employment Checkup?

[Education Employment Practices Review Checklist](#)

Artificial Intelligence Focus

ChatGPT Will Continue to Present Opportunities and Challenges for Schools

Generative AI tools, such as ChatGPT, have the potential to revolutionize education – both by providing opportunities and presenting new challenges to overcome. On the positive side, they can provide innovative ways for schools to personalize learning, improve student engagement, and streamline administrative tasks. On the flipside, you may be concerned about students using this technology as a shortcut in violation of your policies and protocols. [Thus, schools should consider addressing how to deal with GenAI tools as they continue to evolve](#).

Watch for More Federal AI Guidance

The DOE has already created some [AI resources](#), and [President Biden's October executive order on artificial intelligence](#) directed the DOE to develop an AI toolkit to help schools implement related policies. Additionally, the department has said it is in the process of creating policies “focused on the effective, safe, and fair use of AI-enabled educational technology.

[AI in Education: How Modern Schools are Navigating the AI Revolution with Administrators, Teachers, and Students](#)

[Request a Sample Policy: Acceptable Use of Generative AI Tools](#)

Data Security Focus

Cybersecurity Once Again Takes Center Stage

Ransomware and other cyberattacks will continue to plague businesses small and large in 2024, with vendors – including payroll vendors, a particular concern for employers – becoming a favorite target because of the vast amount of PII often in their possession. Federal regulators will look to

increase reporting obligations to ensure that businesses are sharing information relating to these attacks. This will allow government officials to not only to investigate cybersecurity practices for potential violations of legal obligations, but also to gather data that can be sued collectively to help provide guidance to avert future attacks. [Litigators Unleashed and Your Website Is Their Target: Learn How to Comply and Avoid Being Sued Over Your Website's Cookies and Chat Features](#)

Immigration Focus

E-Verify NextGen Will Streamline the I-9 Process

USCIS is expected to release a new product, E-Verify NextGen, which the agency says will modernize the I-9 and employment verification process for employers and employees alike. Among other features, employees will be able to enter their own information through a portal – with the goal of reducing data entry errors – and notifications will be streamlined.

Revised H-1B Visa Process Will Be Quickly Finalized

The proposed new H-1B rules have not yet been implemented. Given the nature of the proposed changes, however – and especially since they generally align with the priorities of both USCIS and employers – we do expect [a version of these provisions](#) to go into effect relatively soon after the notice-and-comment period concludes in December. [Employers Get Immigration Guidance from Government: Appeal I-9 Fines to Reduce Damage](#)

Return of Stateside H-1B and L-1 Visa Renewals

After an almost 20-year absence, federal officials appear closer than ever to bringing back the stateside issuance of nonimmigrant visas, which would allow H-1B and L-1 workers the option of renewing their visas without leaving the U.S. The pilot program that would put this change into effect officially went to the White House for review on October 17, marking one of the final steps before implementation. If soon finalized as expected, it would not only provide a welcome relief to many foreign nationals but also make a key strategic difference to employers. [Federal Immigration Officials Announce H-1B Cap Registration Updates and New Program Integrity Measures: Key Points for Employers](#)

About Us: Our lawyers have been representing educational institutions of all types for over 25 years. We represent academic institutions throughout the U.S., including religious and secular independent, private, and charter schools and institutions of higher education. Our team handles legal and regulatory issues involving employees, students, and boards at all levels, from training and advice to administrative charges, litigation, and appeals. As leaders in the education industry, our lawyers provide unequalled client service and efficient, practical solutions tailored to achieve the best possible results at every step. We partner with our education clients to identify and manage risk, meet compliance obligations, and address issues proactively. [How We Can Help](#)

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