



Colleges Open Fall Semester Facing Myriad of New Legal Challenges

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Scott Schneider was interviewed by the *Memphis Business Journal (MBJ)* on August 7, 2015. In the article “Colleges Open Fall Semester Facing Myriad of New Legal Challenges” Scott answered questions for *MBJ* about issues facing higher education institutions.

Q & A

MBJ: What do you think will be the biggest legal issues colleges and universities will face this year?

Scott: This is always difficult to predict and is shaped by developments that universities largely have no control over. For instance, the Virginia Tech shooting forced campuses to confront the potential for violence on campus and how to handle at-risk students. The Penn State / Sandusky scandal had universities scrambling to assess how they handled minors on campus.

In my opinion, the two biggest legal issues universities will wrestle with over the coming year will involve a reassessment of the role of Greek organizations on college campuses and a review of the operations of campus police departments.

Do you expect a review of whether or not police officers on college campuses should be armed?

Over the past years, college police departments have undergone significant evolution, and the bulk employ armed officers. Now, however, some institutions have their officers policing outside of campus boundaries. These development have been incremental, and there has not been a great deal of strategic thought about the potential risk management consequences of this evolution. I expect universities will begin reviewing their practices and policies with respect to campus police officers, and one of the main questions will be whether offices should be armed, in my opinion, there is a significant opportunity for student unrest on this issue.

How has the push to unionize non-tenured faculty changed?

For years now, non-tenured faculty have complained about low pay, no benefits and unpredictable schedules. Primarily in the Northeast and on the West Coast, unions have been successful in tapping into this anger and have had considerable success in organizing drives. I expect these drives will continue to gain momentum in states that you don't typically associate with union organizing.

Do you believe Title IX and collegiate athletics will once again come to the forefront?

Title IX and student sexual assault will continue to bedevil college campuses, and the activity will shift from the regulatory side to litigation. There has been an uptick in students suing institutions for the way allegations of sexual assault were handled. This increase will only continue.

On the regulator side, college administrators are monitoring the Department of Education's review of the University Of Minnesota Athletics Department. Generally speaking, the allegation is that female college athletes lag behind males in provision of equitable resources such as equipment, uniforms and facilities. As part of its investigation, Department of Education representatives combed the campus, interviewed Gophers coaches and measure square footage in locker rooms and offices. The conclusions reached by the DOE in the Minnesota case will undoubtedly send schools scrambling to conduct their own assessments.

What is the dispute over disability management for both students and faculty?

As the definition of who is disabled becomes more and more expansive, nowhere are the practical implications of this more keenly felt than college campuses. This is especially true with respect to students who are coming into institutions with a bevy of mental health concerns and have no qualms with being assertive in requesting accommodations. This staffing challenges created by these requests, especially for large institutions, will require a reallocation of resources and will surely lead to costly and high-profile missteps.

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