



TUETH KEENEY
COOPER MOHAN JACKSTADT P.C.

HIGHER EDUCATION LAW SEMINAR

JUNE 9, 2022
HOSTED BY STEPHENS COLLEGE

JUNE 10, 2022
**HOSTED BY SAINT LOUIS
COMMUNITY COLLEGE**

DIFFERENT
BY DESIGN™

34 N. Meramec, Suite 600
St. Louis, MO 63105
Telephone: 314.880.3600
Fax: 314.880.3601

101 W Vandalia St #210
Edwardsville, IL 62025
Telephone: 618.692.4120
Fax: 618.692.4122



WELCOME

Welcome to the 2022 Tueth Keeney Higher Education seminar! Higher Education law is complex and constantly changing. We are pleased to provide these seminars as part of our ongoing commitment to providing cutting-edge training to our clients and friends, free of charge.

SPECIAL THANKS TO STEPHENS COLLEGE AND ST. LOUIS COMMUNITY COLLEGE

The Firm would like to express its sincere gratitude to Stephens College and to St. Louis Community College for graciously hosting our Higher Education Law Seminars.

ABOUT OUR FIRM

Tueth Keeney Cooper Mohan & Jackstadt, P.C. is a leader in representing colleges, universities, community colleges, and other educational institutions throughout Missouri and Illinois. Our Firm has offices in St. Louis, Missouri and Edwardsville, Illinois, and serves the legal needs of numerous public and private colleges, universities, and community colleges throughout Missouri and Illinois.

Because Tueth Keeney regularly represents more than twenty public and private colleges, universities, and community colleges, and more than 150 public school districts, we are able to provide our clients with the most up-to-date legal advice in an efficient and supportive manner. Our attorneys have extensive experience in effectively representing our Higher Education clients in complex litigation in state and federal court throughout our region. Our attorneys are not only advocates, but also counselors and advisors. We also regularly conduct internal investigations of sensitive and problematic workplace matters, and work diligently with our clients to prevent disputes and minimize risk before the disputes become lawsuits.

Our attorneys are leaders in their profession and have established reputations for excellence in a variety of areas of law, including higher



education law, employment law and litigation, immigration law, labor negotiation and collective bargaining, commercial litigation, and real estate. Tueth Keeney attorneys are recognized as experts in their field and are frequently asked to speak to educators and lawyers at national conferences. Our attorneys are active members of the National Association of College and University Attorneys and frequently write and lecture on a wide range of topics impacting the higher education community.



2022 HIGHER EDUCATION LAW SEMINAR PROGRAM SCHEDULE

11:30 a.m. to 12:30 p.m.

How to Comply with Ethical Rules in Investigations
John Reynolds and Adam Henningsen

12:30 p.m.

Registration

1:00 p.m. to 1:10 p.m.

Welcome and Introduction

1:10 p.m. to 1:45 p.m.

I-9 Compliance and Immigration Hot Topics
Melanie Keeney

1:45 p.m. to 2:30 p.m.

Religious Accommodations:
Lessons Learned and Looking Forward
Ian Cooper and Mandi Moutray

2:30 p.m. to 2:40 p.m.

Refreshment Break

2:40 p.m. to 3:25 p.m.

Addressing Faculty Misconduct:
Faculty Rights v. Student Rights
Mollie Mohan and Jenna Lakamp

3:25 p.m. to 4:10 p.m.

Title IX Update: Regulations and Litigation
Veronica Potter and Aigner Carr



4:10 p.m. to 5:00 p.m.

Panel Discussion:

Remote Work in Higher Education

Moderator: Kate Nash



2022 TUETH KEENEY HIGHER EDUCATION SEMINAR

Schedule

- **11:30am:** How to Comply with Ethical Rules in Investigations?
- **1:10pm:** I-9 Compliance and Immigration Hot Topics
- **1:45pm:** Religious Accommodations: Lessons Learned and Looking Forward
- **2:40pm:** Addressing Faculty Misconduct: Faculty Rights v. Student Rights
- **3:25pm:** Title IX Update: regulations and Litigation
- **4:10pm:** Panel: Remote Work in Higher Education





TUETH KEENEY
COOPER MOHAN JACKSTADT P.C.

Ethical Considerations in Investigations

John Reynolds
Adam Henningsen

Date:

June 2022

Agenda

- Investigations
 - Characteristics and Examples
 - The Role of Legal Counsel
- Ethical Considerations
 - Rules
 - Potential Pitfalls
 - Practical Tips

Investigations

PARTIES	TYPICAL EXAMPLES
Individual v. Individual	Discrimination or harassment claim
Institution v. Individual	Sexual assault claim in which the victim declines to participate
Individual v. Institution	Grievance

Investigations

- There are many situations that may necessitate an investigation.
- Examples:
 - EEOC/Discrimination-Related Proceedings
 - Employee Misconduct
 - Faculty Grievance
 - Faculty Misconduct, including Dismissal of Tenured Faculty
 - Student Conduct
 - Title IX – Student Conduct and/or Employee Conduct
- Complexities:
 - Multiple parties
 - Multiple constituencies

Investigations

- For each type of proceeding, counsel may play some role in:
 - Investigating alleged misconduct
 - Preparing factual findings and recommendations for decisionmakers
 - Drafting and revising policies
 - Advising on policy interpretation
 - Addressing overlapping jurisdictions
 - Training investigators, hearing body members, and others
 - Advising individuals and groups at different stages of a multi-step process
 - Advising on non-legal matters, such as public relations

Investigations

Investigation

- HR or
- Legal Counsel

Response Team

- HR Benefits Coordinator
- Legal Counsel Diversity Officer

Policy Team

- HR Benefits Coordinator Provost
- Legal Counsel Diversity Officer Chief of Staff
- Faculty Rep. Staff Rep.



Investigations

- The value of involving legal counsel
 - Number of representatives navigating multiple “steps”
 - Quasi-adversarial nature of processes
 - Significant, varied legal and reputational risks
 - Unclear, obsolete, or inconsistent procedures
 - Confidentiality and privilege issues

Investigations

- Internal processes frequently involve a variety of “steps” prior to the moment of final decision-making.
 - At each step, everyone participating in the process – whether as investigators, hearing officers, “recommenders,” or decision-makers – must understand:
 - their roles;
 - the applicable policies and procedures;
 - confidentiality and privilege constraints;
 - appropriate deference due to prior internal determinations;
 - burdens of production and proof; and
 - the legal parameters applicable to the decision in question.
 - Legal counsel may be one of the few institutional representatives with sufficient knowledge and ability to instruct and assist participants at all steps in the process.

Investigations

- Quasi-adversarial nature of processes
 - A unique characteristic of most campus internal processes is that, at certain points in the process, they turn quasi-adversarial, with colleagues or stakeholders opposing other colleagues or stakeholders.
 - All involved share the goal of arriving at the most informed and reasonable decision possible, while affording substantial due process rights to the parties involved.
 - Legal counsel may be the best equipped to achieve these goals.

Investigations

- Significant, varied legal and reputational risks
 - Every participant in an internal process needs at least some understanding of the potential legal – related reputational – risks.
 - Depending upon the proceeding at issue, legal risks may include:
 - claims of contract breach;
 - discrimination, harassment, and retaliation claims; and
 - litigation.
 - Government investigation, audit, and consequent risks to federal financial aid and research funding may also follow internal processes (or even run parallel to internal processes)

Investigations

- One of the most critical functions that counsel serves during internal processes is to provide guidance in applying the institution's policies and procedures.
- While courts often defer to institutional decision-makers on academic determinations, deference may not be afforded where an institution deviates materially from its own procedures.

Investigations

- Challenges include:
 - Unclear. Many institutional procedures lack sufficient detail and clarity.
 - Obsolete. Many institutional procedures are outdated and/or infrequently utilized.
 - Inconsistent and Difficult to Change. Some institutions maintain a series of handbooks or policies (and, rather than amending old ones, keep adding new ones) because of the difficulties involved in revising any single policy or procedure.

Investigations

- Confidentiality and privilege issues
 - Legal counsel must often fulfill the role of educating – and reassuring – participants at the outset of internal proceedings.
 - Directly addressing confidentiality and privilege at the outset can be extremely valuable in averting risk to the institution and the parties involved.
 - Counsel's outreach may be a critical or even decisive early intervention to assist worried participants in understanding their roles and feeling comfortable with the process.

Ethical Considerations

- Finding all the Rules that Apply
 - Substantive
 - Procedural
 - Ethical
- Common Issues
 - Attorney-Client Privilege
 - Neutrality
 - Counsel wearing “multiple hats” during processes

Ethical Considerations

- General Rules Regarding Representation of Multiple Constituencies
 - A fundamental ethical principle is that an attorney may not provide counsel to clients or entities in conflict with each other.
 - The question therefore arises whether counsel may provide advice to any or all of the participants in the investigation.
 - The companion question is the level and nature of advice that may be provided.

Ethical Considerations

- The threshold questions for ethical purposes are:
 - who is the client?
 - who speaks for the client?
 - when can I consult with or represent those other than the senior leaders who (usually) represent the client (in all but unusual circumstances)?

Ethical Considerations

- Model Rule 1.13 of the ABA Model Rules of Professional Conduct (Organization as Client):
 - (a) A lawyer employed or retained by an organization represents the organization acting through its duly authorized constituents.
- Missouri and Illinois rules mirror the model rule
 - Missouri Rules of Professional Conduct – Rule 4-1.13
 - Illinois Rules of Professional Conduct – Rule 1.13

Ethical Considerations

- Illinois Rules of Professional Conduct – 1.13 (Organization as client)
 - Comment 10 - Clarifying the Lawyer's Role
 - There are times when the organization's interest may be or become adverse to those of one or more of its constituents. In such circumstances the lawyer should advise any constituent, whose interest the lawyer finds adverse to that of the organization of the conflict or potential conflict of interest, that the lawyer cannot represent such constituent, and that such person may wish to obtain independent representation. Care must be taken to assure that the individual understands that, when there is such adversity of interest, the lawyer for the organization cannot provide legal representation for that constituent individual, and that discussions between the lawyer for the organization and the individual may not be privileged.
 - Whether such a warning should be given by the lawyer for the organization to any constituent individual may turn on the facts of each case.

Ethical Considerations

- When an attorney (in-house or outside counsel) represents an institution, it is or should be clear that:
 - The attorney works for the institution, which is his or her client.
 - The attorney does not (and cannot) represent any of the officers, directors, or employees of the institution as individuals with respect to their corporate activities [unless there is a complete unity of interest and all clients consent]

Ethical Considerations

- An attorney may not represent clients with “concurrent” conflicts of interest
- Model Rule 1.7 of the ABA Model Rules of Professional Conduct (Conflict of Interest: Current Clients):
 - (a) Except as provided in paragraph (b), a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if:
 - (1) the representation of one client will be directly adverse to another client; or
 - (2) there is a significant risk that the representation of one or more clients will be materially limited by the lawyer’s responsibilities to another client, a former client, or a third person or by a personal interest of the lawyer.

Ethical Considerations

- Conflicts of interest
 - Missouri and Illinois rules mirror the model rule
 - Missouri Rules of Professional Conduct – Rule 4-1.7
 - Illinois Rules of Professional Conduct – Rule 1.7

Ethical Considerations

- Attorneys are bound to maintain privileged information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation, or exigent circumstances are present.
- Model Rule 1.13 of the ABA Model Rules of Professional Conduct:
 - [2] When one of the constituents of an organizational client communicates with the organization's lawyer in that person's organizational capacity, the communication is protected by Rule 1.6. Thus, by way of example, if an organizational client requests its lawyer to investigate allegations of wrongdoing, interviews made in the course of that investigation between the lawyer and the client's employees or other constituents are covered by Rule 1.6. This does not mean, however, that constituents of an organizational client are the clients of the lawyer. The lawyer may not disclose to such constituents information relating to the representation except for disclosures explicitly or impliedly authorized by the organizational client in order to carry out the representation or as otherwise permitted by Rule 1.6.



Ethical Considerations

- Counsel must be vigilant in continually assessing, and communicating clearly, about who constitutes the client, what information counsel can share with committees or leadership without violating privilege constraints, and whether actual conflicts are arising.
- Even when counsel speaks with senior leadership, counsel must be careful to clarify that the institution, not the individual, constitutes “the client.”

Ethical Considerations

- *Upjohn Co. v. United States*, 449 U.S. 383, 395-402, 101 S. Ct. 677 (1981)
 - United States Supreme Court held that, where communications between attorneys and lower-level employees occur (i) at the direction of superiors (ii) for the purpose of obtaining legal advice and advancing the interests of the corporate entity, the privilege protects those communications.
 - “Upjohn warning” - counsel informs individual at the outset of a privileged communication that it is the institution, not the individual, whom the attorney represents.

Ethical Considerations

- Individuals within the same organization who are fulfilling different roles within shared governance are all serving the interests of the institution within the scope of their employment.
- They may therefore share privileged information and consult with counsel without waiving privilege or raising conflict concerns for counsel.
- However, if counsel has been involved in earlier steps or decisions leading up to an internal process, counsel may face challenges about maintaining appropriate confidentiality.
 - In this situation, it may be prudent to obtain separate counsel.

Ethical Considerations

- Another consideration is the possibility of a “prior work conflict” if there is subsequent litigation about the internal proceeding.
- Model Rule 1.7 of the ABA Model Rules of Professional Conduct
 - a concurrent conflict of interest exists if “there is a significant risk that the representation of one or more clients will be materially limited by . . . a personal interest of the lawyer.

Ethical Considerations

- If an attorney has been advising the institution in an internal proceeding and subsequently the attorney's work or advice on the internal proceeding is questioned, the attorney may have an undue personal interest in defending his or her work.
 - This should not necessarily prevent an attorney from becoming involved in an internal proceeding.
 - But it is important for counsel to be mindful as to when assignment of another attorney might be in the client's best interests.

Ethical Considerations

- Hypothetical:
 - The University retains outside counsel to train investigators and also to advise the hearing panel during the proceedings.
 - The University then retains the same law firm, but a different lawyer, to handle the subsequent litigation.

Ethical Considerations

- Issues may also arise for counsel involved in internal proceedings with regard to the maintenance and sharing of appropriate confidential information.
 - Model Rule 1.6(a) prohibits counsel from sharing certain institutional information without the client's informed consent.
- Counsel may address this issue by reminding all parties involved that the lawyer represents the institution and will share information with the client as appropriate.
- But concerns about maintaining confidentiality and privilege – and about not being able to predict how such issues will play out– are often what motivates institutions to assign outside counsel.

Ethical Considerations

- Ancillary issue - privilege for outside counsel / consultants
 - Primary question: why is the consultant being retained?

Litigation or Administrative Proceedings	Attorney client privilege; work product doctrine	<ul style="list-style-type: none">• PR Consultants• Experts• Investigators
Legally-related Investigations (matters that <u>may</u> turn into litigation or administrative proceedings)	Attorney client privilege	<ul style="list-style-type: none">• HR• NCAA• Academic or research misconduct
Compliance Operations Consultants	Attorney client privilege may apply to some aspects	<ul style="list-style-type: none">• Establishing operations• Assessing operations
Business Operations Consultants	No attorney client privilege; business advice.	<ul style="list-style-type: none">• Evaluating new ideas/programs• Assessing purely business operations• Revenue generation



Ethical Considerations

- Ancillary issue - privilege for outside counsel / consultants
 - Secondary question: how can the office of general counsel (OGC) maximize protection?

**Consultants Helping with
Litigation or Administrative
Proceedings**

OGC retains directly and manages relationship.

Legally-related Investigations

OGC retains directly and manages relationship.

OR

OGC delegates by policy but retains oversight role.

**Compliance Operations
Consultants**

OGC retains directly and manages relationship.

OR

OGC delegates by policy but retains oversight role.

**Business Operations
Consultants**

No role for OGC.



Ethical Considerations

- Counsel also need to avoid involvement in aspects of the internal process that may result in his or her becoming a witness
- Model Rule 3.7 of the ABA Model Rules of Professional Conduct
- The risks of crossing this line may be particularly significant where the involvement of counsel as a true decision-maker or as a participant in “making facts,” rather than offering advice, may result in the institution’s losing the benefit of counsel’s involvement and risking a waiver of privilege.
 - These concerns may also lead institutions to assign outside counsel

Ethical Considerations

- Bias issues
 - When university counsel become involved in internal processes, they may become vulnerable to “bias” allegations
 - This is particularly the case if counsel becomes involved in multiple levels of the process.
- Strategy to address these concerns:
 - Analyze at the outset whether the situation lends itself to “bias” allegations;
 - Provide clear instructions about the scope of the lawyer’s involvement; and
 - Conduct ongoing monitoring of the lawyer’s involvement to check that he or she is not, in fact, placing or perceived as placing undue pressure upon the decision-maker.

Practical Tips

- Ensure your institution has comprehensive policies and procedures
- Conduct annual training on investigation policies and procedures
- Start investigations immediately
- Combat actual and apparent bias
- Communicate role of legal counsel at the outset
- Identify and address potential conflict and privilege issues as soon as possible
- Choose decision-makers with care

Practical Tips

- Create a clear process/script for those involved in an investigation process when faced with complaints of discrimination.
 - Advise all involved that retaliation is prohibited against the complainant, any witnesses, and/or anyone opposing discrimination.
 - Advise individuals on process for reporting retaliation and/or where they can go internally to obtain guidance and counsel if concerns arise about possible retaliation.
 - Advise the alleged perpetrator that retaliation is strictly prohibited and should further discrimination and/or retaliation claims be substantiated, they will face discipline up to and including possible termination.
- Document that this all occurred – consider getting those involved to sign an acknowledgment form that they were counseled accordingly.



