

# Robbins Schwartz

## Higher Education Title IX Coordinator Training Webinar

December 9, 2020

**Kevin P. Noll**  
[knoll@robbins-schwartz.com](mailto:knoll@robbins-schwartz.com)

**Amanda E. Campo**  
[acampo@robbins-schwartz.com](mailto:acampo@robbins-schwartz.com)

**Chicago**  
55 West Monroe Street, Suite 800  
Chicago, IL 60603  
p 312.332.7760  
f 312.332.7768

**Champaign-Urbana**  
301 North Neil Street, Suite 400  
Champaign, IL 61820  
p 217.363.3040  
f 217.356.3548

**Collinsville**  
510 Regency Centre  
Collinsville, IL 62234  
p 618.343.3540  
f 618.343.3546

**Bolingbrook**  
631 East Boughton Road, Suite 200  
Bolingbrook, IL 60440  
p 630.929.3639  
f 630.783.3231

**Rockford**  
2990 North Perryville Road, Suite 4144B  
Rockford, IL 61107  
p 815.390.7090

The materials on this webpage are the property of Robbins Schwartz and may not be copied, adapted, shared, or displayed without the express written permission of Robbins Schwartz.

# Title IX Coordinator Training for Higher Education

Robbins Schwartz

1

## Title IX Coordinator

- "...[A]t least one employee to coordinate [the school's] efforts to comply with its responsibilities under [Title IX]."
- What does this entail?

Robbins Schwartz

2

Although the information contained herein is considered accurate, it is not, nor should it be construed to be legal advice. If you have an individual problem or incident that involves a topic covered in this document, please seek a legal opinion that is based upon the facts of your particular case.  
© 2020 Robbins Schwartz

## Overview

- **Part I:** Title IX Coordinator Administrative Duties
- **Part II:** Grievance Procedure Pre-Investigation
  - Reviewing and Analyzing the Allegations
  - Offering and Coordinating Supportive Measures
  - Formal Complaint
- **Part III:** Grievance Procedure: Investigation and Beyond
  - Role in the Investigation
  - Coordinating Informal Resolution
  - Role at the Hearing
  - Notice of Appeal
  - Implementing Remedies

Robbins Schwartz

3

## Part I: Administrative Duties



Robbins Schwartz

4

## Required Postings/ Notifications

- Name or title and contact information
  - Published on website, and handbook or catalog
- Respond to inquiries regarding application of Title IX
- Training materials

Robbins Schwartz

5

## Monitoring

- Monitor students' participation in athletics and across academic fields to ensure that sex discrimination is not causing any disproportionate enrollment based on sex, or otherwise negatively affecting a student's access to equal educational opportunities
- Survey the school climate and coordinate the collection and analysis of information from that survey
- Promote an educational and employment environment which is free of sex discrimination and gender bias

Robbins Schwartz

6

→ suggestion: conduct an exit interview (short 5 questions)

## Training and Planning



- Address patterns or systemic problems revealed by Title IX reports or complaints;
- Track Title IX-specific position vacancies to ensure appropriate staffing;
- Ensure that appropriate policies and procedures are in place for working with law enforcement and coordinating services with local victim advocacy organizations and services providers, including rape crisis centers.

Robbins Schwartz

7

## Training

- Provide adequate training to students, faculty, and staff on Title IX issues
- Maintain records of all such training

Robbins Schwartz

8

on an annual basis, make sure designated faculty/staff involved in Title IX know who to contact / pass information on to (Crisis Me)

\* Keep a separate Title IX file  
- include rationale in this file also

→ Keep for 7 years

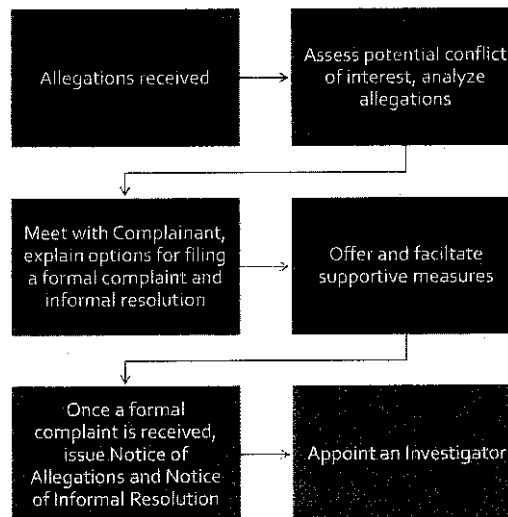
## Title IX Complaints

- Maintain all documents and records related to Title IX investigations
- Appropriately analyze allegations of sexual harassment
- Conduct and oversee Title IX complaint responses
  - Partner with HR where employee involved
  - Coordinate supportive measures
  - Document outcome and implement remedies

