

College and University Auditors of Virginia

Legal Topics in Higher Education and the Commonwealth

May 20, 2024



OLD DOMINION
UNIVERSITY

Top Five Issues

- Borrower Defense To Repayment
- Research Compliance
- FLSA
- NIL
- Title IX



Borrower Defense To Repayment (BDR)

- Legal grounds available for full discharge of students' federal Direct Loans or Parent PLUS loans
- Requires the filing of an application which makes allegations that the IHE engaged in certain misconduct or misrepresentation related to the making of a federal loan or the educational services it provided
 - Most borrowers file a BDR claim because they believe that their school misled them about something that was central to their decision to enroll
- Due to an injunction, the current 2023 BDR regulations cannot be applied to the claims.



Research

- NSPM-33
 - Protections for federally supported R&D
 - Disclosure requirements
 - Conflicts of Interest and Conflicts of Commitment
- National Defense Authorization Act
- CHIPS and Science Act
 - Federal Funding Agency Policies
 - Malign Foreign Talent Recruitment Programs



FLSA

- Revised Federal Regulation
 - Effective July 1, 2024
- Updates minimum salary threshold to at least \$844/ week (\$43,888 annually), increasing to \$1,128 (\$58,656) on January 1, 2025
- For highly compensated employees, the salary threshold will change from \$107,432 to \$132,964, increasing to \$151,164 on January 1, 2025.



NIL

- Virginia Code § 23.1-408.1

Passed in 2022. Allows student-athletes to earn compensation for use of name image and likeness. Also prohibits punishment of student-athletes for receiving that compensation.

- HB 1505 (2024)

Prohibits NCAA and conference enforcement “against an institution, its supporting foundations, or an entity acting on its behalf, for activity permitted” by the statute.

“An institution may provide assets, resources, or benefits as an incentive to individuals, companies, or other entities to provide money, benefits, opportunities, or services to an outside entity that supports name, image, or likeness opportunities for the institution's student-athletes.”



Title IX

- New rule becomes effective August 1, 2024
- Changes to:
 - Definitions
 - Training & Reporting Requirements
 - Jurisdiction
 - Grievance Process