QUESTIONS?



TUETH KEENEY
COOPER MOHAN JACKSTADT P.C.

DIFFERENT
BY DESIGN



TUETH KEENEY
COOPER MOHAN JACKSTADT P.C.

John Reynolds
jreynolds@tuethkeeney.com

Adam Henningsen
ahenningsen@tuethkeeney.com

Follow us on Twitter
 **[@tuethkeeney](https://twitter.com/tuethkeeney)**

Tueth, Keeney, Cooper, Mohan & Jackstadt, P.C.
Main: 314-880-3600 Fax: 314-880-3601
www.tuethkeeney.com



TUETH KEENEY
COOPER MOHAN JACKSTADT P.C.

Immigration Hot Topics & I-9 Compliance

Presented by:
Melanie Gurley Keeney

Date:
June 2022

DIFFERENT
BY DESIGN

Agenda

- **What's up with USCIS Backlogs?**
- **USCIS Premium Processing Initiatives**
- **Labor Crunch - New Sources of Workers?**
- **Ukrainian and Afghan Refugee Update**
- **I-9 Compliance Update – COVID Flexibility**

USCIS Backlogs- Impact on College Employees

- Impact of Backlogs on Employees
 - Continued Work Eligibility
 - Dependent Family Member Status
 - Driver's license Issues
 - Travel Complications
- H-1B Processing
- Employment Authorization Documents (EADs)

USCIS Premium Processing Initiatives

Underlying Benefit Requested	PP is New or Existing	USCIS Form Associated with the Benefit	PP Processing Fee (in addition to filing fee)	PP Processing Time Guarantee (Calendar Days)	DHS PP Availability Estimate
Application to change nonimmigrant status to F-1, F-2, J-1, J-2, M-1, M-2	New	I-539	\$1,750	30 days	Not yet available. Availability anticipated sometime "in FY 2022"
Application to change status to or extend stay as a dependent of an E, H, L, O, P, or R principal nonimmigrant	New	I-539	\$1,750	30 days	Not yet available. Availability anticipated "by FY 2025"
Application for employment authorization document (EAD) for F-1 optional practical training or J-2 work authorization	New	I-765	\$1,500	30 days	Not yet available. Availability anticipated sometime "in FY 2022"
Application for employment authorization document (EAD) for other types of employment authorizations	New	I-765	\$1,500	30 days	Not yet available. Availability anticipated "by FY 2025"

USCIS Processing Initiatives

- Green Card Processing – Why is it taking so long?
 - Service Center transfer to National Benefits Center
 - Field office processing
 - Interviews?

New Source of Workers?

- L-2 / E-2
 - E and L nonimmigrant spouses are now employment authorized “incident” to their status.
 - New Class of Admission codes: E-1S, E-2S, E-3S, and L-2S.
 - Form I-94 indicating one of these codes is now evidence of employment authorization for Form I-9.

New Policy on EAD Extensions

- On May 4, 2022, USCIS published a Temporary Rule
- Increases the automatic extension period for EAD extension applications for certain applicants from 180 days to 540 days!
- Some EAD Extensions that are included:
 - Adjustment of Status applicants
 - H-4 EADs
 - L-2S, E-1S, E-2S, E-3S EADs
 - TPS, Refugees, Asylees

DACA Update

- DACA – Deferred Action for Childhood Arrivals
 - Deferred action for a period of two years, subject to renewal.
 - Came to the U.S. as a child and meet several other criteria.
 - Eligible to apply for employment authorization.

Ukrainian Update

- TPS
 - Designated for 18 months from April 19, 2022 to October 19, 2023.
 - Continuous residence in U.S. since April 11, 2022 and continuous physical presence in U.S. since April 19, 2022.
 - Dates seem weird!
 - Eligible to apply for employment authorization.

Ukrainian Update

- “Uniting for Ukraine” - Pathway for Ukrainians outside the U.S. for two-year period of parole.
 - Applicable to Ukrainians displaced as a result of the Russian invasion.
 - Must have financial supporter in the U.S.
 - Eligible to apply for employment authorization.

Afghan Update

- TPS
 - Designated for 18 months from May 20, 2022 to November 20, 2023.
 - Continuous residence in U.S. since March 15, 2022 and continuous physical presence in U.S. since May 20, 2022.
 - Eligible to apply for employment authorization.

I-9 Compliance Update

- ▶ What's new with I-9s?
- ▶ COVID Flexibility
- ▶ How do you document these new automatic extensions and other types of extensions?
- ▶ Best Practices to avoid fines

I-9 Compliance - Handbook

- ▶ <https://www.uscis.gov/i-9-central/form-i-9-resources/handbook-for-employers-m-274>

Home > I-9 Central > Form I-9 Resources > Handbook for Employers M-274

Handbook for Employers M-274

Print Manual

Table of Contents

Guidance for Completing Form I-9 (Employment Eligibility Verification Form) | Current as of April 2020

[How to Download Our Manuals in PDF \(PDF\)](#)

I-9 Compliance

The employer must **COMPLETE** the I-9 process within three (3) business days after the employee starts working.

- ▶ **Note: Employee must complete Section 1 no later than the first day that the employee starts working.**

I-9 Compliance

- ▶ Employer must maintain Form I-9 for:
 - ▶ 3 years after the date of hire, or
 - ▶ 1 year after the date employment ends –
 - ▶ **WHICHEVER IS LATER!!!**
- ▶ Do you keep copies of documents provided?

I-9 Compliance

- ▶ Should you review the information that the employee filled out in Section 1?
- ▶ What are key areas where the employee may make a mistake?
 - ▶ Attestation Section regarding noncitizens
 - ▶ Signature/ Date
 - ▶ Preparer and/or Translator Certification

I-9 Compliance

What documents are acceptable for Section 2?

- ▶ **EITHER** List A document **OR**
- ▶ List B document **AND** List C document
- ▶ Common errors
- ▶ Can you specify which documents the employee must present as part of the I-9 process? **No.**
- ▶ Section 3 – Reverification

I-9 Compliance

- **Extension of I-9 flexibility to October 31, 2022**
 - The requirement that employers inspect employees' Form I-9 documentation in-person applies only to those employees who physically report to work at a company location on any regular, consistent, or predictable basis.
 - Employers are encouraged to begin, at their discretion, in-person verification of I-9 documentation for employees who were hired on or after March 20, 2020, and who presented such documents for remote inspection in reliance on the flexibilities first announced in March 2020.
 - The Sooner the Better!

I-9 Compliance

- Can you accept expired documents? **No!**
- DHS is ending the [COVID-19 Temporary Policy for List B Identity Documents](#). **Beginning May 1, 2022**, Employers will no longer be able to accept expired List B documents.
- DHS adopted the temporary policy in response to the difficulties many individuals experienced with renewing documents during the COVID-19 pandemic. Now that document-issuing authorities have reopened and/or provided alternatives to in-person renewals, DHS will end this flexibility. Starting **May 1, 2022**, employers must only accept **unexpired** List B documents.
- If an employee presented an expired List B document between May 1, 2020, and April 30, 2022, employers are required to update their Forms I-9 by **July 31, 2022**.
- <https://www.uscis.gov/i-9-central/covid-19-form-i-9-related-news/temporary-policies-related-to-covid-19> - Chart

I-9 Compliance

- ▶ How to update I-9 when there is an application or petition for an extension pending for H-1B, O-1s, TNs, EADs, etc.?
- ▶ 240 Day rule
- ▶ 180 now 540 Day rule?
- ▶ Portability
- ▶ Other odd issues

I-9 Compliance Update

- ▶ Reminder on I-9 Related Government Processes
 - ▶ I-9 ICE Audits
 - ▶ DOJ Immigrant and Employee Rights Section Investigations

I-9 Compliance Best Practices

- Train your I-9 People and document your training
- Timing is everything!
 - Substantive versus Technical Violations
- Update I-9s where expired documents were accepted during COVID - See Chart for directions
- Remember nondiscrimination provisions of the law and prohibition against retaliation

Questions??



Melanie Gurley Keeney

mkeeney@tuethkeeney.com

TUETH, KEENEY, COOPER, MOHAN & JACKSTADT, P.C.

Main: 314-880-3600 Fax: 314-880-3601

www.tuethkeeney.com



Follow us on Twitter! @tuethkeeney





TUETH KEENEY
COOPER MOHAN JACKSTADT P.C.

RELIGIOUS ACCOMMODATIONS: LESSONS LEARNED AND LOOKING FORWARD

Presented by:
Ian P. Cooper
Mandi D. Moutray

Date:
June 2022

DIFFERENT
BY DESIGN

Agenda

- What is the law as it relates to religious accommodations?
- What have we learned from cases over the past several years?
- What are best practices going forward when dealing with requests for religious accommodations?



Federal law

Title VII of the Civil Rights Act of 1964 – prohibits employers with at least 15 employees from discriminating in employment based on religion.

- This includes refusing to accommodate an employee's sincerely held religious belief or practice unless the accommodation would impose an undue hardship on the employer
- Also prohibits retaliation against an employee who complains of discrimination or participates an EEO investigation

Quick reference:

<https://www.dol.gov/agencies/oasam/civil-rights-center/internal/policies/religious-discrimination-accommodation>

Technical assistance: EEOC-NVTA-0000-20

State law

Missouri Human Rights Act – Chapter 213 R.S. Mo.

- Prohibits discrimination in employment “because of” religion (§ 213.055)
- Prohibits discrimination in places of public accommodation because of religion (§ 213.065)
 - Exempts “a place of public accommodation owned by a or operated on behalf of a religious corporation, association or society . . .”
- Guidance:
 - 8 CSR 60-3.050
<https://labor.mo.gov/mohumanrights/Discrimination/religion>

What is a religion?

Cases interpreting Title VII define "religion" very broadly.

- Includes traditional, organized religions such as Christianity, Judaism, Islam, Hinduism, and Buddhism.
- But also includes religious beliefs that are new, uncommon, not part of a formal church or sect, or only held by a small number of people.

Religion includes "all aspects of religious observance and practice, as well as belief, unless an employer demonstrates that he is unable to reasonably accommodate to an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business." (§2000e(j))



What is a religion?

- Need not be confined in either source or content to traditional or parochial concepts of religion;
- Need not be acceptable, logical, consistent, or comprehensible to others to merit protection;
- Can be religious even if the employee is affiliated with a religious group that does not espouse or recognize that employee's belief, observance, or practice, or if few – or no – other people adhere to it. (29 CFR 1605.1)
- Typically concerns “ultimate ideas” about “life, purpose, and death.”
- MHRA does not define “religion” (§ 213.010)

What do courts say about the meaning of “religion”?

Courts have identified three non-exclusive factors:

- (1) “A religion addresses fundamental and ultimate questions having to do with deep and imponderable matters.”
- (2) “A religion is comprehensive in nature; it consists of a belief-system as opposed to isolated teaching.”
- (3) “A religion often can be recognized by the presence of certain formal and external signs.”

Love v. Reed, 216 F.3d 682, 687 (8th Cir. 2000).

But courts look to the employee’s “own scheme of things” to determine whether the beliefs play the role of a religion . . . In the employee’s life.” *Welsh v. United States*, 398 U.S. 333 (1970)

How far can an employer go?

In considering whether a particular practice or belief of an employee is covered by Title VII, a court may neither determine what the tenets of a particular religion are, nor determine whether a particular practice is or is not required by the tenets of the religion.

Fowler v. Rhode Island, 345 U.S. 67, 70 (1953) (“it is no business of courts to say ... what is a religious practice or activity”)

However, because employers are not required to accommodate purely personal preferences, “the court [is] allowed, at a minimum, to ascertain whether the practice asserted by the plaintiff is purely personal, or does indeed have some connection with the plaintiff's religion.”

May an employer assess the employee's credibility regarding sincerity of beliefs?

EEOC guidance states that assessing an individual's sincerity in espousing a religious belief is "largely a matter of individual credibility."

Factors relevant to evaluating sincerity may include:

- (1) Whether the employee has behaved in a manner inconsistent with the belief;
- (2) Whether the accommodation sought is a particularly desirable benefit that is likely being sought for secular reasons;
- (3) Whether the timing is suspect; and
- (4) Other information that calls the sincerity into question.

What is discrimination?

- “Coercion” – explicit or implicit efforts to abandon, alter, or adopt a religious practice as a condition of receiving a job benefit or avoiding an adverse employment action
- Creating a hostile work environment (must be severe or pervasive and alter the conditions of employment)
- Failing to accommodate an employee’s needs based on sincerely held religious beliefs

Typical Requests for Religious Accommodations

- Clothing
 - The Equal Employment Opportunity Commission has developed a technical assistance document to assist: “Religious Garb and Grooming in the Workplace: Rights and Responsibilities”
- Grooming
- Food/meals
- Scheduling (holidays, weekends, prayer during the day)
- Assignments (curriculum)
- COVID (exemptions from vaccination and mask requirements)

What triggers the obligation to accommodate?

Is an explicit request necessary?

- An employee bears responsibility for effectively communicating the need for a religious accommodation and working with the employer toward a mutual compromise. *Chrysler Corp. v. Mann*, 561 F.2d 1282, 1285 (8th Cir. 1977)
- But . . .when an employer either knows or reasonably should know that a communication is a request for an accommodation the employer has a duty to engage in the interactive process. *Kowitz v. Trinity Health*, 839 F.3d 742 (8th Cir. 2016) (disability discrimination context).
- No “magic words” necessary to effectuate request for accommodation.

How can an employer determine what accommodation an employee is seeking?

“A person’s religion is not like his sex or race – something obvious at a glance” and “employers are not charged with detailed knowledge of the beliefs and observances associated with particular sects.” *Reed v. Great Lakes Companies, Inc.*, 33 F.3d 931, 935-936 (7th Cir. 2003)

An employer may request additional information to support assertion of sincerely held religious belief.

- However, the information need not take any specific form
- Third-party verification is **not necessary**.

Bushouse v. Local Union 2209, 164 F. Supp. 2d 1066 (N.D. Ind. 2001)

What questions may an employer ask?

An employee cannot “shift all responsibility for accommodation to his employer.” *Chrysler v. Mann, supra.*

Thus, an employee cannot display an “active interest in observing the practices of his religion and a disinterest in explaining his religious needs” to his employer. *Id.*

Employee must engage in an interactive process and work with his or her employer to determine whether a request for an accommodation is reasonable or causes an undue hardship.

What is “undue hardship”?

Employers may demonstrate undue hardship two ways:

(1) The request creates “more than a de minimis cost to the employer;” or

(2) The request “would cause more than a de minimis imposition on coworkers.”

Bethea v. Access Bank, 2018 WL 3009114, *9 (D. Neb. 2018)

What are the limits of employers' obligations to accommodate under state law?

- Missouri employers have “an obligation to make reasonable accommodations to the religious needs of employees. . .where these accommodations can be made without undue hardships on the conduct of the employer’s business.” 8 C.S.R. § 60-30.050.
- The accommodation of religious beliefs requires employers to find and utilize alternatives which
 - (1) do not compromise the employment entitlements of others, and
 - (2) do not require the employer to incur more than *de minimis* costs.

Diallo v. Catalent Pharma Sols., LLC, No. 19-00392-CV-W-ODS, 2020 WL 3105095, at *5 (W.D. Mo. June 11, 2020)

Recent cases on “undue hardship”

***Obregon v. Capital Quarries Company, Inc.*, 833 Fed. Appx. 447 (8th Cir. 2021)**

- Request for time off on Saturdays for religious worship created an undue hardship – busiest season of the year, costs to employer were more than “de minimis”
- Paying overtime or abandoning seniority system is more than “de minimis”
- Accommodations requiring hiring new workers create undue hardship

Recent cases on “undue hardship” (cont’d)

***Groff v. DeJoy*, ____ 4th ____, 2022 WL 1654753 (3rd Cir. 2022):**

- Court analyzed whether an employer must, in practice, eliminate the conflict between a religious belief and job duty in order to provide a “reasonable accommodation” to the employee.
- Court held that test of whether an accommodation is reasonable is whether it eliminates the conflict between the employee’s religious belief and the job requirement.
- Once such a reasonable (i.e., effective) accommodation is identified, then the employer may determine whether the accommodation is “unreasonable” because it creates an undue burden – here, a request for an accommodation not to work on Sundays was unreasonable (applied “more than de minimis cost” analysis).

The new(ish) frontier: Vaccines and masks

Numerous challenges to vaccine and mask mandates

When is the denial of an exemption request the denial of a request for a reasonable religious accommodation?

What should you consider? Public health?

- Impact on other employees and students of requests for accommodation (intersection of religion and health concerns/medicine and science)?
- Impact of exemptions on members of the public?

Potential liability for not having uniform mask or vaccine requirements?

Vaccine and mask cases (cont'd)

***Roth v. Austin*, 2022 WL 1568830 (D. Neb. 2022)**

- 36 active-duty Air Force personnel brought action under the Religious Freedom Restoration Act (RFRA) and Section 1983 (free exercise claim under the First Amendment)
- Government did not challenge claim that vaccine requirement “substantially burdened” employees’ religious exercise.
- Decision turned on likelihood of success on merits regarding (1) compelling state interest in the vaccine mandate, and (2) least restrictive means analysis.
- Court held that government met its burden to show both.