Robbins Schwartz

9

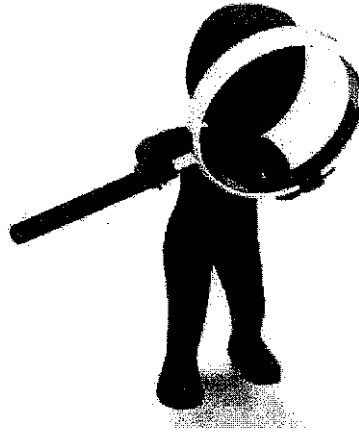
## Part II: Grievance Procedure Pre- Investigation



Robbins Schwartz

10

## Review and Analyze Allegations



Robbins Schwartz

11

*Allegations are NOT the formal complaint; even if the complainant is the one calling in the allegations. It is an initial report that we use to determine if a formal complaint needs to be made or not.*

## Allegations

- You are made aware of allegations of sexual harassment.
- Now what?

Robbins Schwartz

12

Identify  
Potential  
Conflict of  
Interest

- The Title IX regulations require that a Title IX Coordinator "...not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent."



Conflict of interest

Robbins Schwartz

13

*\*Just a judgement call; just because you know the person  
↗ does not mean you cannot serve impartially.*

Potential  
Conflict of  
Interest

- **Key question:** Does the Title IX Coordinator's prior or existing relationship with or knowledge of a party prevent the Title IX Coordinator from servng impartially?
- If yes: Recuse yourself
- Remember: A Title IX Coordinator's conflict of interest which affected the outcome is a permissible basis for appeal

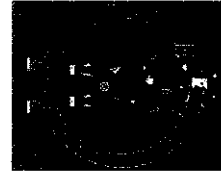
Robbins Schwartz

14



## Gather Information and Review Allegations

- Review the information you have
- Contact the Complainant (person alleged to be the victim) if you need more information
- Review the allegations



