



## *School Law FYI*

# *Update on Revised Title IX Regulations (and Other Updates)*

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## *Title IX*

In our May 2024 FYI newsletter, we provided details on the final regulations related to Title IX of the Education Amendments Act of 1972 (Title IX). These final regulations become effective on August 1, 2024.

As predicted, there have been several lawsuits brought in various courts throughout the United States to prevent these final regulations from being implemented. At this time, there have been injunctions issued by federal judges in two cases that prevent the rule from taking effect in several states. However, at this time, **no court ruling has prevented the final regulations from taking effect in Wisconsin**. As a result, educational institutions in Wisconsin will need to take steps to ensure that they are complying with the final regulations.

## UPDATING TITLE IX POLICIES

The steps toward compliance include ensuring that your policies and notices related to discrimination on the basis of sex are updated by August 1. Any update to your policies must include careful consideration of options within your policy, including whether to designate certain employees as “confidential employees.” Also, any new Title IX policy will need to make sure that it is consistent with other policies at your institution, including other equal educational opportunity and equal employment opportunity policies. Our law firm has been actively working with our clients to address the new requirements under the final regulations.

## TITLE IX TRAINING REQUIREMENTS

In addition, there are significant annual training requirements under the new law. Such training should also be done by August 1, including for all employees, Title IX Coordinators, investigators, decisionmakers, and informal resolution facilitators. Boardman Clark is currently working in partnership with the Wisconsin Association of School Boards, Inc., to finalize the training required for the final regulations for school district employees. This training will be available in July 2024. Boardman Clark worked with WASB to provide training when the Title IX regulations were changed in August 2020, and we are fortunate to be working with WASB again to continue to offer training to schools.

Boardman Clark attorneys have been actively working to ensure that Wisconsin school districts, technical colleges, and higher educational institutions are provided guidance on Title IX. We recently participated in a regional seminar with other law firms within Illinois and Indiana on Title IX. We have also been giving updates during various presentations throughout Wisconsin. We will continue to provide updates on these final regulations. Please contact a [Boardman Clark School Law attorney](#) with any specific questions on these regulations.

## ***FLSA Salary Level Update***

Under the Fair Labor Standards Act (FLSA), employees generally must be paid overtime at 1.5 times their regular rate of pay for hours worked over 40 in a defined workweek.

There are several exemptions from the overtime rule. With regard to the most common exemptions (the executive, administrative, and professional exemptions), employees must be paid a minimum amount of money, known as the salary level, in order to be exempt from overtime. This salary level requirement is in addition to the requirement that these employees be paid on a “salary basis” and meet certain duties tests depending on the exemption.

## THE FINAL RULE

On April 23, 2024, the U.S. Department of Labor issued a final rule which increases the minimum salary level. Under the new rule, effective July 1, 2024, the minimum salary level would be increased to \$844 per week (\$43,880 annually). Effective January 1, 2025, the minimum salary level would increase to

\$1,126 per week (\$58,552 annually). Currently, employees must be paid a minimum of \$684 per week (\$35,568 annually).

There have been legal challenges to this new rule, however, as of right now there have been no court decisions stopping all or part of this rule from taking effect for employers on July 1, 2024. Absent court action, employers should prepare to adjust their pay practices as if the rule will take effect.

## **WHAT THIS MEANS FOR SCHOOLS**

Importantly, teachers (and educational administrators such as principals so long as they are paid at the level equal to a starting teacher in the district) are not subject to the salary level test so this new rule will have no effect on those positions. However, it could have an effect on other employees in the district who are currently treated as exempt employees.

If you have any questions regarding this salary level rule or exempt employees generally, please feel free to reach out to a [Boardman Clark School Law attorney](#).

## ***Summer is a Good Time to Review Policies, Handbooks, and Employment Documents***

Administrators should review their school handbooks to ensure they align with current board policies. This is especially important if a board adopted new policies throughout the year but did not update its handbooks at the same time. The summer also provides an opportunity to review contracts and other employment documents for consistency with board policies and employee handbooks.

Consistency between these various documents is key to successfully navigating legal issues involving these documents. While it might not be practical to revise certain contracts at this time, it's still crucial to carefully review them to identify a plan for resolving any inconsistencies.

## ***Boardman Clark Updates***

### **EILEEN BROWNLEE RETIREMENT**

Eileen Brownlee retired from Boardman Clark effective May 31, 2024. Eileen has had a distinguished 40-plus-year career representing school districts,

cities, villages, and other governmental entities throughout the state of Wisconsin. Her reputation as an incredibly sharp, practical, and no-nonsense attorney has earned the deep respect of her clients, colleagues, and attorneys across the state. Her wisdom and humor will be missed. We wish Eileen all the best as she can now spend time rooting on her favorite soccer teams, traveling, or just hiking on her property.

## **MIKE JULKA EARNS WASDA AWARD**

Mike Julka, who retired from Boardman Clark earlier this year, received the Wisconsin Association of School District Administrators (WASDA) Award of Special Recognition for Service to Wisconsin at its 2024 WASDA Annual Education Conference. This award is presented annually to an individual who is deemed to have made an outstanding contribution toward promoting the cause of the status of public education in Wisconsin. Congratulations Mike.

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