Vaccine and mask cases (cont'd)

***Reese v. Tyson Foods, Inc.*, 2021 WL 5625411 (W. D. Mo. 2021):**

- Plaintiff was an employee of Tyson Foods who claimed that the company's vaccine requirement violated his religious beliefs.
- Tyson offered Plaintiff an accommodation of an unpaid leave of absence.
- Plaintiff rejected the offer and filed suit.
- The Court rejected the Plaintiff's request for a TRO
 - Lost wages are not irreparable harm (numerous Covid cases cited)
 - Balance of harms supported employer
 - Public interest warranted finding in favor of employer and vaccine policy

Vaccine and mask cases (cont'd)

***Geerlings v. Tredyffrin/Eastown Sch. Dist.*, 2021 WL 4399672 (E. D. Penn. 2021):**

- Plaintiffs sought exemption from mask requirement, but court rejected argument:
 - Compared the plaintiffs desire to not cover their faces to practices like communion and Passover
 - Looked at the teaching in the plaintiffs' faith community as to whether it was part of a comprehensive belief-system
 - Examined whether the mask rejection was exhibited in formal and external signs in the religion
 - Considered whether the belief predated the pandemic
 - Determined the belief was personal and not religious

Best practices in handling accommodation requests

- Think through what legal frameworks could potentially apply to the request (MHRA, Title VII, First Amendment, RFRA, etc.).
- Create a comprehensive process – and document each step the process of considering requests for religious accommodation.
- Who decides? Have a range of expertise and input in decisions regarding accommodations and exemption requests (legal, HR, faculty, student).
- Fully and regularly train all decision-makers about the process and appropriate considerations.

Best practices in handling accommodation requests (cont'd)

- Require a highly individualized analysis of each employee's accommodation request.
- Conduct a fully **interactive process** with each employee in a good faith effort to give reasonable accommodations that do not create undue hardship.
- Process each request individually but consistently with other requests (regarding the type of information requested, deadlines for supplying information, and other aspects of the process)
- Avoid knee jerk conclusions or stereotyping based on preconceived ideas about what a "religion" is or what is "religious."
- Ensure consistency in both process and results and support by data

The Flying Spaghetti Monster

- The Flying Spaghetti Monster (FSM) is the deity of the Church of the Flying Spaghetti Monster, or Pastafarianism. Pastafarianism is a social movement that promotes a light-hearted view of religion and opposes the teaching of intelligent design and creationism in public schools.



The Flying Spaghetti Monster



QUESTIONS??



Ian P. Cooper
Mandi D. Moutray
icooper@tuethkeeney.com
mmoutray@tuethkeeney.com

TUETH, KEENEY, COOPER, MOHAN & JACKSTADT, P.C.

Main: 314-880-3600 Fax: 314-880-3601
www.tuethkeeney.com



Follow us on Twitter! @tuethkeeney



TAKE
a break

2022 TUETH KEENEY HIGHER EDUCATION SEMINAR



TUETH KEENEY
COOPER MOHAN JACKSTADT P.C.

ADDRESSING FACULTY MISCONDUCT: FACULTY RIGHTS V. STUDENT RIGHTS

Presented by:

Mollie G. Mohan
Jenna M. Lakamp

Date:

June 2022

DIFFERENT
BY DESIGN

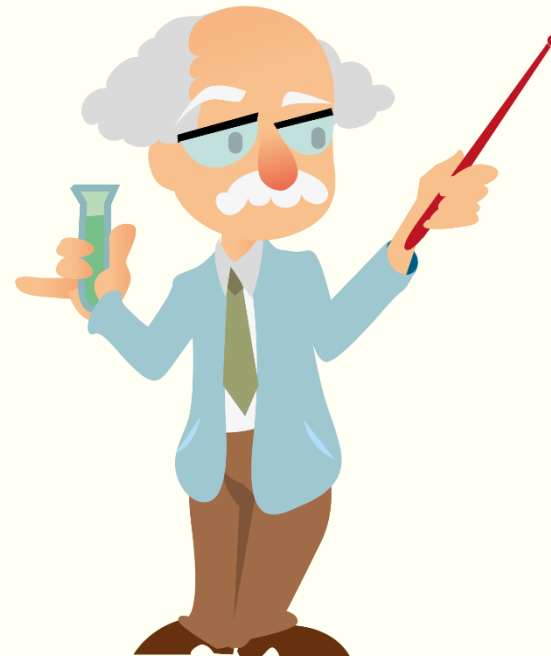
Agenda

- Rules and regs governing faculty and students
- Potential legal claims (and how to avoid them!)
- Recent cases
- Key takeaways/best practices



Definitions

- Who counts as faculty?
- Various categories (with various protections)
 - Tenure
 - Term contract
 - Indefinite contract
 - Adjunct



Rules Governing Faculty

- Charters or other incorporating documents
- Policies
 - Faculty handbook
 - Institutional rules and regulations
 - EEO/Title IX policies
- Collective Bargaining Agreements (CBAs)
- Appointment letter/contract
- Federal and state laws

Rules Governing Students

- Policies
 - Student handbook
 - Institutional rules and regulations
 - EEO/Title IX policies
 - Federal and state laws

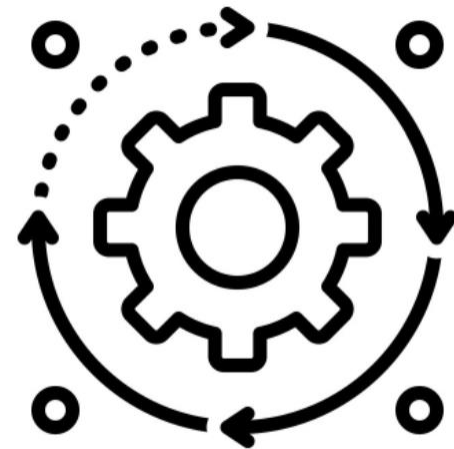


How do these issues come up?

- Report of faculty misconduct involving faculty
 - Rumor mill
 - Informal report from faculty/administrator
 - Informal report from student/student services
 - Formal complaint from student
 - Formal complaint from faculty/admin
- Report of student issue involving faculty
 - Informal report by professor or department admin
 - Formal complaint by professor or department admin

Discipline/Dismissal Process

- Discipline differs by type of conduct
- Check policies
- AND check to see if other policies come into play
- Avoid legal pitfalls



Potential Legal Claims

- Faculty
 - Discrimination (state and federal)
 - MHRA, Title VI, ADA, ADEA
 - Title IX
 - First Amendment (if public)
 - Due process or equal protection (if public)
 - Breach of contract
 - Negligence or other tort
 - Whistleblower
 - Section 105.055 for public institutions
 - Whistleblower Protection Act for private institutions

Potential Legal Claims

- Student
 - Discrimination (state and federal)
 - MHRA (POPA)
 - Age Discrimination Act
 - ADA, Section 504
 - Title IV
 - Title IX
 - Due process or equal protection (if public)
 - OCR or other agency complaint
 - Negligence or other tort
 - MMPA



Recent cases

- *Meriwether v. Hartop*, 992 F.3d 492 (6th Cir. 2021)
 - Professor
 - Philosophy professor at Shawnee State University
 - Devout Christian
 - Twenty-five years, no discipline
 - Teaches using Socratic method
 - 2016, University instituted preferred pronouns policy
 - Included discipline for professors who refused to use preferred pronouns
 - No religious or moral objections permitted
 - Dept chair told Meriwether that “presence of religion in higher education is counterproductive”

Recent cases

- *Meriwether v. Hartop*, 992 F.3d 492 (6th Cir. 2021)
 - 2018 political philosophy class
 - Professor referred to female-identifying student with male pronouns
 - Student asked professor after class to use female pronouns and titles
 - Meriwether expressed reluctance based on his religion
 - Student became hostile
 - Meriwether reported incident
 - Escalated to Dean of College, Dean of Students, Title IX
 - Dean and Meriwether came to a compromise
 - Student complained

Recent cases

- *Meriwether v. Hartop*, 992 F.3d 492 (6th Cir. 2021)
 - Dean issued warning letter
 - Formal investigation
 - Title IX office concluded Meriwether's treatment of student created a hostile work environment in violation of University policy
 - Based on Title IX report, formal charge under faculty's CBA, recommended disciplinary letter
 - Provost reviewed and issued written reprimand to Meriwether

Recent cases

- *Meriwether v. Hartop*, 992 F.3d 492 (6th Cir. 2021)
 - Faculty union filed grievance
 - Provost (who was the decision-maker with regard to the reprimand letter), was charged with deciding grievance
 - Provost denied grievance
 - Meriwether filed appeal to President
 - Provost was appointed interim University President
 - So → he was also charged with deciding appeal
 - Interim President (aka Provost) denied appeal

Recent cases

- *Meriwether v. Hartop*, 992 F.3d 492 (6th Cir. 2021)

- Lawsuit

- Free Speech claim
- Free Exercise claim
- Due Process claim
- Equal Protection claim
- Ohio constitutional claims
- Breach of contract



Recent cases

- *Meriwether v. Hartop*, 992 F.3d 492 (6th Cir. 2021)
 - Free Speech claim
 - Court utilized balancing test:
 - First, was Meriwether was speaking on matter of public concern?
 - Second, does Meriwether's interest in speaking on this matter outweigh the University's interest in restricting the speech?
 - ***Court found that speech was on topic of public concern***
 - ***Court found*** that, on balance, ***Meriwether's interests were stronger***
 - Pointed to compromise (using last name only) and student's high grade/class participation
 - Found that speech did not force violation of Title IX because there was no inhibition to student's education or ability to succeed in classroom

Recent cases

- *Meriwether v. Hartop*, 992 F.3d 492 (6th Cir. 2021)
 - Free Exercise claim
 - Government cannot engage in religious intolerance
 - Court found that University was hostile to Meriwether's religious beliefs
 - *Masterpiece Cakeshop*
 - Court found that Meriwether was treated differently in the appeals process
 - Shifting reasons for discipline
 - Accommodations
 - Improper Title IX investigation
 - Court found that Free Exercise clause claim could proceed

Recent cases

- After decision by Court of Appeals

EDUCATION

A university pays \$400K to professor who refused to use a student's pronouns

April 20, 2022 - 5:30 AM ET



TUETH KEENEY
COOPER MOHAN JACKSTADT P.C.

DIFFERENT
BY DESIGN

Recent cases

- *Kluge v. Brownsburg Community School Corp.*, 548 F. Supp. 3d 814 (S.D. Ind. 2021)
 - Nearly identical facts as *Meriwether* case, but in a school district
 - Teacher asserted Title VII religious accommodation claims
 - Court found no violation of law
 - Sincere religious belief
 - Conflict between sincere belief and preferred pronoun policy
 - BUT → last names only accommodation = undue hardship
 - Employer is not liable if accommodation requires employer to violate federal or state law

Key Takeaways

- MANY competing interests in these types of cases
 - Dueling claims
 - “Razor’s edge of liability”
 - What are your institutional values?
 - Publicity/public pressure
 - Political/legislative pressure
 - American Association of University Professors (AAUP)/union issues
 - Accrediting bodies



Hypotheticals

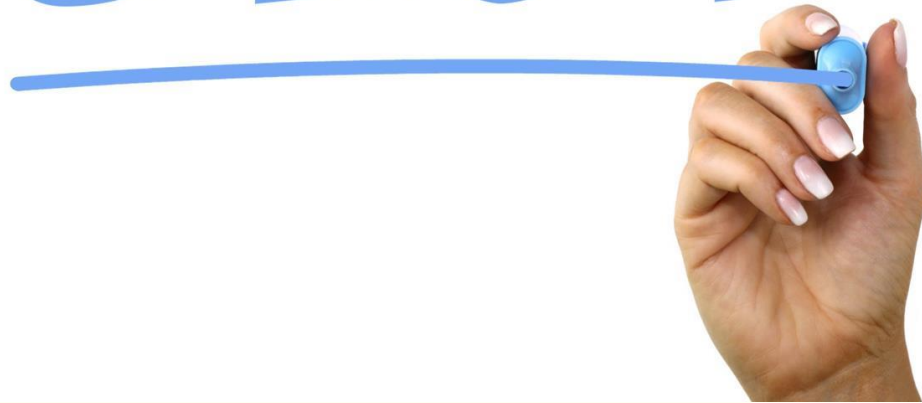
Over the years, a number of students have complained to various department faculty about Professor Y, but nothing independently actionable.

Hypotheticals

Professor Z regularly professes controversial political opinions in class. Students complain and stage protests. Alumni group threatens to withhold funding unless Professor Y is fired.



BEST



Best Practices

Best Practices

- Consistency and documentation
- Training regarding policies/process
 - HR
 - Title IX/EEO
 - Department heads, deans, student services, front line supervisors
 - Board



Best Practices

- Consideration of all key stakeholders
 - Board
 - Media
 - Legislature
 - Faculty union/leadership
 - Accrediting bodies
- Understanding what is prohibited conduct vs. protected conduct (or both!)
- Involvement of counsel



Best Practices

- Process matters
- Understand differences between complaints and how to process them
 - OCR v. internal complaint v. Title IX v. union grievance
 - Timing and sequence of process
 - Who should be involved?
- Informal resolution

QUESTIONS??



Mollie G. Mohan
Jenna M. Lakamp
mmohan@tuethkeeney.com
jlakamp@tuethkeeney.com

TUETH, KEENEY, COOPER, MOHAN & JACKSTADT, P.C.

Main: 314-880-3600 Fax: 314-880-3601
www.tuethkeeney.com



Follow us on Twitter! @tuethkeeney





TUETH KEENEY
COOPER MOHAN JACKSTADT P.C.

TITLE IX UPDATE: REGULATIONS AND LITIGATION

Presented by:
Veronica Potter
Aigner S. Carr

Date:
June 2022

DIFFERENT
BY DESIGN

Agenda

- Updates on Regulations
- *Cummings* Opinion
- Other Avenues for Title IX Violations
 - Section 1983 Claims
 - MHRA-POPA Claims



Title IX

- 50th Anniversary



Title IX Regulations

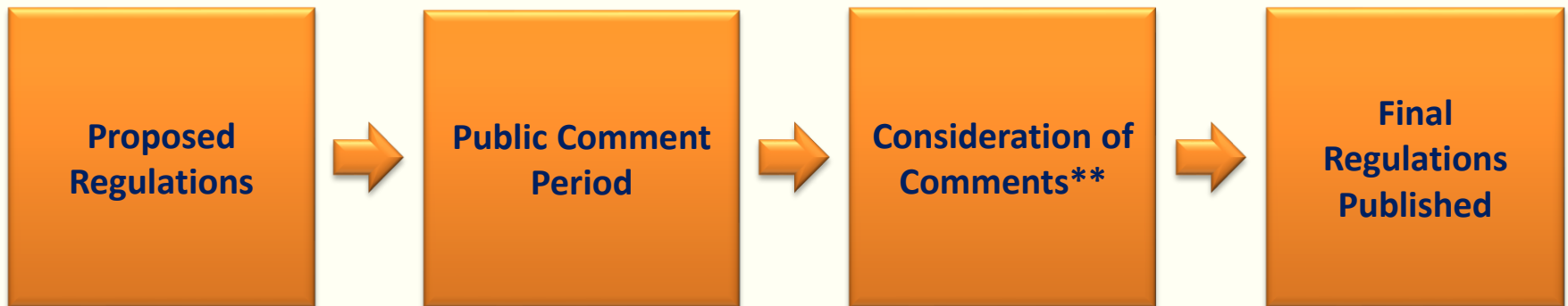
- The Title IX Regulations that went into effect on August 14, 2020 are still in effect.
- The Biden administration has announced plans to revise the regulations, but nothing has been released yet.
- Because these are regulations, they cannot simply be revoked by executive action.
 - Regulations v. Guidance
 - Must go through the formal rulemaking process

Title IX Regulations

- The Department of Education had previously released an agenda showing a planned **May 2022** release for its notice of proposed rulemaking (NPRM).
- In December 2021, Assistant Secretary Catherine Lhamon issued a statement that the NPRM would be released in **April 2022**.
- In May 2022, a Department of Education spokesperson said the NPRM would be released in **June 2022**.

Title IX Regulations

- Steps of the rulemaking process:



Title IX Regulations - Developments

- OCR held public hearings June 7-11, 2021 and released the [transcript](#).
- OCR released a [Questions and Answers](#) document on July 20, 2021.
- On July 28, 2021, a federal court in Massachusetts vacated a provision of the 2020 Title IX Regulations. This order applied nationwide.
- OCR released a letter that it would cease enforcement of the vacated provision

Title IX Regulations – Q&A

- According to OCR, the purpose of the Q&A is to “highlight[] areas in which schools may have discretion in their procedures for responding to reports of sexual harassment.”
- The Q&A also sets forth OCR’s interpretation of institution’s responsibilities under the 2020 Regulations and may offer some insight into how OCR will enforce the regulations

Title IX Regulations – Q&A

- Encouraged institutions to respond to complaints that fall outside the scope of the 2020 Regs through other campus policies/procedures (e.g. code of conduct).
- Indications OCR under Biden may be stricter on the time frame for the completion of the grievance process.
- Clarified that institutions can have a trauma-informed approach – as long as they also comply with the Regs
- Clarified that the 2020 Regs do not apply to conduct that occurred before the effective date of August 14, 2020, even if it was reported after the effective date.

Statements not subject to cross

- One of those provisions, found in 34 CFR 106.45(b)(6)(i), prohibits determinations that rely on “statements” not subjected to cross-examination during a live hearing.
- This provision was immediately controversial - some noted that this prohibition could expose institutions to Title IX liability.
- There was also confusion of what was a “statement” for this provision.

Statements not subject to cross

- In *Victim Rights Law Center et al. v. Cardona et al.*, the district court in Massachusetts largely upheld the Regulations.
- However, the court decided that the provision excluding statements that were not subject to cross-examination is arbitrary and capricious under the Administrative Procedures Act.
 - ED failed to consider the consequences of the provision – e.g. if the respondent simply decided not to attend the hearing. This could make it impossible for the complainant to overcome the presumption of non-responsibility.
 - Further, attorneys would likely recommend that respondents do not attend the hearing for this reason, rendering it a “hollow exercise.”