Robbins Schwartz

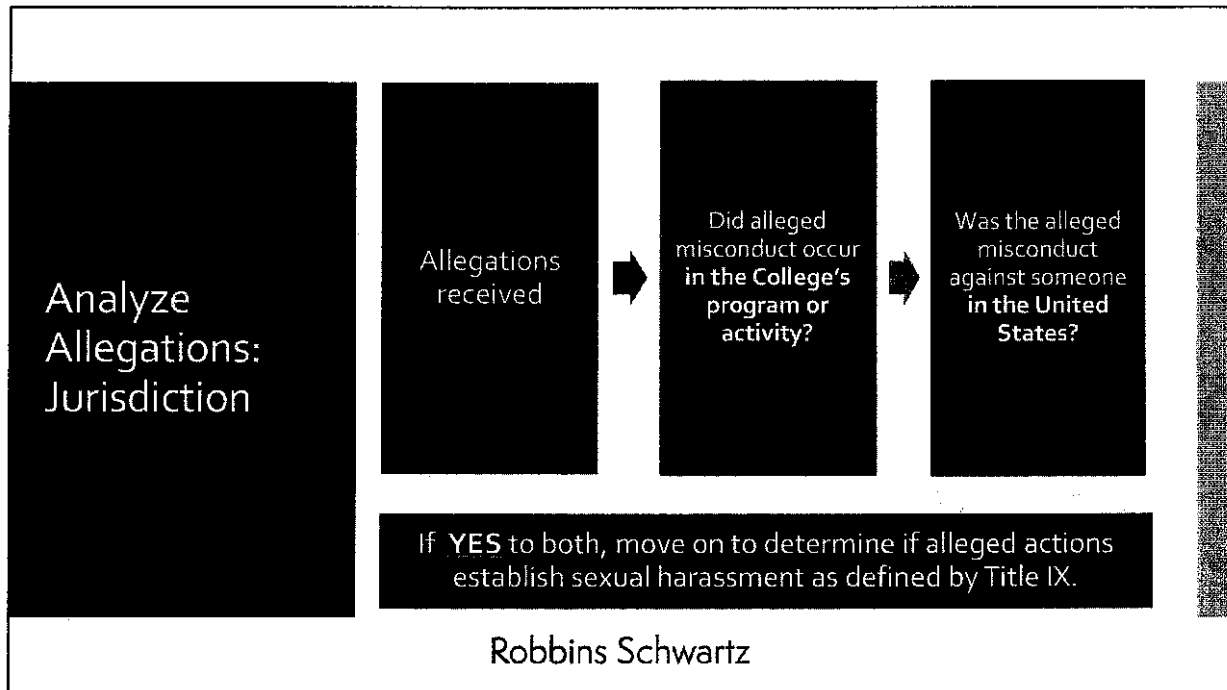
15

## Analyze Allegations

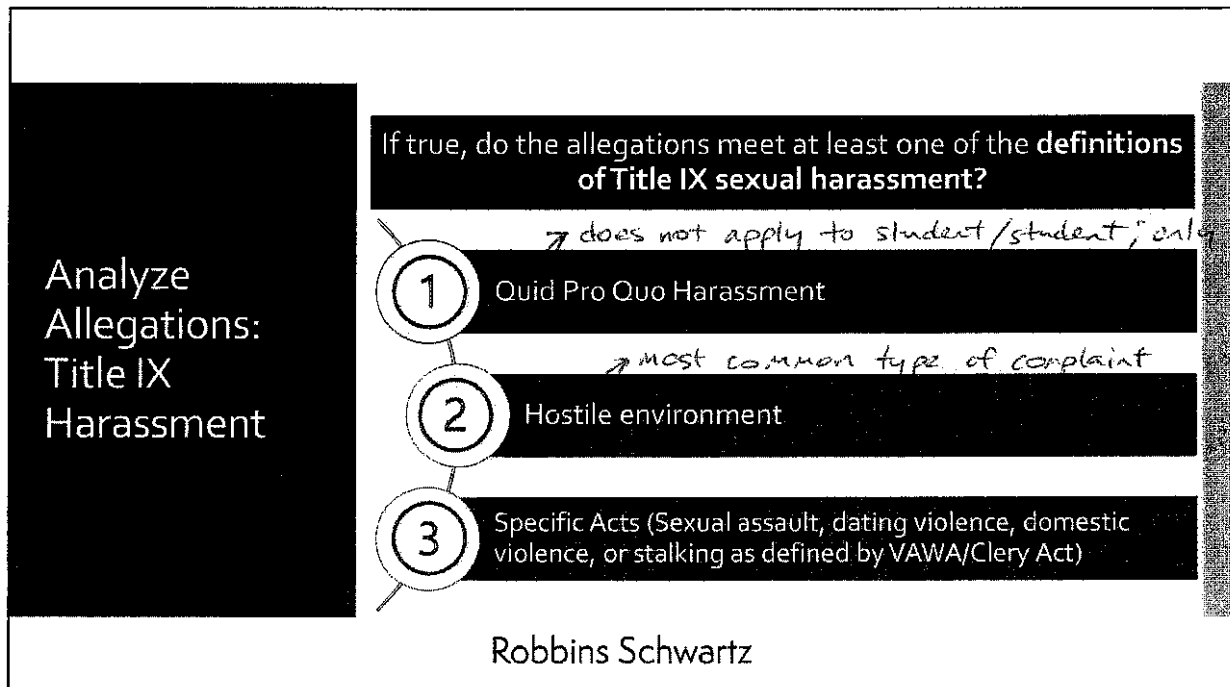
- Upon reviewing allegations, analyze whether they should be processed under Title IX policy and procedures, or another policy
- **Tip:** Start with jurisdiction
- Analyze whether allegations (if true) would constitute sexual harassment under Title IX

Robbins Schwartz

16



17



18

Analyze  
Allegations:  
Title IX  
Harassment

1

**Quid Pro Quo Harassment**

"My math professor offered extra credit if I sent him inappropriate sexual pictures of myself."

2

**Hostile environment**

"My classmate frequently made sexual comments and gestures at me, both during and outside of class; I stopped going to class to avoid him."

3

**Specific Acts:**

"The athletic trainer touched me in a sexual manner even though I told her to stop."

Robbins Schwartz

19

Analyze  
Allegations:  
Scenario 1

- You receive an email from a Psychology professor detailing a conversation she had with a student. The student, Alex, claimed that another student in the class, Sam, was making inappropriate sexual remarks in a private Zoom chat during a remote class session.
- Sam also allegedly messaged Alex on Instagram after class, and said, "Can't wait till we are back on campus... I'll have a seat saved for you, on my lap."
- How do you proceed?

