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We will begin shortly.

**2020 Regulations**



# Back to Campus - Back to Title IX: Confronting the Challenges of the 2020 Regulations



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Q&A

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Q&A

**Welcome to Q&A**

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RALPH: What is the current legal position on marijuana in the workplace?

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**Date:** September 21, 2021

**Time:** 3:00 p.m. Eastern Daylight Time

**Duration:** 1 hour, 15 minutes



### Event Resources

Presentation Slides & Certificate of Attendance

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M O D E R A T O R

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# Overview

## Back to Campus - Back to Title IX: Confronting the Challenges of the 2020 Regulations

- Title IX - Recent Changes
- Title IX Final Rule Effective Date
- Formal Complaint Signed by Title IX Coordinator
- Amending Notice of Allegations
- Access to Directly Related Evidence
- Changes Regarding “Statements” Not Subject to Cross-Examination
- Practical Tips for Conducting (Remote) Hearings

# Panelists



**DEREK ISHIKAWA**

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**KATHRYN M. NASH**

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**KATE NASH**

Missouri - Eastern  
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# Lots of Recent Changes



**Kate Nash**  
Shareholder  
Tueth Keeney Cooper Mohan &  
Jackstadt, PC  
Missouri - Eastern

- May 2021 U.S. Department of Education Announces Virtual Public Hearing on Title IX
- June 2021 Virtual Public Hearings on Title IX
- July 2021 Department of Education Issues a Questions and Answers Resource and Related Appendix on the Title IX Regulations on Sexual Harassment
- August 2021 Department of Education Issues Letter Regarding Court Ruling Vacating Title IX Regulation Restricting Postsecondary Schools' Use of Statements by Parties and Witnesses



# Title IX Final Rule Effective Date



**Derek Ishikawa**  
Attorney  
Hirschfeld Kraemer LLP  
California

- Two Options
  - Procedures in Place at Time When Allegations Arise
  - Procedures in Place at Time of Alleged Conduct
- Considerations for Either Approach
  - Legal
  - Practical

# Formal Complaint Signed by Title IX Coordinator



**Kathryn M. Nash**  
Partner  
Lathrop GPM LLP  
Minnesota

- Permitted/Required by regulations
- Circumstances that might trigger
  - Complainant is not participating or attempting to participate in program or activity
  - Complainant is unwilling but significant concerns about safety of community

# Process Options: Title IX/VAWA v. Student Conduct



**Derek Ishikawa**  
Attorney  
Hirschfeld Kraemer LLP  
California

- Mandatory Dismissal Considerations
- Mandatory v. Permissive Use of Formal Title IX Process v. Student Conduct Process

# Amending Notice of Allegations



**Kathryn M. Nash**  
Partner  
Lathrop GPM LLP  
Minnesota

- Required by regulations
- Sufficient details
- Sufficient time for party to prepare



# Access to Directly Related Evidence



**Kathryn M. Nash**  
Partner  
Lathrop GPM LLP  
Minnesota

- Required by regulations
- Prior to completion of investigation report
- Provide party and party's advisor with hard copy or electronic format
- Include all directly related
- Exclude if not directly related, privileged information (unless waiver), treatment records (unless written consent)

# Changes Regarding “Statements” Not Subject to Cross-Examination



**Kate Nash**  
Shareholder  
Tueth Keeney Cooper Mohan &  
Jackstadt, PC  
Missouri - Eastern

- Regulations prohibit determinations that rely on “statements” not subject to cross-examination
- Massachusetts federal case invalidated this provision
- Department of Education issued guidance – will cease enforcement of provision
- Practical implications?

# Practical Tips for Conducting (Remote) Hearings



**Derek Ishikawa**  
Attorney  
Hirschfeld Kraemer LLP  
California

- Tips
- Technical/Process Considerations

# Questions?





# Thank You!

## MODERATOR



**Susan Deniker**  
Member  
Steptoe & Johnson PLLC  
West Virginia



**Derek Ishikawa**  
Attorney  
Hirschfeld Kraemer LLP  
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**Kathryn M. Nash**  
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### Speakers

*Moderator*



**Susan Llewellyn Deniker**  
Chair, Labor & Employment  
Department

*Presenter*



**Derek Ishikawa**  
Attorney  
Hirschfeld Kroemer

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September 29, 2021



**Challenges and  
Key Measures for  
Consideration:**



**Redundancy in  
the Nordics**



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