Statements not subject to cross

- Initially there was uncertainty on how this decision would apply, but the federal court clarified the provision was vacated generally, which means the order applied nationwide.
- A few weeks later in August 2021, OCR released a letter clarifying that they will not enforce this provision.
 - “In practical terms, a decision-maker at a postsecondary institution may now consider statements made by parties or witnesses that are otherwise permitted under the regulations, even if those parties or witnesses do not participate in cross-examination at the live hearing, in reaching a determination regarding responsibility in a Title IX grievance process.”

Statements not subject to cross

- Decision makers may now consider:
 - Statements made by the parties and witnesses during the investigation,
 - Emails or text exchanges between the parties leading up to the alleged sexual harassment,
 - Any relevant statement, regardless of whether the parties or witnesses submit to cross-examination at the live hearing,
 - Documents such as police reports, SANE reports, or other medical records, even if they contain statements of witnesses who do not appear at the hearing.

Statements not subject to cross

- Practical Effect – fewer restrictions on your decision maker and more flexibility.
- BUT – only if you revise your policy. If your policy still contains the restriction from the 2020 Regs, then that is still the requirements for your process.
- Consider revising your policy before the next academic year starts.



Recent Supreme Court Opinion



TUETH KEENEY
COOPER MOHAN JACKSTADT P.C.

DIFFERENT
BY DESIGN

Cummings v. Premier Rehab Keller, PLLC

- *Cummings v. Premier Rehab Keller, PLLC*, 142 U.S. 1562 (2022)
- Plaintiff, who is deaf and legally blind, received physical therapy services at Premier Rehab (a rehabilitation facility in Texas that receives federal funding). Due to her disability, Plaintiff primarily communicated through American Sign Language (ASL) and requested that Premier provide an ASL interpreter during her sessions.
- Premier denied Plaintiff's request and instead proposed alternative accommodations, such as written communication and suggested that Plaintiff bring her own ASL interpreter. Plaintiff contacted Premier two more times over the next year seeking treatment, each time, requesting an interpreter and receiving the same response.

Cummings v. Premier Rehab Keller, PLLC

- Plaintiff ultimately received physical therapy services elsewhere but sued Premier for discriminating against her based on her disability in violation of the **Rehabilitation Act** and the **Patient Protection and Affordable Care Act**, alleging that she was "forced to live with ongoing back pain as a result of her inability to receive quality therapy services" from Premier.
- The district court granted Premier's motion to dismiss Plaintiff's damage claims finding that emotional distress damages were not an available remedy. The Fifth Circuit Court of Appeals affirmed the district court's decision, creating a circuit split. The Supreme Court granted certiorari on July 2, 2021.

Cummings v. Premier Rehab Keller, PLLC

- Plaintiff argued that emotional distress damages have been awarded for violations of other anti-discrimination statutes, such as the Fair Housing Act and Title VII.
- Plaintiff analogized those actions with violations of the ACA and RA, explaining that intentional discrimination can cause severe mental harms and “deprive [people] of their individual dignity.” Plaintiff argued that emotional distress damages are especially appropriate when discrimination results in emotional harm rather than monetary harm.

Cummings v. Premier Rehab Keller, PLLC

- The Court distinguished Title VII and other anti-discrimination laws from private actions pursuant to Congress' Spending Clause, namely the Rehabilitation Act, the ACA, Title IX, and Title VI.
- Relying on prior Supreme Court decisions-- *Barnes v. Gorman*, 536 U.S. 181 (2002) and *Gebser v. Lago Vista Independent School Dist.*, 524 U. S. 274— the Court reiterated that Spending Clause legislation operates based on consent and is therefore more analogous to a contract.

Cummings v. Premier Rehab Keller, PLLC

- A particular recoverable remedy is informed by the way Spending Clause “statutes operate”: by “conditioning an offer of federal funding on a promise by the recipient not to discriminate, in what amounts essentially to a contract between the Government and the recipient of funds.”
- The “legitimacy of Congress’ power” to enact such laws rests on “whether the [recipient] voluntarily and knowingly accepts the terms of th[at] ‘contract.’ ”

Cummings v. Premier Rehab Keller, PLLC

- The Court relied heavily on the analysis in *Barnes*, noting that that it was “crucial” that *Barnes* had considered punitive damages to be generally unavailable for breach of contract despite the fact that “such damages are hardly unheard of in contract cases...”
- Thus, the Court concluded that federal funding recipients are aware that they may face the usual contract remedies-- those that are “traditionally available,” “generally ... available,” or “normally available for contract actions” and not remedies that may be exceptions to contractual actions.
- Thus, the Court held that emotional distress damages are not recoverable under the Spending Clause antidiscrimination statutes.

Cummings v. Premier Rehab Keller, PLLC

- So what does this mean?
 - Effect on existing Title IX litigation?
 - Effect on future Title IX litigation?





Other Avenues for Title IX violations

Section 1983 Claims

- Every person who, **under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia**, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to **the deprivation of any rights, privileges, or immunities secured by the Constitution** and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress...

42 U.S.C. § 1983.

Section 1983 Claims

- Section 1983 provides an individual the right to sue state government employees and others acting "under color of state law" for civil rights violations. Section 1983 is not a source of federal rights, but provides the vehicle for asserting rights granted in the Constitution and other federal laws
- In ***Fitzgerald v. Barnstable School Committee*, 555 U.S. 246 (2009)**, the Supreme Court held, by a vote of 9 - 0, that a plaintiff who brings a sex discrimination claim under Title IX may simultaneously bring a claim under Section 1983

Section 1983 Claims

***Doe v. Del. State Univ.* (D. Del. Mar. 2, 2022):**

- Section 1983 claim survives a motion to dismiss
- “A government actor is shielded by qualified immunity if (1) the facts alleged show the actor's conduct did not violate a constitutional right, or (2) the right violated was not clearly established in light of the specific context of the case.”
- A student’s right “to be free from purposeful discrimination and selective enforcement of school policies” was sufficiently clear to permit plaintiff’s § 1983 equal protection claim to proceed against the University’s Director of Title IX.

Section 1983 Claims

Doe v. Bd. of Regents, Southeast Missouri State (E.D. Mo. May 5, 2022)

- In addition to her Title IX claim, Plaintiff asserted a Section 1983 against the DPS officer who investigated her Title IX claims
- Plaintiff alleged that Officer Dirnberger's alleged deliberate indifference in response to her Title IX claim also deprived her of her "constitutional right to personal security, bodily integrity, and equal protection."
- The party asserting the defense of qualified immunity has the burden of establishing 'the relevant predicate facts.

Section 1983 Claims

Doe v. Bd. of Regents, Southeast Missouri State (E.D. Mo. May 5, 2022)

- Plaintiff failed to set out any “clearly established” constitutional right violated by Officer Dirnberger.
- The concept of a 14th Amendment constitutional right to bodily integrity is the right to be free from “unauthorized and unlawful physical abuse” at the hands of the state by a state official acting or claiming to act under the color of the law.
- The alleged violation was committed by a fellow student, and not a state official

Section 1983 Claims VS Title IX

- Different standards of liability
- No more individual liability under Title IX
- No immunity under Title IX
- Different remedies available

MHRA – POPA Claims

- State claims under the Missouri Human Rights Act for discrimination at a Place of Public Accommodation.
- Section 213.010(16):
 - All places or businesses offering or holding out to the general public, goods, services, privileges, facilities, advantages or accommodations for the peace, comfort, health, welfare and safety of the general public or such public places providing food, shelter, recreation and amusement

MHRA – POPA Claims

- Under Missouri statute and caselaw, both public and private schools, colleges, and universities are places of public accommodation.
- 2012 – *Subia v. Kansas City Public School*
 - Held that public school was a place of public accommodation – it does not have to be accessible to all members of the public to fall under POPA – can be a subset of public
- 2013 – *Washington University v. Richardson*
 - Private university is a place of public accommodation as a “place or business offering or holding out [services] to the general public.” Again, the entity need not hold out to entire public – a subset of the public is sufficient.

MHRA – POPA Claims

Section 213.065:

1. All persons . . . shall be entitled to the full and equal use and enjoyment within this state of any place of public accommodation . . . without discrimination or segregation because of race, color, religion, national origin, sex, ancestry, or disability.
2. It is an unlawful discriminatory practice to directly or indirectly, to refuse, withhold from or deny any other person, or to attempt to refuse, withhold from or deny any other person, any of the accommodations, advantages, facilities, services, or privileges made available in any place of public accommodation, or to segregate or discriminate against any person in the use thereof

MHRA – POPA Claims

- **Same as MHRA employment claim**
- **Administrative Process:**
 - Must file administrative charge with MCHR within 180 days
 - Must receive Right to Sue letter
 - Must file suit within 90 days of RTS letter AND within two years of prohibited conduct
- **Damages:**
 - Actual damages
 - Emotional distress
 - Punitive damages
 - Attorney fees

QUESTIONS??



Aigner S. Carr
Veronica Potter
acarr@tuethkeeney.com
vpotter@tuethkeeney.com

TUETH, KEENEY, COOPER, MOHAN & JACKSTADT, P.C.

Main: 314-880-3600 Fax: 314-880-3601
www.tuethkeeney.com



Follow us on Twitter! @tuethkeeney





TUETH KEENEY
COOPER MOHAN JACKSTADT P.C.

PANEL DISCUSSION: REMOTE WORK IN HIGHER EDUCATION

Presented by:
Kate Nash

Date:
June 2022

DIFFERENT
BY DESIGN

**THANK YOU
FOR ATTENDING THE
2022 TUETH KEENEY
HIGHER EDUCATION SEMINAR**



TUETH KEENEY
COOPER MOHAN JACKSTADT P.C.

TUETH KEENEY | DIFFERENT BY DESIGN™

Our Firm

Our law firm is different by design. We pride ourselves in our ability to provide “big firm” quality legal services with significantly greater responsiveness, efficiency, value, and the individual touch of a dedicated boutique practice. Personal contact, quality services and efficient results are the deeply-held values that shape our relationships and drive our success. We believe clients deserve honest, accurate, and practical answers to their legal issues, delivered in the most efficient manner, from attorneys they know, like, and trust.

Tueth Keeney has rejected the idea of “being all things to all people.” Instead, we are deliberately focused on being the best at what we do. Our attorneys provide support to our clients in areas of practice in which Tueth Keeney is recognized for its virtually unmatched expertise: education law, employment law, immigration law, and litigation.

Our attorneys recognize the need to deliver real-world, tangible solutions with quality and transparency. We form enduring working relationships and friendships with our clients. We strive to bring creative thinking and innovative solutions to every client’s legal challenges. By keeping our practice optimized for efficiency, we built a value-driven law firm that is uniquely aligned with our clients’ best interests.

The traditional practice of law is reactionary — a response to legal disputes after they arise. The attorneys at Tueth Keeney are not only advocates, but also counselors and advisors. We work with our clients to prevent legal disputes, and to minimize legal risks before the disputes become lawsuits. Our firm is widely recognized for not only winning cases, but for helping to prevent cases from being filed in the first place.

Our attorneys routinely provide training to clients and friends of the Firm, including multiple annual free seminars and in-service sessions on a wide variety of challenging legal issues. In addition, we often provide free email updates to clients and friends of the firm, in an ongoing effort to keep them up to date on important legal developments.

Our attorneys recognize that employers and managers are faced with significant challenges in today’s environment of rapidly-changing economic conditions, ever-increasing governmental regulation, and the spiraling risks of litigation. Against this volatile background, the hallmark of Tueth Keeney’s unique law practice is our unparalleled record of success in advising and representing our clients — whether public or private, large or small — in their legal matters.

Personal Contact; Quality Services; Efficient Results. We invite you to learn more about our Firm, our practices areas, and our attorneys – and to discover how we can partner with you to successfully address your legal challenges.

MISSOURI

34 N. Meramec Ave., Suite 600
St. Louis, MO 63105
T: (314) 880.3600
F: (314) 880.3601

ILLINOIS

101 West Vandalia, Suite 210
Edwardsville, IL 62025
T: (618) 692.4120
F: (618) 692.4122



TUETH KEENEY
COOPER MOHAN JACKSTADT P.C.

Our History

Tueth, Keeney, Cooper, Mohan & Jackstadt P.C., is different by design. Our firm was established in the year 2000 by a group of eighteen attorneys who separated from one of the largest law firms in the Midwest. Our founding shareholders rejected the traditional approach to legal issues, and established a unique firm with a practical focus and the ability to offer creative, flexible problem-solving techniques tailored to the unique needs of each client — whether that client is a Fortune 500 company, major research university, local municipality, or rural school district.

Focused on our strengths and designed for efficiency, Tueth Keeney provides sophisticated, practical legal solutions in the areas of labor and employment law, education law, immigration law, and litigation.

As Tueth Keeney has succeeded and grown throughout our second decade, our firm has continued to embody the entrepreneurial founding spirit of our organization. Reflecting our history, Tueth Keeney is built upon our core philosophy of Personal Contact, Quality Service, and Efficient Results. We remain committed to providing our clients with unparalleled legal services in the most cost-effective manner possible.

We persistently challenge conventional wisdom and offer clients a clear choice: the highest quality legal services, delivered in the most efficient manner, from attorneys they know, like and trust. Indeed, amidst all our success, we are most proud of our enduring relationships with our clients, whose legal challenges have been, and will always remain, our paramount focus. We invite you to learn more about our firm, our practice areas, and our attorneys, and how we are different from our competition.

MISSOURI

34 N. Meramec Ave., Suite 600
St. Louis, MO 63105
T: (314) 880.3600
F: (314) 880.3601

ILLINOIS

101 West Vandalia, Suite 210
Edwardsville, IL 62025
T: (618) 692.4120
F: (618) 692.4122



Our Core Values

Tueth, Keeney, Cooper, Mohan & Jackstadt P.C., is different by design. Our founding shareholders established a unique firm with a practical focus and the ability to offer creative, flexible solutions to our clients' legal challenges. Tueth Keeney is committed to providing clients with the highest quality of legal services in all facets of our practice, and to ensuring that our clients' legal issues and concerns are always our paramount focus.

Consistent with our philosophy of personal contact, quality services, and efficient results, Tueth Keeney attorneys agree to adhere to the following core values in all of our actions and decisions, as lawyers and members of the Firm:

THE BEST AT WHAT WE DO

- We are leaders in our fields – we have unsurpassed proficiency in our particular areas of practice.
- We provide the greatest value by giving our clients the most practical and efficient advice possible.

CLIENT-CENTERED

- Our clients' goals are our highest priority – we put those goals above our personal interests.
- We form deep, trusting, and long-lasting relationships with existing and new clients — we treat our clients as colleagues and friends.

INNOVATIVE

- We are creative, resourceful and imaginative when addressing our clients' legal needs.
- We are forward-thinking, entrepreneurial, and visionary regarding our legal practice.

COLLABORATIVE

- We protect and promote our relationships with each other — we respect and support each other, and communicate all relevant information.
- We achieve consistent professional growth through training, delegation and transition.

GROUNDLED

- We act with the highest ethics and integrity in everything we do — without exception.

MISSOURI

34 N. Meramec Ave., Suite 600
St. Louis, MO 63105
T: (314) 880.3600
F: (314) 880.3601

ILLINOIS

101 West Vandalia, Suite 210
Edwardsville, IL 62025
T: (618) 692.4120
F: (618) 692.4122



TUETH KEENEY
COOPER MOHAN JACKSTADT P.C.

- We are not simply driven by profit — rather, we know that we will be successful, both personally and professionally, by remaining client centered and being the best at what we do.

We agree to measure our success — collectively and individually — in light of these core values. Indeed, amidst all our success, we are most proud of our enduring relationships with our clients, whose legal challenges have been, and will always remain, our paramount focus. We invite you to learn more about our firm, our practice areas, and our attorneys, and how we are different from our competition.

Tueth Keeney is pleased to be affiliated with:

The Employment Law Alliance

While our offices are located in Missouri and Illinois, through our selection to the Employment Law Alliance (“ELA”), our Firm has global outreach and access to the highest quality of labor, employment and immigration legal expertise worldwide. The ELA is the world’s most prestigious alliance of elite labor and employment law and litigation firms. ELA members have access to a global employment law handbook prepared by ELA members containing critical employment law information relating to jurisdictions worldwide. The Firm is the only ELA member in the St. Louis and the Southern Illinois region.

MISSOURI

34 N. Meramec Ave., Suite 600
St. Louis, MO 63105
T: (314) 880.3600
F: (314) 880.3601

ILLINOIS

101 West Vandalia, Suite 210
Edwardsville, IL 62025
T: (618) 692.4120
F: (618) 692.4122



Aigner S. Carr

ATTORNEY AT LAW

Practice Areas

Missouri Education Law
Higher Education Law
Labor & Employment

Contact Information

Telephone: (314) 880.3600
Direct Dial: (314) 880.3545
Facsimile: (314) 880.3601

E-mail:

acarr@tuethkeeney.com

34 N. Meramec Avenue,
Suite 600
St. Louis, Missouri 63105

Aigner S. Carr practices in the areas of education, litigation, and labor & employment law. Her practice includes both appellate and trial courts matters involving complex legal issues. She represents school districts, charter schools, and private schools throughout Missouri and Illinois with respect to employment and termination matters, special education, Section 504, student rights, and civil rights. Aigner also represents post-secondary educational institutions and private corporations with respect to employment and termination matters, and civil rights issues. Additionally, Aigner works with colleges and universities to investigate matters related to equity and Title IX.