Robbins Schwartz

20

Analyze Allegations: Scenario 2

- A student, Charlie, comes to you to report that Professor X gave them a hug unexpectedly at an on-campus school sponsored event.
  - How do you proceed?
    - \* Probably not, but it would be safe to get more information
    - reach out to the student & ask if the hug involved gropping etc.
- Robbins Schwartz  
- was this a one-time event?

21

Analyze Allegations

If some or all of the allegations meet the Title IX jurisdiction and harassment threshold:

Schedule a fact meeting with the Complainant

Issue Notice Letter to Complainant or Policies Applicable to Investigation of Allegations of Sexual Harassment for any allegations that do not meet Title IX requirements

If none of the allegations meet the Title IX threshold:

Issue Notice Letter to Complainant or Policies Applicable to Investigation of Allegations of Sexual Harassment for any allegations that do not meet Title IX requirements

Follow-up with the Complainant and provide the information regarding the Title IX process

Robbins Schwartz

22

→ must contain the signature of the complainant

## Formal Complaint



Robbins Schwartz

23

## Initial Interview

- Schedule a meeting with the Complainant
- Explain the potential courses of action
  - Formal Grievance Procedure
  - Informal Resolution\*

→ explain to student that this involves a live hearing where they will be cross-examined by the respondent's attorney

\*Remember that Informal Resolution is not available in student/staff claims

Robbins Schwartz

24

\* Offer the complainant a written description of what the next steps look like, their obligations, etc.

\* Does not need to be video-recorded

→ ... with m. to take detailed notes

## Supportive Measures

\* Can be offered to both  
the complainant & the respondent

- Supportive measures
  - Schedule changes, counseling, dorm reassignment, leaves of absence, assignment extensions, etc.
  - **Key:** Non-punitive towards Respondent



Robbins Schwartz

25

## Coordinating Supportive Measures

• The goal is to make supportive measures non-burdensome for the complainant.  
i.e. contact the registrar & make changes to schedule, contact teacher, etc.

- Contact appropriate personnel
  - Counselor, Registrar, etc.
- Make appropriate arrangements

Robbins Schwartz

26

Supportive Measures:  
Scenario 1

- Alex claimed that another student in the class, Sam, was making inappropriate sexual remarks in a private Zoom chat during a remote class session.
- Sam also allegedly messaged Alex on Instagram after class, and said, "Can't wait till we are back on campus... I'll have a seat saved for you, on my lap."
- Do you need to offer supportive measures? YES
- What types of supportive measures can you offer Alex?

*Set up something with the instructor such as alternate class time for Alex, separate chat times, etc.*  
Robbins Schwartz

27

Supportive Measures:  
Scenario 2

- A student, Charlie, comes to you to report that Professor X gave them a hug unexpectedly at an on-campus school sponsored event.
- Do you need to offer supportive measures?

*We do not need to, but we certainly can.*



Robbins Schwartz

28

## Supportive Measures: Scenario 2

- Charlie calls you a week after visiting your office to tell you that Professor X asked for Charlie's cell phone number.
- Although Charlie said no, Professor X still was able to find the number and send Charlie a text asking, "Hey, dinner this weekend?"
- You re-evaluate the allegations and determine that this falls within Title IX jurisdiction.
- Do you need to offer supportive measures? If so, what? YES

- Schedule changes to make sure they are not interacting  
Robbins Schwartz  
- Counseling

29

## Emergency Removals

- Individualized safety and risk analysis determines an immediate threat to the physical health or safety of any student or other individual arising from allegations.
- Applies to student Respondents
- Issue notice prior to removal
- Respondent must be allowed opportunity to challenge removal

Robbins Schwartz

↓ Schedule a meeting between the Title IX Coordinator & the respondent

30



## Administrative Leave

→ this is paid leave

↓ since they are innocent until proven guilty

- Applies to employee Respondents
- Administrative leave throughout pendency of a grievance process
- Check applicable CBAs

### Caution: Length of leave

investigations are long, drawn out processes that take weeks/months



Robbins Schwartz

31

\* Both parties receive notices simultaneously

\* Title IX Coordinator must keep both parties informed

## Signing a Formal Complaint

- Once a formal complaint has been signed by Complainant, issue:
  - Notice Letter to Complainant/Respondent of Complaint Allegations
  - Notice Letter Regarding Informal Resolution\*
- Both parties should receive notices simultaneously and within 10 business days of receipt of formal complaint.
- \*Remember that Informal Resolution is not available in student/staff claims

Robbins Schwartz

32

## No Formal Complaint Signed

- If a Complainant decides against signing a formal complaint, a Title IX Coordinator may sign a formal complaint on their behalf.
- Use caution when making this decision.

