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## *Higher Education*

### Anti-Discrimination

WilmerHale provides legal assistance in the gamut of anti-discrimination matters facing educational institutions—from defending colleges and universities in civil litigation and government investigations to counseling educational leaders on non-discrimination policies and compliance with evolving regulatory, legislative and judicial requirements. We represent schools and education clients before the US Department of Justice, US Department of Education and other agencies, and regularly counsel them on compliance with Title IX, Title VI, the Americans with Disabilities Act, Rehabilitation Act, and other federal and state anti-discrimination statutes. We also provide strategic advice to colleges and universities confronting high-stakes and high-profile crises, and work with public information professionals to develop and execute internal and external communication plans.

Our clients benefit from the insight of a team that includes a widely respected former US Deputy Attorney General; a former Associate Deputy Attorney General who represented the Department of Justice on the White House Task Force to Protect Students from Sexual Assault; and a Commissioner on the US Commission on Civil Rights who previously served as Director of Litigation for the NAACP Legal Defense and Educational Fund.

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## *Experience*

### **LITIGATION**

We have handled a wide range of civil litigation for colleges and universities, including challenges to race-based admissions policies and litigation arising from campus sexual misconduct allegations and findings. We understand that educational institutions have unique governance and cultural characteristics and numerous internal and external constituencies with interests, objectives and perspectives that often conflict. We also take into account that litigation involving educational institutions may attract out-sized public attention and involve difficult and divisive public policy issues. Our trial and appellate strengths combine to allow us to shape litigation strategy from the outset and maximize the likelihood of ultimate success.

Our experience includes:

- Representing universities in Title IX and state law litigation brought by respondents found to have engaged in sexual misconduct.
- In the aftermath of the improper indictment of members of Duke University's lacrosse team, conducting an internal review for the board and helping the University address follow-on civil litigation.
- Representing a leading university in a US Supreme Court case addressing the consideration of racial and cultural background in higher education admissions.

### **INVESTIGATIONS**

We represent education clients in internal, regulatory and congressional investigations, including investigations by the US Department of Education and US Department of Justice (DOJ) related to college and university responses to sexual misconduct complaints and compliance with Title IX and other civil rights laws. We also represent clients in investigations of universities' use of research funds, investigations of guaranteed student loan providers, and investigations of nonprofit and for-profit college recruiting and student aid practices. We have conducted independent investigations in connection with a number of the highest-profile matters of the past 20 years. Our independent findings from those investigations are widely cited and relied upon by government investigators and private stakeholders.

Our team includes over 100 former senior government officials—more than any other firm. Our lawyers are drawn from all corners of government, including the DOJ, US Securities and Exchange Commission, and US Attorney's Offices. This highly prized government experience is just one important factor that sets us apart.

Our experience includes:

- Representing universities in investigations by the US Department of Education's Office for Civil Rights related to the handling of sexual misconduct complaints and compliance with Title IX, as well as investigations related to Americans with Disabilities Act and Rehabilitation Act compliance.
- Representing universities in investigations by the US Department of Education's Office of Federal Student Aid related to potential violations of the Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act.
- Advising the board of a large public university in connection with the university's response to allegations of domestic violence against an assistant coach.
- Advising a leading online college course provider in a DOJ Civil Rights Division compliance review regarding the disability accessibility of its online courses.

- Assisting a national research university in conducting internal investigations related to allegations of sexual misconduct by faculty members.

## **COUNSELING**

Legal challenges confronting colleges and universities can quickly escalate into multidisciplinary matters with significant legal, financial and reputational consequences. We work with educational institutions to develop and drive strategies to defend or advance a position—whether responding to fast-moving events or working over the longer term to craft legislative or regulatory solutions to complex problems. We routinely advise college and university clients on compliance with federal and state anti-discrimination laws, as well as pending and newly enacted legislation on anti-discrimination issues. We also work with our clients to develop best-in-class non-discrimination policies.

Our experience includes:

- Advising top-tier academic institutions on admissions and financial aid policies that comply with recent US Supreme Court decisions.
- Assisting colleges and universities in developing and implementing policies that prohibit discrimination on the basis of race, sex, gender, ethnicity, national origin and religion.
- Assisting colleges and universities in formulating and socializing sexual misconduct and consensual relationship policies that comply with Title IX, the Clery Act, and evolving standards and requirements.
- Counseling colleges and universities on the handling of sexual misconduct complaints and advising in connection with criminal investigations and prosecutions arising from sexual misconduct incidents.
- Developing templates for Title IX coordinators, campus police and university officials to help them respond effectively and appropriately to sexual misconduct reports.