Prior to joining the firm, Aigner was a law clerk for a small firm in St. Louis representing plaintiffs in civil rights lawsuits and personal injury matters. Aigner also previously interned for the Saint Louis Circuit Attorney's Office and the Federal Public Defender's Office of the Eastern District of Missouri. In law school, Aigner competed on the Thurgood Marshall Mock Trial Team and was awarded Best Trial Advocate of the Mid-West region for 2015-2016 competition. She is also a former member of the Theodore McMillian American Inns of Court.

Education

J.D., Law Saint Louis University School of Law, 2017

Theodore McMillian American Inns of Court, 2016-2017

Thurgood Marshall Mock Trial Team, Mid-West Regional Best Advocate Award;

National Quarterfinalist, 2015-2016

Academic Excellence Award Recipient

University of Missouri- Kansas City, 2014

- Criminal Justice Honor Society
- Alpha Lambda Delta Academic Honor Society

Bar Admissions

- Missouri, 2017
- Illinois, 2021
- U.S. District Court for the Western District of Missouri
- U.S. District Court for the Eastern District of Missouri

Professional Affiliations

- Council of School Attorneys
- National Association of College and University Attorneys
- Mound City Bar Association

Selected Presentations

- "Labor and Employment Law: What to Expect in 2021," Association of Corporate Counsel-St. Louis CLE, December 2020



Ian P. Cooper

ATTORNEY AT LAW / SHAREHOLDER

Practice Areas

Employment Law and Litigation
Higher Education Law and Litigation
Commercial Litigation
Tort Litigation

Bar Admissions

Missouri, 1984
Illinois, 1985
Various State and Federal Courts
including the U.S. Supreme Court

Contact Information

Telephone: (314) 880.3600
Direct Dial: (314) 880.3605
Facsimile: (314) 880.3601
Mobile: (314) 703.0839

E-mail:

icooper@tuethkeeney.com

34 N. Meramec Avenue,
Suite 600
St. Louis, Missouri 63105

DIFFERENT
BY DESIGN™

Ian Cooper serves clients in employment, higher education, commercial, and tort matters. Ian regularly serves as lead counsel in significant cases, including class actions and other complex litigation and has tried numerous jury and bench trials in Missouri and Illinois. He has argued cases before the Missouri Supreme Court, the Illinois Supreme Court, the Missouri and Illinois Courts of Appeal, and the United States Courts of Appeal for the Seventh and Eighth Circuits and has briefed important employment issues before the Supreme Court of the United States. Ian also frequently counsels clients on a wide range of employment and higher education issues, including compliance, training, and litigation avoidance. Ian is a frequent speaker at national and regional conferences in the areas of employment law, higher education, and litigation.

Ian is a Fellow in the College of Labor and Employment Lawyers — a “fellowship of the most accomplished members of the labor and employment law community” in the United States. Ian is also a Fellow of the Litigation Counsel of America, an organization of leading trial and appellate counsel throughout the United States. Ian has been elected a member of the American Board of Trial Advocates, an invitation-only organization comprised of trial advocates “of high personal character and honorable reputation” practicing throughout the United States. Ian has also been named a Best Lawyer in America in both employment and commercial litigation and a Missouri & Kansas Super Lawyer in employment litigation. He is also a member of the National Association of College and University Attorneys.

Prior to founding the Firm, Ian was a partner at what is now Husch Blackwell, LLP. Before entering private practice, Ian served as Law Clerk to the Hon. James F. Warren of the Texas Court of Appeals, First Supreme Judicial District, in Houston, Texas.

Education

J.D., Washington University School of Law, 1984

- Notes and Comments Editor, Washington University Journal of Urban and Contemporary Law

B.A. Rice University, 1981

Significant Honors and Awards

- Fellow, College of Labor and Employment Lawyers
- Fellow, Litigation Counsel of America
- Member, American Board of Trial Advocates
- “Missouri and Kansas Super Lawyer” in employment litigation
- “Best Lawyer in America” in employment and commercial litigation
- Member, National Association of College and University Attorneys

Presentations

- “Employee Activism and Political Speech on Campus: The Limits of Free Speech Rights of Employees Regarding Political Issues and Viewpoints,” National Association of College and University Attorneys, Seattle Washington, April 2019.
- “Legal update for HR,” Missouri College and University Professional Association – HR, November 2018.
- “Speech on Campus,” Missouri Community College Association – Chief Student Affairs Officers, November 2017.
- “The Latest in Legal Updates for College and University HR Professionals,” September 2017.
- “Updates to Missouri Employment Law,” Missouri Chamber of Commerce, August 2017.



Ian P. Cooper

ATTORNEY AT LAW / SHAREHOLDER

Practice Areas

Employment Law and Litigation
Higher Education Law and Litigation
Commercial Litigation
Tort Litigation

Bar Admissions

Missouri, 1984
Illinois, 1985
Various State and Federal Courts
including the U.S. Supreme Court

Contact Information

Telephone: (314) 880.3600
Direct Dial: (314) 880.3605
Facsimile: (314) 880.3601
Mobile: (314) 703.0839

E-mail:

icooper@tuethkeeney.com

34 N. Meramec Avenue,
Suite 600
St. Louis, Missouri 63105

- "Hot Legal Topics for College and University HR Professionals," MCUPA-HR Fall 2015 Conference, September 2015.
- "Hot Legal Topics in Higher Education," Missouri Community College Association Trustee and Administrative Professional Spring Conference, May, 2015.
- "Litigation Update: New Direction in Failure to Hire MHRA Cases," St. Louis Chapter of the Association of Corporate Counsel, December 2014.
- "Hot Topics Impacting Higher Education," Missouri College and University Professional Association – Human Resources, October 2014.
- "Anatomy of an MHRA Claim," St. Louis Chapter of the Association of Corporate Counsel, November 2013.
- "The U.S. Supreme Court's 2013 Employment Law Decisions: Key Considerations for Employers," Employment Law Alliance Webinar, July 2013.
- "Managing High Profile Discrimination Litigation," National Association of College and University Attorneys, Nashville, Tennessee, March 2013.
- "Who is a 'Supervisor' Under Title VII?" St. Louis Chapter of the Association of Corporate Counsel, November 2012.
- "What Keeps You Up at Night?" Employment Law Alliance, Vancouver, B.C., September 2012.
- "First Amendment and Community Colleges: Student Organizations, Employee Speech, and Politics on Campus," Missouri Community College Association, May 2012.
- "A Year in Review: Key U.S. Labor and Employment Law Developments in 2011 and What to Expect in 2012," Employment Law Alliance Webinar, January 2012.
- "Legal Issues and Implications for Community Colleges," Missouri Community College Association, May 2011.
- "Anatomy of a Missouri Human Rights Act Trial," St. Louis Chapter of the Association of Corporate Counsel, August 2010.
- "My Space is not Your Space: What Employers Need to Know about Employee Social Networking," Employment Law Alliance Webinar, May 2010.
- "Campus Safety and the Clery Act," Midwestern Regional Conference of the University Risk Management & Insurance Association, May 2010.
- "Missouri Human Rights Act: Expanding Employer and Supervisor Liability," St. Louis Chapter of the Association of Corporate Counsel, October 2009.
- "Effective Mediation Advocacy from the Advocate's Perspective," Bar Association of Metropolitan St. Louis, August 2009.
- "Missouri Human Rights Act Case Law and Proposed Legislative Changes," Missouri Department of Higher Education Conference, May 2009.
- "Amendments to the Americans with Disabilities Act," Employment Law Alliance Webinar, January 2009.
- "Emerging Employment and Disability Law Issues," University of Vermont Legal Issues in Higher Education Conference, Burlington, Vermont, 2006.
- "Lessons Learned from the Trenches," College and University Professional Association for Human Resources, San Diego, California, 2006.
- "Auditing Hiring Practices and Policies," National Association of College and University Attorneys, Atlanta, Georgia, 2004.
- "Managing the Embarrassing Executive in Litigation," Employment Law Alliance, New Orleans, Louisiana, 2003.
- "How to Lose a Jury Trial," Employment Law Alliance, Montreal, Canada, 2003.
- "Turning Bad Claims into Good Lawsuits – Retaliation and Whistleblower Suits," National Association of College and University Attorneys, Austin, Texas, 2003.
- "Avoiding Retaliation Claims," United Educators Publication, 2002.



Ian P. Cooper

ATTORNEY AT LAW / SHAREHOLDER

Practice Areas

Employment Law and Litigation
Higher Education Law and Litigation
Commercial Litigation
Tort Litigation

Bar Admissions

Missouri, 1984
Illinois, 1985
Various State and Federal Courts
including the U.S. Supreme Court

Contact Information

Telephone: (314) 880.3600
Direct Dial: (314) 880.3605
Facsimile: (314) 880.3601
Mobile: (314) 703.0839

E-mail:

icooper@tuethkeeney.com

34 N. Meramec Avenue,
Suite 600
St. Louis, Missouri 63105

DIFFERENT
BY DESIGN™

Significant Trials

- *Sanders v. City of Columbia*. Trial involving former Police Officer for the City of Columbia seeking reinstatement, back pay, and benefits. Judgment for the City/Employer. Upheld on appeal by the Western District of Missouri Court of Appeals.
- *Ma v. Board of Governors of Missouri State University*, Title VII race and national origin discrimination claims against Missouri State University brought by a former teacher at the LNU-MSU College of International Business. Unanimous verdict for the University following a four-day jury trial.
- *Jennings v. Board of Governors of Missouri State University*. Age discrimination and retaliation claims brought by faculty member against Missouri State University under the Missouri Human Rights Act. Unanimous verdict for the University following a five-day jury trial.
- *Petkoff v. Metropolitan Community College*. Disability discrimination and retaliation claims brought by Iraq war veteran against Kansas City's largest institution of higher education. Plaintiff sought \$1.2 million in actual damages and \$9 million in punitive damages. Defendant's verdict.
- *Washington University v. Missouri Commission on Human Rights*. Action in prohibition brought on behalf of a private university to establish that the University's academic program is not a "place of public accommodation" under the Missouri Human Rights Act. Judgment for the University.
- *Moll v. General Automatic Transfer Company*. Product liability claim (serious burns alleged) tried before a jury. Defendant's verdict.
- *Schaefer v. Spider Staging Corporation*. Personal injury negligence and product liability claims tried before a jury in the United States District Court for the Eastern District of Missouri. Judgment for Defendant following two jury trials.
- *Shafer v. Parkway School District*. ADA claim tried before a jury in the United States District Court for the Eastern District of Missouri. Defendant's Verdict.
- *In re First Escrow, Inc.*, 840 S.W.2d 839 (Mo. 1992). Key Supreme Court decision regarding unauthorized practice of law.
- *Zuelke v. Southern Illinois University*. Title VII and retaliation claims tried before a jury in the United States District Court for the Southern District of Illinois. Defendant's Verdict.
- *Page v. Smith*. Negligence claims against teacher and school district involving alleged serious personal injuries sustained by student. Defendant's verdict.

Significant Arbitrations

- In re: Engineered Fastener. Obtained award of actual and punitive damages for client on counterclaim relating to the dissolution of business partnership.
- In re: Pandjiris. Obtained actual damages for client in dispute over sale of equipment.
- In re: Corrigan v. Sun Container. Obtained award of damages, interest and expenses exceeding \$740,000 in dispute over employment agreement.

Significant Appeals

- *Sanders v. City of Columbia*, 602 S.W.3d 288 (Mo. App. 2020). Affirming trial court's judgment for the City of Columbia in wrongful termination claim brought by former City police officer.
- *Cheng v. Ford*, 83 N.E. 2d 563 (5th Dist. 2017). Reversing the trial court's denial of a University administrator's motion to dismiss tort claims for lack of jurisdiction pursuant to the Illinois Court of Claims Act and the Illinois State Lawsuit Immunity Act.



Ian P. Cooper

ATTORNEY AT LAW / SHAREHOLDER

Practice Areas

Employment Law and Litigation
Higher Education Law and Litigation
Commercial Litigation
Tort Litigation

Bar Admissions

Missouri, 1984
Illinois, 1985
Various State and Federal Courts
including the U.S. Supreme Court

Contact Information

Telephone: (314) 880.3600
Direct Dial: (314) 880.3605
Facsimile: (314) 880.3601
Mobile: (314) 703.0839

E-mail:

icooper@tuethkeeney.com

34 N. Meramec Avenue,
Suite 600
St. Louis, Missouri 63105

- *K.T. v. Culver-Stockton College*, 865 F.3d 1054 (8th Cir. 2017). Affirming dismissal of Title IX claims against College brought by a campus visitor.
- *Doe v. St. Louis Community College*, 526 S.W.3d 329 (Mo. App. 2017). Affirming judgment for the College regarding a DACA student's challenges to tuition under Missouri statutes and regulations.
- *Hatcher v. Board of Trustees of Southern Illinois University*, 829 F.3d 531 (7th Cir. 2016). Affirming summary judgment in favor of the University and administrator on a former faculty member's gender discrimination and First Amendment retaliation claims.
- *Smith v. ConocoPhillips Pipe Line Company*, 801 F.3d 921 (8th Cir. 2015). Reversing class certification in favor of plaintiffs asserting property damage and medical monitoring claims arising out of pipeline leak.
- *Nickel v. Stephens College, et al.*, 480 S.W.3d 390 (Mo. App. 2015). Affirming summary judgment in favor of College and administrators regarding breach of contract and tort claims asserted by student given a medical withdrawal.
- *Novak v. Board of Trustees of Southern Ill.* 777 F.3d 996 (7th Cir. 2015). Affirming summary judgment in favor of University and three faculty members in disability discrimination claim brought by doctoral student.
- *Bd. Of Trs. Ex rel. Becker v. Jones*, 2015 Ill. App. Unpub. LEXIS 62 (5th Dist. 2015). Affirming summary judgment against alleged whistleblowers under the Illinois False Claims Act.
- *Dunn v. Bd. Of Curators of the Univ. of Mo.*, 413 S.W.3d 375 (Mo. App. 2013). Affirming dismissal of class action Petition.
- *Vance v. Ball State University*, 133 S. Ct. 2434, (2012). Counsel for various amici including the American Council on Education, American Association of Community Colleges, American Association of State Colleges and Universities, in key case involving the definition of "supervisor" under Title VII.
- *Jennings v. Board of Curators of Missouri State University*, 386 S.W.3d 796 (Mo. App. 2012). Affirming dismissal of breach of covenant of good faith and fair dealing and declaratory judgment claims brought by a faculty member against a public university.
- *Milligan v. Southern Illinois University*, 686 F.3d 378 (7th Cir. 2012). Affirming summary judgment for university in faculty/student sexual harassment claim. The Court ruled that the University's response to the student's complaint of harassment was adequate as a matter of law.
- *Keveney v. Missouri Military Academy*, 304 S.W.3d 98 (Mo. 2010). Leading decision on rights of contract employees to assert common law claims for wrongful discharge.
- *Nemsky v. ConocoPhillips*, 2009 U.S. App. LEXIS 17227 (7th Cir. 2009). Judgment in favor of employer in hybrid-Section 301 claim under the National Labor Relations Act.
- *Nichols v. Southern Illinois University*, 510 F.3d 772 (7th Cir. 2007). Summary judgment for employer in multi-plaintiff discrimination/retaliation case.
- *Christian Legal Soc'y v. Walker*, 453 F.3d 853 (7th Cir. 2006). Analyzing First Amendment expressive association claims in higher education context.
- *Mershon v. St. Louis University*, 442 F.3d 1069 (8th Cir. 2006). Affirming summary judgment in disability discrimination and retaliation case.
- *Schaefer v. Spider Staging Corp.*, 275 F.3d 735 (8th Cir. 2002). Affirming Remittitur and new trial orders in multi-million dollar product liability action.
- *Taryen Development, Inc. v. Phillips 66 Co.*, 31 S.W.3d 95 (Mo. App. 2000). Summary judgment affirmed on breach of contract claim in multi-count suit over development disputes.
- *Padilla v. South Harrison R-II Sch. Dist.*, 192 F.3d 805 (8th Cir. 1999). Obtained reversal of jury verdict in a First Amendment retaliation case against a public school district.

Ian P. Cooper

ATTORNEY AT LAW / SHAREHOLDER

Practice Areas

Employment Law and Litigation
Higher Education Law and Litigation
Commercial Litigation
Tort Litigation

Bar Admissions

Missouri, 1984
Illinois, 1985
Various State and Federal Courts
including the U.S. Supreme Court

Contact Information

Telephone: (314) 880.3600
Direct Dial: (314) 880.3605
Facsimile: (314) 880.3601
Mobile: (314) 703.0839

E-mail:

icooper@tuethkeeney.com

34 N. Meramec Avenue,
Suite 600
St. Louis, Missouri 63105

- *Amir v. St. Louis University*, 184 F.3d 1017 (8th Cir. 1999). Important ADA and retaliation decision.
- *Schuler v. Phillips Petroleum Co.*, 169 F.3d 1171 (8th Cir. Mo. 1999). Affirming summary judgment for employer in age discrimination case brought under the ADEA.
- *Piele v. Skelgas, Inc.*, 163 Ill. 2d 323 (Ill. 1994). Illinois Supreme Court's Key ruling upholding intrastate forum non conveniens.
- *Ziaee v. Vest*, 916 F.2d 1204 (7th Cir. Ill. 1990). Obtained reversal of jury verdict in favor of plaintiffs in ERISA benefits case.
- *State ex rel Burlington Northern v. Forder*, 787 S.W.2d 725 (Mo. Banc 1990). Key venue decision regarding municipal corporations.
- *White v. Thomson Concrete Pump Co.*, 747 S.W.2d 655 (Mo. App. 1988). Affirming Defendants' verdict in wrongful death products liability action.