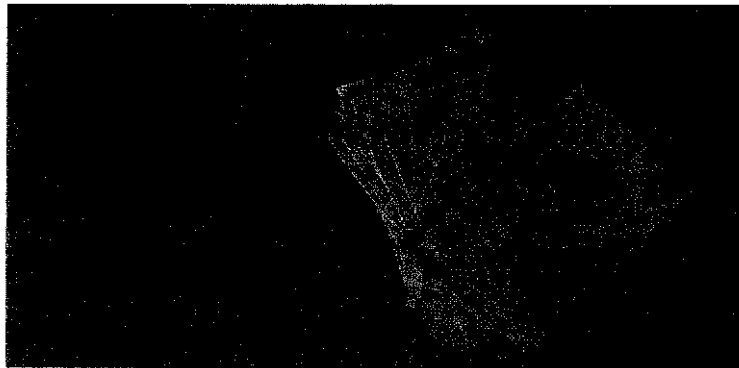
*There may be other options to explore if the complainant does not want to file formal complaint, but does want justice (seek legal team counsel)*

*due to certain exemptions*

Robbins Schwartz

33

## Part III: Grievance Procedure: Investigation and Beyond



Robbins Schwartz

34

\* Title IX Coordinator is not the investigator

Role in Investigation

- Investigator should be appointed following receipt of a signed Formal Complaint
- Provide copies of any relevant documents
- Maintain all notices sent by Investigator
- Assist Investigator with witness and party contact and information

Robbins Schwartz

35

Role in Investigation

- Stay apprised of all investigatory notices issued
- Assign Advisor if party does not have one
- Contact legal counsel if needed

Robbins Schwartz

36

- requires written documentation

- student / student or employee / employee  
but NOT student / employee

## Coordinating Informal Resolution

- Informal resolution is a detour in the formal grievance process
- If parties agree, issue Consent to Participate in Informal Resolution
- Coordinate with Informal Resolution Facilitator, set up date and time for Resolution



Robbins Schwartz

37

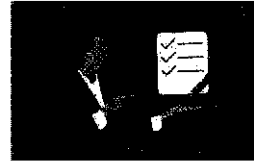
## Returning to Grievance Process

- If a party withdraws consent, Informal Resolution Facilitator will refer complaint back to you
- At this time, process must be re-routed to wherever it was in the grievance process

Robbins Schwartz

38

Role  
Pre-Hearing



- Appoint Hearing Officer
- Coordinate schedules of all appropriate Title IX personnel and notify them of Hearing
- Schedule hearing

↓  
IT team  
also

\*audio or audio/visual  
recording necessary

Robbins Schwartz

39


Role  
Pre-Hearing

- Send Notice of Hearing, Final Investigation Report, and Right to File Response to both parties at least 10 days prior to the hearing
- Appoint Advisor(s), if appropriate
- Notify legal counsel of attorney Advisor, if appropriate
- Attend the hearing

Robbins Schwartz

40

## Post-Hearing Role

- 
- Make audio or audiovisual recording available to parties for inspection and review upon request
  - Facilitate communication between Hearing Officer and Investigation
  - Provide any relevant documents

Robbins Schwartz

41

## Appeals

- Both parties have the right to appeal any determination regarding responsibility, and any dismissal of a formal complaint or allegations
- Appeal must be submitted after party's receipt of written determination or dismissal notice

Robbins Schwartz

42

## Appeals

- Appeal should be based on one or more of the following grounds:
  - Procedural irregularity occurred
  - New evidence or information exists that could affect the outcome
  - Title IX Coordinator, Investigator, or Hearing Officer had a conflict of interest or bias that affected the outcome of the matter
  - Sanction is disproportionate with the violation

Robbins Schwartz

43

## Appeals

- Upon receipt of an appeal request, Title IX Coordinator should promptly forward the appeal request to Appeals Determination Officer. *→ check*
- Issue Notice of Appeal to party that did not submit request for appeal.

Robbins Schwartz

44

## Implementing Remedies

- Once a determination has been reached, and any timely appeals have been resolved, the Title IX Coordinator is responsible for implementing remedies;
- The Title IX Coordinator is also responsible for coordinating sanctions; include coordinating disciplinary action with the appropriate individuals, initiating the removal process for a club, adjusting class schedules, etc.