Teaching and Service

- Guest lecturer, Lindenwood University, Law of Higher Education.
- Guest lecturer, Maryville University, Law of Higher Education.
- Guest lecturer, Saint Louis University School of Law, Not-for-profit law.
- Guest lecturer, Washington University School of Law, Not-for-profit Law.

Personal

- Married to Dr. Patricia Cooper since 1982.
- Father of three wonderful daughters.
- Active in the St. Louis community, particularly Pedal the Cause – raising funds for research at the Siteman Cancer Center, Washington University St. Louis.





Adam Henningsen

ATTORNEY AT LAW

Contact Information

Direct Dial: 618.307.2008

Facsimile: 618.307.2013

E-mail:

ahenningsen@tuethkeeney.com

Primary Address:

101 W. Vandalia
Suite 210
Edwardsville, Illinois 62025
Telephone: 618.692.4120

Secondary Address:

34 N. Meramec Ave.
Suite 600
St. Louis, Missouri 63105
Telephone: 314.880.3600

Practice Areas

Illinois Education Law
Missouri Education Law
Higher Education Law
Labor & Employment
Commercial Litigation

Bar Admissions

Missouri, 2012
Kansas, 2013
Illinois, 2019

DIFFERENT
BY DESIGN™

Adam Henningsen practices primarily in the areas of education law, labor and employment law, and civil litigation. He has successfully represented public sector and private sector employers in State and Federal Court, and before administrative agencies including the Equal Employment Opportunity Commission, the United States Department of Education Office for Civil Rights, the Missouri Commission on Human Rights, the Missouri Administrative Hearing Commission, and the Missouri State Board of Mediation. Prior to joining the firm, Adam practiced school law at a firm in Kansas City, Missouri.

Adam comes from a long line of public school teachers and administrators. Prior to attending law school, Adam graduated with honors from the School of Education at Mizzou and taught social studies courses at the high school level.

Honors & Awards

Missouri & Kansas Rising Stars, Super Lawyers®, 2018 - present

Education

J.D., University of Missouri – Kansas City School of Law

- Note and Comment Editor, UMKC Law Review

B.S., Secondary Education, University of Missouri

- Magna Cum Laude

Professional Affiliations

- The Missouri Bar Association
- National School Boards Association, Council of School Attorneys
- Missouri School Boards Association, Council of School Attorneys
- Illinois Association of School Boards, Council of School Attorneys

Selected Presentations

Adam frequently gives legal presentations and in-services to a variety of professional associations, employers, school districts, and colleges. Adam has been privileged to deliver presentations which have been sponsored by the following groups and associations:

- Missouri School Boards Association (MSBA)
- Missouri Association of School Administrators (MASA)
- Missouri Council of Administrators of Special Education (MO-CASE)
- Missouri Council of School Attorneys (COSA)
- Missouri Baptist University
- University of Missouri-St. Louis
- Tueth Keeney Illinois Education Law Seminar
- Tueth Keeney Higher Education Law Seminar
- Society of Human Resource Management (SHRM)
- Association of Corporate Counsel (ACC)
- Various employer and school district in-services and staff presentations



TUETH KEENEY
COOPER MOHAN JACKSTADT P.C.

Adam Henningsen

ATTORNEY AT LAW

Contact Information

Direct Dial: 618.307.2008

Facsimile: 618.307.2013

E-mail:

ahenningsen@tuethkeeney.com

Primary Address:

101 W. Vandalia

Suite 210

Edwardsville, Illinois 62025

Telephone: 618.692.4120

Secondary Address:

34 N. Meramec Ave.

Suite 600

St. Louis, Missouri 63105

Telephone: 314.880.3600

Practice Areas

Illinois Education Law

Missouri Education Law

Higher Education Law

Labor & Employment

Commercial Litigation

Bar Admissions

Missouri, 2012

Kansas, 2013

Illinois, 2019

Selected Publications

- *Uncertainties Surrounding Credit for Prior Teaching Experience Under Missouri's Teacher Tenure Laws*, 1 UMKC L. Rev. 27 (2013).
- *Case Note: Mansourian v. Regents of the Univ. of Cal.*, 43 Urb. Law. 645 (2011).



DIFFERENT
BY DESIGN™



Melanie Gurley Keeney

ATTORNEY AT LAW / SHAREHOLDER

Practice Areas

Education
Employment
Immigration
Litigation

Bar Admissions

Missouri Bar, 1990
Illinois Bar, 1991

Contact Information

Telephone: (314) 880.3600
Direct Dial: (314) 880.3611
Facsimile: (314) 880.3601
E-mail:
mkeeney@tuethkeeney.com

34 N. Meramec Avenue,
Suite 600
St. Louis, Missouri 63105

DIFFERENT
BY DESIGN™

Melanie Gurley Keeney practices in the areas of education, employment, and immigration law. She is a frequent presenter and also provides regular training to clients. Her experience in education law includes representing institutions regarding various personnel and student matters, including terminations, state and federal discrimination claims, discipline, § 1983 claims, Open Meetings law, and other issues.

Melanie represents private employers with respect to a wide range of employment matters, including discrimination charges and lawsuits, wage-hour compliance, non-competes, wrongful discharge actions, privacy, defamation and related tort litigation, disability issues, and provides preventive employment law services, including supervisor training programs and employment compliance audits.

Melanie also represents corporations, educational institutions and individuals with their immigration needs and in handling Global Mobility matters, including obtaining temporary and permanent visas, handling employer sanctions issues, I-9 and E-Verify employment eligibility verification compliance, consular processing and naturalization.

Melanie is a founding Shareholder of the Firm and currently serves as its Chairperson. She served on the Management Committee from 2006 to 2015, and served as its Managing Partner and President in 2014 and 2015.

Education

J.D., Washington University School of Law, 1990

- Notes and Topics Editor, Journal of Urban and Contemporary Law

B.A., Baylor University, magna cum laude, 1987, Phi Beta Kappa

Significant Honors and Awards

- Women's Justice Litigation Practitioner Award presented by Missouri Lawyers Weekly, 2016
- International Women's Day Award for Employment Law, awarded by Washington University School of Law, 2014
- Missouri & Kansas Super Lawyer, awarded by Super Lawyers for over 10 consecutive years and in the top 50 female lawyers in Missouri and Kansas
- St. Louis Best Lawyers Education Law Lawyer of the Year, awarded by Best Lawyers, 2017
- St. Louis Best Lawyers Immigration Law Lawyer of the Year, awarded by Best Lawyers, 2019, 2015, 2012
- Recognized by Best Lawyers in America, St. Louis, in the practice area of Immigration Law since 1995, and in the practice areas of Education Law and Employment Law-Management since 2015
- Martindale-Hubbell® Bar Register of Preeminent Women Lawyers™

Professional and Academic Affiliations

- Adjunct Professor, Washington University School of Law, 2017
- The Missouri Bar
- Bar Association of Metropolitan St. Louis
- Illinois Bar Association



Melanie Gurley Keeney

ATTORNEY AT LAW / SHAREHOLDER

Practice Areas

Education
Employment
Immigration
Litigation

Bar Admissions

Missouri Bar, 1990
Illinois Bar, 1991

Contact Information

Telephone: (314) 880.3600
Direct Dial: (314) 880.3611
Facsimile: (314) 880.3601
E-mail:
mkeeney@tuethkeeney.com

34 N. Meramec Avenue,
Suite 600
St. Louis, Missouri 63105

DIFFERENT
BY DESIGN™

- Council for Educational Advancement, Board Member, 2015-Present
- National Council of School Attorneys Board of Directors, 1996-2000
- Missouri Council of School Attorneys, Chairman, 1997
- American Immigration Lawyers Association ("AILA"), Missouri-Kansas Chapter Chair, 1997-1999

Civic and Charitable Activities

- Board Member, Council for Educational Advancement (CEA)
- Former Board Member, The Wilson School
- Active with Burmese refugee population through church activities
- Church Youth Group Sponsor since 1990

Selected Publications and Presentations

- "North America Year in Review: United States Immigration Law. Immigration Webinar Round Table," Employment Law Alliance (ELA), January 2022
- "Doc Extraordinaire Panel," Physician Immigration Institute Presentation presented by International Medical Graduate Taskforce (IMG Taskforce), Washington D.C., December 2021
- "What's on the Horizon: Employment Based Immigration Update," Association of Corporate Counsel (ACC), St. Louis, MO, November 2021
- "Legal Overview: Employment-Based Immigration," Washington University Office for International Students and Scholars, St. Louis, MO, October 2021
- "Tinkering On-line: *Mahanoy vs. B.L.*," The Missouri Bar Committee Meetings, Missouri Education Law, Panelist Discussion of First Amendment Issues, May 2021
- Podcast – "US Business Immigration: The Road Ahead Under the Biden Administration," Employment Law Alliance (ELA), May 2021
- "EB-1 Questions and Answers," Immigration Law Worldwide (ILW), March 2021
- "Critical Policy and Handbook Updates," Society for Human Resource Management (SHRM), February 2021
- "Higher Education Webinar: Immigration – What to Expect in 2021!," Missouri United School Insurance Council (MUSIC), January 2021
- "Working 101 – OPT, CPT, Academic Training, H-1B and other visa options," Washington University Office for International Students and Scholars, January 2021
- "ACC St. Louis Labor & Employment Webinar – What to Expect in 2021!," Association of Corporate Counsel (ACC), December 2020
- "Immigration Update: What to Expect in 2021," Higher Education Seminar CLE, December 2020
- "Navigating the Federal Sea Change: The Impact of the 2020 Election on Employers," Employment Law Alliance, December 2020
- "Business Immigration Options in the COVID-19 Climate," AILA Missouri-Kansas Chapter Meeting, August 2020
- "Managing a Global Workforce During the Pandemic: A U.S. Immigration Law Perspective," Panel Member, ELA (Employment Law Alliance), April 2020



Melanie Gurley Keeney

ATTORNEY AT LAW / SHAREHOLDER

Practice Areas

Education
Employment
Immigration
Litigation

Bar Admissions

Missouri Bar, 1990
Illinois Bar, 1991

Contact Information

Telephone: (314) 880.3600
Direct Dial: (314) 880.3611
Facsimile: (314) 880.3601
E-mail:
mkeeney@tuethkeeney.com

34 N. Meramec Avenue,
Suite 600
St. Louis, Missouri 63105

DIFFERENT
BY DESIGN™

- Panelist on Employment Law Alliance (ELA) COVID-19 Update – March and April 2020
- "I-9 Related Audits and Investigations," Panel Member, Missouri-Kansas AILA Chapter Conference (American Immigration Lawyers Association), November 2019
- "Politics, Economics and the Law Collide: How Global Businesses are Impacted by These Landmines," Panel Moderator, ELA (Employment Law Alliance) Annual Meeting in Lisbon, October 2019
- "H-1B Visas – What's on the Horizon," Global Career Accelerator Program at Washington University in St. Louis, February 2019
- "Hidden Dangers: New Evidence in Discrimination and Harassment Claims," Annual MUSIC (Missouri United School Insurance Council) Seminar, January 2019
- "Current Issues in School Law," Legal Panel Member, MSSA (Midwest Suburban Superintendents Association), January 2019
- "The Keys to Your Success – Employment and Immigration Issues Post Graduation," Washington University Olin School of Business, December 2018
- "Update on New Policies Impacting Foreign Workers," ACC (Association of Corporate Council), November 2018
- "What You Need to Know About Employing Foreign Nationals Under the Current Administration," ACC - CCI (Association of Corporate Counsel – Corporate Counsel Institute), May 2018
- "Employment Discrimination Caselaw Update," COSA (Council of School Attorneys) Webinar, May 2018
- "Employing Foreign Nationals – What's New and on the Horizon," ACC (Association of Corporate Council), February 2018
- "Employing Foreign Nationals," HRMA (Human Resources Management Association), February 2018
- "Navigating Global Employee Migration – Legal Strategies and Practical Considerations," Panel Chair, ELA (Employment Law Alliance) Annual Meeting in Shanghai, October 2017
- "Impact of the New Administration's Immigration Policies on Public Schools," Safe Schools and Colleges Conference, Lake of the Ozarks, MO, October 2017
- "Immigration Law in a Changing World," Adjunct Professor, Washington University in St. Louis, April 2017
- "Town Hall Meeting on President Trump's Executive Order," Webster University, February 2017
- "Teacher Workshop on Current Immigration Law," Street Law, Inc., February 2017
- "The Keys to Your Success – Immigration Issues for Employment," Washington University Olin School of Business, February 2017
- "Year in Review & What to Expect in 2017," ELA (Employment Law Alliance), Webinar, January 2017
- "To Have and Hold: Document Preservation and Discovery," Annual MUSIC Seminar, January 2017
- "Sexual Assault on Campus: Student Safety Best Practices and Emerging Issues," Missouri Community College Association Convention, November 2016



TUETH KEENEY
COOPER MOHAN JACKSTADT P.C.

Melanie Gurley Keeney

ATTORNEY AT LAW / SHAREHOLDER

Practice Areas

Education
Employment
Immigration
Litigation

Bar Admissions

Missouri Bar, 1990
Illinois Bar, 1991

Contact Information

Telephone: (314) 880.3600
Direct Dial: (314) 880.3611
Facsimile: (314) 880.3601
E-mail:
mkeeney@tuethkeeney.com

34 N. Meramec Avenue,
Suite 600
St. Louis, Missouri 63105

DIFFERENT
BY DESIGN™

- "Working 101: OPT, Academic Training, H-1B and Other Visa Options," Washington University Office for International Students and Scholars, October 2016
- "Basics: Business Non-Immigrant Visa Options," Missouri-Kansas AILA Chapter Conference (American Immigration Lawyers Association), April 2016
- "The Keys to Your Success – Immigration Issues for Employment," Washington University Olin School of Business, February 2016
- "Navigating the U.S. Business Immigration Maze: Practical Guidance for Employers," ELA (Employment Law Alliance) Webinar, November 2015
- "Sexual Harassment in the Workplace – The Do's, Don'ts and Defenses of Handling Sexual Harassment Claims," COSA (Council of School Attorneys), Miami, October 2015
- "Legal Limbo: Schools and Religion," MSBA (Missouri School Boards Association) Annual Conference, October 2015
- "Visas and Vulnerabilities," EMSI (Eastern Missouri-Southern Illinois) Rescue and Restore Regional Conference to Combat Human Trafficking, June 2015
- "Coming to a District Near You: Unaccredited School Districts - The Latest Legal Update and Practical Consideration," MoASBO (Missouri Association of School Business Officials), April 2015
- "Basics: Business Non-Immigrant Visa Options," Missouri-Kansas AILA Chapter Conference (American Immigration Lawyers Association), March 2015
- "Hot Topics & Employment Immigration Law," AILA St. Louis Chapter CLE (American Immigration Lawyers Association), March 2015
- "Business Immigration Law," Guest Lecturer, Washington University in St. Louis, February 2015
- "Executive Action on Immigration: What Employers Should Know," Annual Corporate Counsel Institute, ACC (Association of Corporate Council), December 2014
- "What Every School Attorney Should Know About the First Amendment: A PG-13 Review of Hot Topics in Employee Online Research," North Dakota School Boards Association, Bismarck, October 2014
- "What Every School Attorney Should Know About the First Amendment: A PG-13 Review of Hot Topics in Employee Online Research," Council of School Attorneys (COSA), Denver, October 2014
- "Perils and Pitfalls of Electronic Media in the Workplace: Best Practices to Reduce Liability for Your District," MoASBO (Missouri Association of School Business Officials), April 2014
- "Careers in Immigration Law," Panelist, Washington University in St. Louis, February 2014
- "Business Immigration Law," Guest Lecturer, Washington University in St. Louis, February 2014
- "What All Board Members Need to Know About the First Amendment," MARE (Missouri Association of Rural Education), February 2014
- "Expert Panel" and "Judge Judy-School Liability Presentation," Annual MUSIC Seminar, January 2014
- "MSIP 5 and Unaccredited School Districts," MSBA (Missouri School Boards Association) Annual Conference, September 2013



TUETH KEENEY
COOPER MOHAN JACKSTADT P.C.

Melanie Gurley Keeney

ATTORNEY AT LAW / SHAREHOLDER

Practice Areas

Education
Employment
Immigration
Litigation

Bar Admissions

Missouri Bar, 1990
Illinois Bar, 1991

Contact Information

Telephone: (314) 880.3600
Direct Dial: (314) 880.3611
Facsimile: (314) 880.3601
E-mail:
mkeeney@tuethkeeney.com

34 N. Meramec Avenue,
Suite 600
St. Louis, Missouri 63105

DIFFERENT
BY DESIGN™

- "The Anatomy of an MHRA Claim: From the Administrative Charge through Jury Verdict," ACC (Association of Corporate Council), November 2013
- "PERM and the Offsite Worker," AILA (American Immigration Lawyers Association), September 2013
- "I-9 and E-Verify Update – New ICE Guidance and Compliance Tips," Missouri Employment, Labor and Immigration Seminar, September 2013
- "Hot Topics in Employment Immigration (Hs, Ls, TNs, Os, Ps, And the Rest of the Alphabet)," Missouri Employment, Labor and Immigration Seminar, September 2013
- "Hot Topics in Immigration," Annual Corporate Counsel Institute, ACC (Association of Corporate Council), May, 2013
- "Responding to Reference Requests: What You Can Say; What You Must Say," MoASBO (Missouri Association of School Business Officials), April 2013
- "ADA / FMLA Update," CACUBO (Central Association of College and University Business Officers), February 2013
- "Facebook, Texting, Teachers, and Students...Oh My!" MARE (Missouri Association of Rural Education), February 2013
- "New Expansion of the Public Policy Exception to the Employment At-Will Doctrine," MUSIC (Missouri United School Insurance Council), January 2013
- "Collective Bargaining: What the Missouri Supreme Court Now Requires," Cooperating School Districts, January 2013
- "Legal, Practical and PR Issues Surrounding Background Checks," MoASBO (Missouri Association of School Business Officials), November 2012
- "Sizzling Hot "Must Knows" for In-House Counsel – Turning Up the Heat!" ACC (Association of Corporate Council), November 2012
- "Green Cards" -- So Many Options, So Little Time . . .," NAFSA: Association of International Educators, October 2012
- "Facilities Use and the First Amendment in the Schools," MoASBO (Missouri Association of School Business Officials), April 2012
- "Sexual Harassment - What Every School Employee Must Know," MoASBO (Missouri Association of School Business Officials), April 2012
- "Use of Electronic Communications by School Athletic Personnel," MIAAA (Missouri Interscholastic Athletic Administrators Association), April 2012
- "ADA/FMLA Update," Central Association of College and University Business Officers Indianapolis Winter Workshop, March 2012
- "Employment Law Update," Central Association of College and University Business Officers 43rd Annual Winter Workshop, February 2011
- The Fair Labor Standards Act: Strategies for Prosecuting and Defending Claims," Missouri Bar CLE Labor & Employment Law Symposium, November 2010
- "Tips for Investigating Allegations of Misconduct," ACC (Association of Corporate Counsel), August 2010
- "Hot Topics in Immigration and Employer Sanctions Compliance," GAPP (Gateway Association of Payroll Professionals), May 2010



Melanie Gurley Keeney

ATTORNEY AT LAW / SHAREHOLDER

Practice Areas

Education
Employment
Immigration
Litigation

Bar Admissions

Missouri Bar, 1990
Illinois Bar, 1991

Contact Information

Telephone: (314) 880.3600
Direct Dial: (314) 880.3611
Facsimile: (314) 880.3601
E-mail:
mkeeney@tuethkeeney.com

34 N. Meramec Avenue,
Suite 600
St. Louis, Missouri 63105

- "Monitoring Student Electronic Communications," United Educators Risk Management Counsel, February 2010
- "School Law: Teacher Termination, Student Discipline, and Emerging Issues," MASSP (Missouri Assistant Principal Association), January 2010
- "Hot Topics in Business Immigration: How to Get What You Want and Stay Out of Trouble!" HRMA (Human Resources Management Association), May 2009
- "Law and Legal Principles," PRIMA (Public Risk Management Association) 2009 Institute, October 2009
- "No Monkeying Around...I-9 and E-Verify Compliance Issues," Association of Corporate Counsel, October 2009
- "Employment Law 101," Association of St. Louis Women CPAs, September 2009
- "E-Verify Update," MoASBO (Missouri Association of School Business Officials) Spring Conference, April 2009
- "E-Verify and Missouri H.B. 1549," Cooperating School Districts and SLPPDA (St. Louis Personnel/Placement Directors' Assoc.)
- "Working in America: OPT, Academic Training, H-1B and Other Visa Options," Washington University
- "Immigration Issues for Employers: What In-House Counsel and Human Resources Professionals Need to Know," ELA (Employment Law Alliance), Webinar, February 2009
- "I-9s, E-Verify and Your District's Responsibilities," MSBA (Missouri School Boards' Association) Practical Personnel Law Workshop, February 2009
- Employment Law Update – What's New and How to Stay Out of Trouble!" CACUBO (Central Assoc. of College and University Business Officers), February 2009
- "Update on Legal Issues Impacting Employment in Higher Education," University of Central Missouri, 2008
- "NCLB and IDEA: A Disgruntled Marriage", MOCASE Law Seminar, Tan-Tar-A Resort, Missouri, 2007
- "Ethical Implications of New E-Discovery Rules and Handling Related Conflicts-of-Interest Situations," KASB School Law Seminar, Kansas City, 2007 "Bullying: Lessons to Combat Cruelty," Webinar sponsored by United Educators, July 2008
- "Nightmare on Elm Street: New E-Discovery Rules and Implications for School Districts," KSBA School Law Seminar, Kansas City, 2007
- "Ethical Implications of New E-Discovery Rules and Handling Related Conflicts-of-Interest Situations," NSBA Council of School Attorneys Advocacy Seminar, Kansas City, 2006
- "Business Office Pot Luck," Cooperating School Districts Business Meeting, 2006
- "Update on Religion Issues Impacting Schools," Missouri School Boards Association Fall Conference, 2004, and Missouri United School Insurance Council Annual Meeting, 2005
- "Update on Staff and Student Issues," Missouri Lutheran Schools Association, 2004
- An Analysis of the Impact NCLB May Have on Placement Decisions Under the IDEA," National School Boards Association's Council of School Attorneys Annual Conference, 2004

Melanie Gurley Keeney

ATTORNEY AT LAW / SHAREHOLDER

Practice Areas

Education
Employment
Immigration
Litigation

Bar Admissions

Missouri Bar, 1990
Illinois Bar, 1991

Contact Information

Telephone: (314) 880.3600
Direct Dial: (314) 880.3611
Facsimile: (314) 880.3601
E-mail:
mkeeney@tuethkeeney.com

34 N. Meramec Avenue,
Suite 600
St. Louis, Missouri 63105

- "Tips For Employees Traveling Abroad And Other Post 9/11 Issues," St. Louis Employee Relocation Council, 2003
- "Legal Issues in the Area of School Liability," Lutheran High Schools, 2003
- "Legal Issues in the Area of Staff and Student Management," St. Louis Lutheran Elementary School Association, 2003
- "Church and State," Co-Editor, Chapter 9 of The Missouri Bar Association's Mo Bar CLE Deskbook, 2003
- "Policing Cybermisconduct and Other Hot First Amendment Topics," Missouri United School Insurance Council, 2003
- "State Criminal Records Checks: Scope, Cost and Procedure," BAMSL Not-For-Profit Sector, 2002
- "Legal Goulash – Pre/Post Employment and Cyber Liabilities," Missouri United School Insurance Council, 2002
- "Post September 11th Issues," AAIM Executive Roundtables, St. Louis, St. Charles, and Edwardsville, 2001-2002
- "Proving Discrimination: Evidence and Discovery Issues," American Bar Association, 2001
- "Issues Involving Students with Limited English Proficiency," COSA Annual Seminar, 2001
- "Legal Issues and Liabilities," Missouri Community College Association Conference, June 2000





Jenna Lakamp

ATTORNEY AT LAW

Practice Areas

Missouri Education Law
Higher Education Law
Employment & Labor
Commercial Litigation

Contact Information

Telephone: (314) 880.3600
Direct Dial: (314) 880.3591
Facsimile: (314) 880.3601
E-mail:
jlakamp@tuethkeeney.com

34 N. Meramec Avenue,
Suite 600
St. Louis, Missouri 63105

Bar Admissions

Missouri, 2014
Illinois, 2015

Jenna M. Lakamp practices primarily in the areas of labor & employment, litigation, and education law, representing both private and public institutions in education and employment matters. Jenna focuses her practice on litigation and is licensed in Missouri and Illinois. Jenna regularly litigates in both jurisdictions, representing employers in a wide variety of employment claims. Jenna also represents Institutions of Higher Education and Public School Districts in various employment and student related claims, both through administrative processes and during litigation. Jenna also provides counseling on complex employment issues, working closely with clients on a day-to-day basis. Jenna attended law school at Washington University in St. Louis, where she was active in The National Moot Court Team.

Education

J.D., Washington University School of Law, 2014

- National Moot Court Team, Member 2013-2014
- Order of Barristers

B.A. Xavier University, 2009

- Graduated Magna Cum Laude

Professional Affiliations

- Missouri Bar Association
- Illinois Bar Association
- National Association of College and University Attorneys
- Missouri Council of School Attorneys
- Illinois Council of School Attorneys





Mollie G. Mohan

ATTORNEY AT LAW / SHAREHOLDER

Practice Areas

Higher Education
Labor & Employment
Commercial Litigation
Appellate Law

Bar Admissions

Missouri, 2012
Illinois, 2013

Contact Information

Telephone: (314) 880.3600
Direct Dial: (314) 880.3590
Facsimile: (314) 880.3601
Direct Facsimile: (314) 880.3551
E-mail:
mmohan@tuethkeeney.com

34 N. Meramec Avenue,
Suite 600
St. Louis, Missouri 63105

DIFFERENT
BY DESIGN™

Mollie G. Mohan practices primarily in the areas of labor & employment and higher education with an emphasis on litigation and appeals. Mollie represents colleges, universities, and private employers in labor and employment matters at the administrative, trial, and appellate level. Prior to joining the firm, Mollie worked at a large-sized litigation firm in Saint Louis. While in law school, Mollie was a student law clerk to the Honorable Jean C. Hamilton of the United States District Court for the Eastern District of Missouri.

Mollie is the Chair of the firm's Liaisons for Equity, Access, and Diversity Committee (the LEAD Team).

Education

J.D., Charleston School of Law, 2012

- Graduated magna cum laude
- Editor-in-Chief, Charleston Law Review

B.A., Saint Louis University, 2006

- Graduated cum laude

Professional Affiliations

- The Missouri Bar Association
- The Bar Association of Metropolitan St. Louis
- The Women Lawyers' Association of Greater St. Louis
- Joint Commission on Women in the Profession

Selected Publications and Presentations

- "Labor and Employment Law: What to Expect in 2021," Association of Corporate Counsel-St. Louis CLE, December 2020
- Author of the Missouri Chapter of the Employment Law Alliance (ELA) Global Employer Handbook
- "Missouri Passes Law Bringing Discovery Rules More in Line with Federal Rules," 2019 Association of Corporate Counsel Newsletter
- "E-discovery Myth Busters Brown Bag Lunch CLE," February 2019
- "Employee Handbook Must Haves," University of Missouri – St Louis Non-Profit Management & Leadership Program continuing education class, February 2019
- "E-discovery: The Good, the Bad, and the Ugly," Tueth Keeney CLE, September 2018 (Part I) and October 2018 (Part II)
- "MHRA on the Move: Where We Are Today," Association of Corporate Counsel Conference, February 2018
- "Navigating Employee Leaves of Absence," Human Resources Management Association of Greater St. Louis Employment Roundtable, February 2018
- "Navigating Employee Leaves of Absence," Missouri Association of School Business Officials Fall Conference, November 2017
- "What Nonprofits Need to Know about Personnel and Schedule-Related Policies," University of Missouri – St Louis Non-Profit Management & Leadership Program continuing education class, August 2017
- "Agency Update," Association of Corporate Counsel Conference, December 2016
- "Hot HR Topics," University of Missouri – St Louis Non-Profit Management & Leadership Program continuing education class, October 2016
- "Litigating the Locker Room: Transgender Issues," Missouri School Board Association Safety Conference, September 2016
- "Privacy in the Internet Age," 5 CHARLESTON L. REV. 581 (2011)
- "Proposed Change to Civil Lawsuit Pleading Standard Strays Far from Original Federal Rule," 25 WASH. LEGAL FOUND. 33 (2010)

Significant Trials



TUETH KEENEY
COOPER MOHAN JACKSTADT P.C

Mollie G. Mohan

ATTORNEY AT LAW / SHAREHOLDER

Practice Areas

Higher Education
Labor & Employment
Commercial Litigation
Appellate Law

Bar Admissions

Missouri, 2012
Illinois, 2013

Contact Information

Telephone: (314) 880.3600
Direct Dial: (314) 880.3590
Facsimile: (314) 880.3601
Direct Facsimile: (314) 880.3551
E-mail:
mmohan@tuethkeeney.com

34 N. Meramec Avenue,
Suite 600
St. Louis, Missouri 63105

- *Sanders v. City of Columbia*. Trial involving former Police Officer for the City of Columbia seeking reinstatement, back pay, and benefits. Judgment for the City/Employer. Upheld on appeal by the Western District of Missouri Court of Appeals.
- *Novak v. Board of Trustees of Southern Ill. Univ.*, 777 F.3d 996 (7th Cir. 2015). Affirming summary judgment in favor of University and three faculty members in disability discrimination claim brought by doctoral student.
- *Hatcher v. Board of Trustees of Southern Illinois University*, 829 F.3d 531 (7th Cir. 2016). Affirming summary judgment in favor of the University and administrator on a former faculty member's gender discrimination and First Amendment retaliation claims.



DIFFERENT
BY DESIGN™



Mandi D. Moutray

ATTORNEY AT LAW

Practice Areas

Missouri Education Law
Higher Education Law
Labor & Employment

Contact Information

Telephone: (314) 880.3600
Direct Dial: (314) 880.3599
Facsimile: (314) 880.3527
E-mail:
mmoutray@tuethkeeney.com

34 N. Meramec Avenue,
Suite 600
St. Louis, Missouri 63105

Bar Admissions

Missouri, 2013
Illinois, 2014

DIFFERENT
BY DESIGN™

Mandi D. Moutray practices primarily in the areas of education, higher education, litigation, and labor and employment law. She represents school districts, higher education institutions, and private employers throughout Missouri with respect to employment and termination matters, harassment and discrimination claims, civil rights, student rights, first amendment issues, and Title IX litigation.

Mandi also advises private employers, including multi-jurisdictional employers, on employment-related issues, including Title VII, the ADA, the ADEA, the FMLA, related state laws, reorganizations, and reductions-in-force. Mandi regularly represents public institutions and private employers in state and federal court in Missouri as well as in front of administrative agencies, such as the Equal Employment Opportunity Commission and the Missouri Commission on Human Rights.

Prior to joining the firm, Mandi practiced civil litigation at a large litigation firm in St. Louis. While in law school, Mandi served as a judicial intern to the Honorable Roy L. Richter for the Missouri Court of Appeals, Eastern District.

Education

J.D., Saint Louis University School of Law, 2013

- Dean's List
- Academic Excellence Award in Jury Instructions and Trial Process
- Theodore McMillian American Inns of Court
- Legal Research and Writing Teaching Assistant

B.S., University of Missouri, 2010

- Dean's List

Professional Affiliations

- The Missouri Bar Association
- Missouri Council of School Attorneys
- The Women Lawyers' Association of Greater St. Louis
- Illinois Council of School Attorneys

Presentations

- "Handling Employee Complaints—Avoiding Retaliation and Whistleblower Claims," Association of Corporate Counsel, CLE Lunch, November 2021;
- "Missouri Teacher Evaluation and Documentation," Tueth Keeney Cooper Mohan & Jackstadt, P.C. Principals' Academy, October 2021;
- "Legal Issues for School Employees," Ladue Horton Watkins High School, August 2021;
- "Employees Who Stay: A Closer Look at Retaliation and Whistleblower Claims," Tueth Keeney Cooper Mohan & Jackstadt, P.C. Missouri School Law Seminar, August 2021;
- "Employees Who Stay: A Closer Look at Recent Retaliation and Whistleblower Claims," Tueth Keeney Cooper Mohan & Jackstadt, P.C. Higher Education Seminar, June 2021;
- "Volunteer Background Checks and Missouri RAP Back," MoASBO Spring Conference, February 2021;
- "Critical Policy and Handbook Updates," SHRM St. Louis Annual Legal Update, February 2021;
- "Legislative Update," Tueth Keeney Cooper Mohan & Jackstadt, P.C. School Law Seminar, August 2020;



TUETH KEENEY
COOPER MOHAN JACKSTADT P.C.

Mandi D. Moutray

ATTORNEY AT LAW

Practice Areas

Missouri Education Law
Higher Education Law
Labor & Employment

Contact Information

Telephone: (314) 880.3600
Direct Dial: (314) 880.3599
Facsimile: (314) 880.3527
E-mail:
mmoutray@tuethkeeney.com

34 N. Meramec Avenue,
Suite 600
St. Louis, Missouri 63105

Bar Admissions

Missouri, 2013
Illinois, 2014

- “Walking the Tightrope - Religion in Schools,” Missouri School Board Association Conference, September 2019;
- “E-Discovery Essentials,” Association of Corporate Counsel, November 2019;
- “Walking the Tightrope: Religion in Schools,” Missouri School Board Association Conference, September 2019;
- “Best Practices for Addressing Employee Mental Health Conditions,” Tueth Keeney Cooper Mohan & Jackstadt, P.C. School Law Seminar, July 2019;
- “Dealing with Employees Who ‘Stay’ Post-Complaint,” Tueth Keeney Cooper Mohan & Jackstadt, P.C. Higher Education Law Seminar, June 2019;
- “Legal and Practical Implications of Processing Requests for Accommodation,” Association of Corporate Counsel, CLE Lunch, November 2018;
- “Navigating Employee Leaves of Absence,” Human Resource Management Association’s Annual Legal Update, February 2018

Significant Results

- *Hughes v. Missouri Baptist Univ.*, No. 4:19-CV-02373-AGF, 2021 WL 2042264, at *14 (E.D. Mo. May 21, 2021) (granting partial summary judgment for a university on a former student’s Title IX and breach of contract claims).
- *Ickenroth v. Parkway Sch. Dist. C-2*, 612 S.W.3d 247, 255 (Mo. App. E.D. 2020) (affirming summary judgment in favor of a school district on a former employee’s age discrimination claim).
- *Doe v. Ladue Horton Watkins High Sch.*, No. 4:18-CV-01637 JAR, 2018 WL 4698804, at *5 (E.D. Mo. Oct. 1, 2018) (denying a student plaintiff’s motion for temporary restraining order alleging age and gender discrimination)
- *Willert v. Sch. Dist. of Clayton, et al.*, 18SL-CC02591 (verdict in favor of a school district following a bench trial in the Circuit Court of St. Louis County, Missouri on plaintiffs’ claims of estoppel, laches, and waiver).