Robbins Schwartz

45

## Frequently Asked Questions



Robbins Schwartz

46



FAQ

No formal training necessary  
- however, you want these employees  
to know how to report so just make  
sure they are aware of how to do this

- What training do employees need if they don't have a Title IX role?
- What information do I need to publish online/in handbooks?

Robbins Schwartz

47

Questions?

Robbins Schwartz

48

# Robbins Schwartz

## **AMANDA E. CAMPO**

**ASSOCIATE, CHICAGO**

312.332.7760

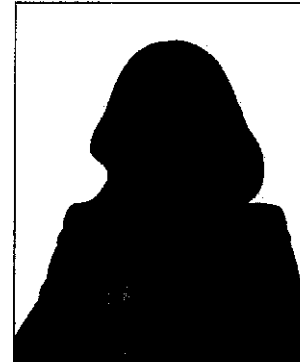
acampo@robbins-schwartz.com

Amanda practices in labor and employment law, with a focus on traditional labor. She counsels and represents public and private employers in labor relations, employee discipline, and federal and state employment discrimination matters under the Americans with Disabilities Act, Family and Medical Leave Act, Age Discrimination in Employment Act, Illinois Human Rights Act, Title VII, and other anti-discrimination laws. Amanda also counsels employers regarding contract interpretation, grievance arbitrations, and unfair labor practices. She also assists educational institutions with compliance under Title IX and applicable state laws.

During law school, Amanda clerked at a firm representing public employers in labor matters, where she assisted with grievance and interest arbitrations.

### **RECENT PUBLICATIONS**

Co-Authored "Social Media and Public Employers: Do You Need to "Share" a New Policy?," *Clark Baird Smith Newsletter: Ted Clark Legal Corner* (2019)



### **PRACTICE AREAS**

Labor & Employment

### **EDUCATION**

J.D., Chicago Kent College  
of Law

B.A., Loyola University

### **ADMITTED TO PRACTICE**

Supreme Court of Illinois

### **ORGANIZATIONS**

American Bar Association

Illinois State Bar  
Association

Justinian Society

# Robbins Schwartz

## KEVIN P. NOLL

ASSOCIATE, CHICAGO

312.332.7760

knoll@robbins-schwartz.com

Kevin's practice focuses in the area of labor and employment law. Kevin routinely counsels employers in all aspects of employment law including employee discipline, labor relations, and federal and state employment discrimination matters under the Americans with Disabilities Act, Family and Medical Leave Act, Age Discrimination in Employment Act, Illinois Human Rights Act, Title VII and other federal and state anti-discrimination and wage laws. Kevin represents employers in a variety of venues including both federal and state court, as well as the U.S. Equal Employment Opportunity Commission and the Illinois Department of Human Rights.

Prior to joining Robbins Schwartz, Kevin represented individuals with employment matters, civil rights claims, and consumer protection litigation.

### AWARDS

Illinois "Rising Star," by Super Lawyers Magazine (2017-2020)

### RECENT PUBLICATIONS

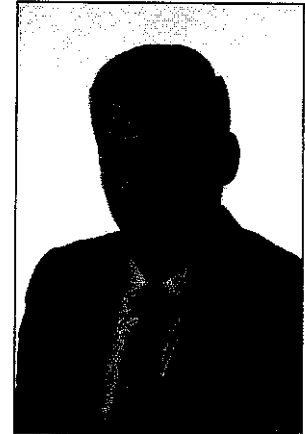
"NLRB Takes New Look at Charter Schools," *Chicago Daily Law Bulletin* (2019)

### RECENT PRESENTATIONS

*Updates from the DOL: New Developments for FMLA, FLSA, and IWPCA*, IAPD/IPRA Soaring to New Heights Conference (January, 2020)

*Is it ADA, FMLA, or Other Leave? Navigating the Murky Waters of Employee Leave Benefits*, IAPD/IPRA Soaring to New Heights Conference (January, 2020)

*Illinois Minimum Wage: Nutz and Bolts Overview*, IGFOA Payroll Seminar (October 2019)



### PRACTICE AREAS

Labor & Employment

### EDUCATION

J.D., The John Marshall Law School

B.A., Indiana University

### ADMITTED TO PRACTICE

U.S. District Court for the Northern District of Illinois

Supreme Court of Illinois

### ORGANIZATIONS

Chicago Bar Association

Illinois State Bar Association

Kane County Bar Association