DIFFERENT
BY DESIGN™



Kate L. Nash

ATTORNEY AT LAW / SHAREHOLDER

Practice Areas

Higher Education
Education
Labor and Employment Employer
Non-Profit
Litigation

Bar Admissions

Missouri
Illinois

Contact Information

Telephone: (314) 880.3600
Direct Dial: (314) 880.3573
Facsimile: (314) 880.3601
Direct Facsimile: (314) 880.3532
E-mail:
knash@tuethkeeney.com

34 N. Meramec Avenue,
Suite 600
St. Louis, Missouri 63105

DIFFERENT
BY DESIGN™

Kate L. Nash practices primarily in the areas of higher education, education, non-profit, litigation, labor and employment law. Kate works primarily with educational institutions, including public and private colleges and universities, community colleges, public school districts and charter schools. She regularly advises these institutions, as well as private employers, on all manner of employment issues including Title VII, the ADA, the ADEA, the FMLA and related state laws. She advises institutions of higher education on a wide range of legal issues, including employment matters, student rights, harassment and discrimination disputes, tenure litigation, first amendment issues, Title IX compliance and litigation, disability law, Title IV funding, board governance, endowment matters and numerous other legal issues impacting the higher education community. Kate also acts as outside general counsel to numerous institutions, advising them on a myriad of day-to-day legal issues. Kate has extensive experience on matters related to Title IX, VAWA, the Clery Act and Title IV regulations.

Kate also has extensive experience advising private employers, including multi-jurisdictional employers, on other employment-related issues, including reorganizations and reductions-in-force. She works with employers throughout the process – including design, communications to employees, and timing – in ways meant to reduce risk and treat employees fairly.

In addition, Kate maintains an active investigations practice, both conducting and directing investigations at educational institutions and other workplaces involving sensitive matters such as high-level personnel issues.

Kate represents educational institutions and other employers in state and federal court in Missouri and Illinois. She represents clients in front of administrative agencies, such as the Equal Employment Opportunity Commission, the Missouri Human Rights Commission the Illinois Department of Human Rights, the Department of Education's Office for Civil Rights, and the Office of Federal Contract Compliance Programs.

Kate is a frequent lecturer and author on employment law and legal issues related to educational institutions. She is a member of the National Association of College and University Attorneys (NACUA), the Council of School Attorneys (COSA), and has been recognized by Super Lawyers in the field of education law. Kate was an adjunct professor at St. Louis University School of Law for many years where she taught a course on the law of non-profit organizations.

Kate is a member of the Firm's Management Committee.

Education

J.D., Washington University School of Law

- Articles and Notes Editor, Journal of Law and Policy
- Receipt of Jack Gardner Humanitarian Award

B.A., Cornell University

Professional Affiliations

- The Missouri Bar Association
- The Illinois Bar Association
- National Association of College and University Attorneys
- National School Boards Association, Council of School Attorneys



Kate L. Nash

ATTORNEY AT LAW / SHAREHOLDER

Practice Areas

Higher Education
Education
Labor and Employment Employer
Non-Profit
Litigation

Bar Admissions

Missouri
Illinois

Contact Information

Telephone: (314) 880.3600
Direct Dial: (314) 880.3573
Facsimile: (314) 880.3601
Direct Facsimile: (314) 880.3532
E-mail:
knash@tuethkeeney.com

34 N. Meramec Avenue,
Suite 600
St. Louis, Missouri 63105

- Missouri School Boards Association, Council of School Attorneys

Selected Presentations

- “Who Dunit? How to Guide Internal Investigations,” Presentation to Association of Corporate Counsel – St. Louis Chapter, 2018.
- “#MeToo: A Year Later – Legal Analysis & Lessons Learned,” Presentation to In-House Counsel, 2018.
- “Knowledge is Power: Key Legal Concepts for Serving Your Community,” Key Note Speaker at 2018 Show Me Title IX Conference.
- “Higher Education Law 101: Legal Issues for Student Services Professionals,” MCCA (Missouri Community College Association) Student Affairs Forum, 2018.
- “Campus Sexual Assault Update,” Moderator and Speaker for Employment Law Alliance Webinar.
- “Speech on Campus,” Presentation to MCCA Chief Student Affairs Officers, 2017.
- “From Black Armbands to Red Ball Caps: Navigating Student Speech in Politically Charged Times,” National School Boards Association Council of School Attorneys, School Law Practice Seminar, 2017
- “Termination of Tenured Faculty for Cause: Obligations and Risks,” NACUA Annual Conference, 2017.
- “Hot Legal Topics in Higher Education – What HR Professionals Need to Know,” Missouri College & University Professional Association – HR Fall Conference, Presenter in 2018, 2017, 2016, 2015 and 2014.
- “Legal Issues for Trustees,” and “Legal Update for Community Colleges,” MCCA (Missouri Community College Association) Fiftieth Convention, 2016.
- “Presidential Politics in the School House,” Missouri School Boards’ Association (MSBA) Annual Conference, 2016.
- “Sexual Harassment in the Workplace: the Do’s, Don’ts, and Defenses of Handling Sexual Harassment Claims,” NSBA (National School Boards’ Association) Council of School Attorneys’ School Law Practice Seminar, 2015.
- “Do’s and Don’ts of Employee Termination in Non-Profit Organizations,” University of Missouri – St. Louis Nonprofit Leadership and Management Program, 2014 and 2013.
- “Legal Issues: The Violence and Against Women Act and What it Means for Community Colleges,” and “Legal Issues: Sexual Violence on Campus – What’s Next?” MCCA Fiftieth Convention, 2014.
- “What Every School Attorney Should Know About the First Amendment: A PG-13 Review of Hot Topics in Employee Online Speech,” NSBA (National School Boards’ Association) Council of School Attorneys’ School Law Practice Seminar, 2014.
- “Student-Centered: Legal Issues for Community Colleges,” MCCA Spring Trustee Conference, 2014.
- “Employment Issues in Higher Education,” Guest Lecturer, Lindenwood University, 2014 and 2013.
- “Perils and Pitfalls of Electronic Media in the Workplace: Best Practices to Reduce Liability for Your District,” MoASBO Spring Conference, 2014.

Selected Publications

- Co-Author of Article, “Termination of Tenured Faculty for Cause: Obligations and Risks,” submitted for the NACUA Annual Conference, 2017.
- Co-Author of Article, “Sexual Harassment in the Workplace: the Do’s, Don’ts, and Defenses of Handling Sexual Harassment Claims,” submitted for the NSBA (National School Boards’ Association) Council of School Attorneys’ School Law Practice Seminar, 2015.



TUETH KEENEY
COOPER MOHAN JACKSTADT P.C.

Kate L. Nash

ATTORNEY AT LAW / SHAREHOLDER

Practice Areas

Higher Education
Education
Labor and Employment Employer
Non-Profit
Litigation

Bar Admissions

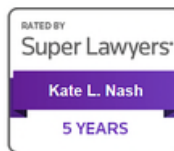
Missouri
Illinois

Contact Information

Telephone: (314) 880.3600
Direct Dial: (314) 880.3573
Facsimile: (314) 880.3601
Direct Facsimile: (314) 880.3532
E-mail:
knash@tuethkeeney.com

34 N. Meramec Avenue,
Suite 600
St. Louis, Missouri 63105

- Co-Author of Article, "What Every School Attorney Should Know About the First Amendment: A PG-13 Review of Hot Topics in Employee Online Speech," submitted for the NSBA Council of School Attorneys' School Law Practice Seminar, 2014.
- Author of the Equal Pay Act Chapter of the Missouri Bar Association CLE Employment Discrimination Deskbook
- Contributing Author, Cumulative Supplements to the American Bar Association's Family and Medical Leave Act Treatise in 2009 and 2017.
- Contributing Author, "ABA Section of Labor and Employment Law Committee on Federal Labor Standards Legislation" for the Midwinter Meeting Report of the Subcommittee on the Family and Medical Leave Act in 2007, 2008 and 2009
- Contributing Author, to the "ABA Section of Labor and Employment Law Committee on Federal Labor Standards Legislation" for the Midwinter Meeting Report of the Subcommittee on the Developments under the Age Discrimination in Employment Act in 2003 and 2004



DIFFERENT
BY DESIGN™



Veronica E. Potter

ATTORNEY AT LAW

Practice Areas

Missouri Education Law
Higher Education Law
Labor & Employment
Commercial Litigation
Appellate Practice

Bar Admissions

Missouri, 2013
Illinois, 2020

Contact Information

Telephone: (314) 880.3600
Direct Dial: (314) 880.3584
Facsimile: (314) 880.3601
E-mail:
vpotter@tuethkeeney.com

34 N. Meramec Avenue,
Suite 600
St. Louis, Missouri 63105

DIFFERENT
BY DESIGN™

Veronica E. Potter practices primarily in the areas of higher education, litigation, and labor and employment law. Veronica represents colleges, universities, and private employers in education and employment litigation matters. In her work with institutions of higher education, Veronica advises on a wide range of legal issues, including employment matters, student rights, harassment and discrimination disputes, and numerous other legal issues impacting the higher education community. She regularly works with clients on a variety of day-to-day legal issues.

Veronica also has extensive experience working with colleges and universities on matters related to Title IX compliance and litigation, including drafting policies and procedures, providing trainings, conducting investigations, and representing institutions in litigation. Veronica also conducts investigations at educational institutions and other workplaces on both student and personnel issues. As a former sex crimes and domestic violence prosecutor, Veronica has been trained in trauma-informed interview techniques and has experience interviewing victims of trauma.

Veronica has experience in all stages of litigation, including case investigation, discovery, arguing pretrial motions, and presenting cases to both judges and juries. She started her legal career as an Assistant Circuit Attorney in the St. Louis City Circuit Attorney's Office, where she gained first chair trial experience. Veronica also has experience working on E-Discovery and leveraging technology to help clients manage data in litigation. Prior to joining Tueth Keeney, Veronica also practiced civil litigation at a large defense firm in St. Louis. Veronica also has experience handling appellate matters and has argued before the Missouri Supreme Court and the Missouri Eastern District Court of Appeals.

Education

J.D., Washington University School of Law, 2013

- Graduated cum laude
- Executive Notes and Projects Editor, Journal of Law & Policy
- Webster Society Scholar
- Recipient of Equal Justice Works Award and Dean's Service Award

B.A., Washington University in St. Louis, 2010

- Graduated with College Honors in Arts & Sciences
- Dean's List

Professional Affiliations

- The Missouri Bar Association
- The Bar Association of Metropolitan St. Louis
- National Association of College and University Attorneys

Selected Presentations

- E-Discovery: Because it's not like all this data is going away," Tueth Keeney (March 2022)
- Legal Updates – Missouri Community College Association, Trustee and Executive Leadership Conference (July 2021)
- Title IX Updates – Tueth Keeney Higher Education Webinar (June 2021)

Veronica E. Potter

ATTORNEY AT LAW

Practice Areas

Missouri Education Law
Higher Education Law
Labor & Employment
Commercial Litigation
Appellate Practice

Bar Admissions

Missouri, 2013
Illinois, 2020

Contact Information

Telephone: (314) 880.3600
Direct Dial: (314) 880.3584
Facsimile: (314) 880.3601
E-mail:
vpotter@tuethkeeney.com

34 N. Meramec Avenue,
Suite 600
St. Louis, Missouri 63105

- Protecting Data Privacy and Other Cybersecurity Concerns - Tueth Keeney Higher Education Webinar (June 2021)
- Hot Legal Topics for College and University HR Professional – Missouri College and University Professional Administration-Human Resources (February 2021)
- Legal Update for Student Affairs Professionals – Missouri Community College Association, Student Services Seminar (February 2021)
- Title IX: Rules of Procedure and Decorum – Tueth Keeney Higher Education Webinar (October 2020)
- The Logistics of E-Discovery: Responding to Requests – Tueth Keeney CLE (December 2019)
- "E-Discovery Essentials," Presentation to Association of Corporate Counsel – St. Louis (November 2019)
- "Student Accommodations in Clinical Settings" MCCA Allied Health Conference (October 2019)
- "E-Discovery Essentials," Tueth Keeney Higher Education Seminar (June 2019)
- "Legal Issues for Student Affairs Professionals," MCCA Student Services Seminar (March 2019)
- "E-discovery Myth Busters Brown Bag Lunch CLE" (February 2019)
- "Title IX Proposed Regulations: Overview and Discussion," St. Louis Area Title IX Coordinators Roundtable (January 2019)
- "Legal Update for Student Affairs Professionals: The Latest on Title IX" – MCCA Annual Convention, Chief Student Affairs Officers Meeting (November 2018)
- "Practical Considerations for E-Discovery or: How I Learned to Stop Worrying and Love Metadata," Tueth Keeney CLE (August 2018)
- "The Latest News on Title IX," Tueth Keeney Higher Education Seminar (May 2018)
- "Title IX Update on Respondents' Rights," St. Louis Area Title IX Coordinators Roundtable (April 2018)
- "Higher Education Law 101: Legal Issues for Student Services Professionals," Missouri Community College Association (MCCA) Student Services Seminar (March 2018)

Selected Publications

- Missouri Supreme Court Releases Much-Needed Revisions to Missouri's Civil Discovery Rules – March 2021 Association of Corporate Counsel Newsletter
- "Missouri Passes Law Bringing Discovery Rules More in Line with Federal Rules," 2019 Association of Corporate Counsel Newsletter
- A Tale of Two States: Challenges to Voter ID Ballot Measures in Missouri and Minnesota, 42 Wash. U. J. L. & Pol'y 203 (2013)

DIFFERENT
BY DESIGN™





John M. Reynolds

ATTORNEY AT LAW

Practice Areas

Construction Litigation
Commercial Litigation
Fraud
Employer Compliance
Labor & Employment
Lease Disputes
Product Liability
Information Technology

Bar Admissions

Missouri Bar
Illinois Bar
Federal Bar

Contact Information

Telephone: (314) 880.3600
Direct Dial: (314) 880.3617
Facsimile: (314) 880.3601
E-mail:
jreynolds@tuethkeeney.com

34 N. Meramec Avenue,
Suite 600
St. Louis, Missouri 63105

DIFFERENT
BY DESIGN™

John M. Reynolds is an experienced and trusted trial lawyer, whose practice focuses on complex, technical litigation. He has served as trial counsel in some of the largest commercial cases tried to verdict in the St. Louis area, involving Fortune 500 companies and seven-figure disputes. His commercial litigation involves U.C.C. disputes, business valuation disputes, breach of contract and other general commercial disputes. John also assists in dealing with issues involving employee theft, as well as financial audits.

In addition to trial work, John helps businesses deal with employment claims and assists in resolving employee issues, including the prosecution and defense of non-compete disputes, as well as information technology issues, including data privacy issues and forensic computer investigations.

John also handles Immigration Reform and Control Act of 1986 (IRCA) matters and related I-9 issues, including E-Verify requirements, audit responses, and ICE investigations. He also handles export control licensing reviews for H-1B compliance purposes.

Education

J.D., University of Virginia School of Law, 1995

- Editor, Virginia Tax Review
- Member, National Trial Team

B.A., Economics, University of Missouri-Columbia, *summa cum laude*, 1992

Construction and Commercial Litigation

John's construction litigation ranges from simple mechanic's lien actions to complex, contractor/owner disputes on high value projects. John's commercial litigation involves U.C.C. disputes, business valuation disputes, breach of contract and other general commercial disputes.

Fraud

John prosecutes and defends civil fraud cases, including mortgage fraud cases. John also assists in dealing with issues involving employee theft, as well as financial audits.

Employer Compliance

John assists employers with complex, technical issues involving:

- Data Privacy
- Data Governance
- Software Licensing
- Immigration Reform and Control Act of 1986 (IRCA) I-9 audit responses and investigations
- Export Control Licensing
- Title IV Program Reviews
- Section 504 and ADA compliance

Labor and Employment

John defends employment claims and assists in resolving employee issues, including the prosecution and defense of non-compete disputes. John has also successfully protected public sector employers against civil rights claims, including First Amendment claims.



TUETH KEENEY
COOPER MOHAN JACKSTADT P.C

John M. Reynolds

ATTORNEY AT LAW

Practice Areas

Construction Litigation
Commercial Litigation
Fraud
Employer Compliance
Labor & Employment
Lease Disputes
Product Liability
Information Technology

Bar Admissions

Missouri Bar
Illinois Bar
Federal Bar

Contact Information

Telephone: (314) 880.3600
Direct Dial: (314) 880.3617
Facsimile: (314) 880.3601
E-mail:
jreynolds@tuethkeeney.com

34 N. Meramec Avenue,
Suite 600
St. Louis, Missouri 63105

Products Liability

John litigates issues involving motor homes, mobile homes, and manufactured homes, as well as other disputes where product design and safety are at issue.

Information Technology

John helps businesses deal with disputes involving information technology issues, including data privacy issues and forensic computer investigations.

Recent Presentations

- 2020 Missouri School Board Association Annual Conference – Keynote Speaker - *Cybersecurity and Data Governance*
 - 2020 K-12 School Seminars – *Legal Considerations for Online Learning*
 - 2018 MO-KAN AILA Chapter Conference - *The Intersection of Employment Law and Immigration Law, Including I-9's*
 - 2018 Association of Corporate Counsel CLE - *Who Dunit? How to Guide Internal Investigations*
 - 2018 Corporate Client CLE – *Fraud/Compliance Considerations in the Digital Arena*
-



DIFFERENT
BY DESIGN™