



Freeman
Mathis & Gary LLP



GETTING AN A IN
INSURANCE: ANALYZING
ANTITRUST, ADMISSIONS,
ATHLETICS, AND OTHER D&O
ISSUES IN HIGHER EDUCATION

January 21, 2026

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Questions

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Meet Your Presenters

Moderator:

- Jennifer R. Weinstein, Vice President, Management Liability Claims, Skyward Specialty Insurance

Panel:

- Nelson Kefauver, Head of Financial & Professional Lines, North America, Intact Insurance
- Justin Kudler, Senior Vice President and Senior Claims Counsel, ARC Excess & Surplus, LLC
- Robert Litan, Esq., Shareholder, Berger Montague

Agenda

Current D&O Liability Environment in Higher Education

- Key Antitrust Developments
- Admissions & Race
- Employment Practices Liability Litigation Risks
- Insurance Implications

And how affected by:

- political climate/administration priorities
- forecasted changes/enforcement trends
- consumer dissatisfaction
- evolving exposures/litigation

Key Antitrust Developments and Higher Ed

- 568
- Early Decision
- *House* settlement appeal
- Fontenot case
- Information sharing

Admissions & Race Considerations

Managing Race in the Post-SFFA Opinion Environment

- Where we've been – brief discussion of prior Supreme Court opinions
- Current Practices – what are colleges doing to comply with SFFA opinion?
- How are the administration and private plaintiffs pursuing potential non-compliance?
- Impact of recent administration/legal actions
- Risk factors for Boards and Officers/potential for regulatory review or litigation

Employment Practices Liability Litigation Risks

- Student Athletes as employees
- The Civil Rights Fraud Initiative
- Race Discrimination
- Antisemitism/Religious Discrimination

Insurance Implications

D&O and EPL Coverage in Higher Education

- Underwriting Small Schools - Financial Concerns & Principled Stances
- Underwriting D1 and Ivy Leagues – Targeted as examples, Antitrust, Excessive Fee issue still lingering, Discrimination, IP, Angry Donors, Healthcare Ops
- Identifying, Managing, and Mitigating Risks: Structuring effective policies for emerging risks
 - D&O – Coverage for Antitrust, Government Funding, Additional Entities, Class Action Retentions, Failure to Educate
 - Fiduciary – Excessive Fee Retentions
 - Cyber – Student Data
 - EPL – Discrimination Class Actions
 - Employed Lawyers – The largest schools often have 5+ lawyers on staff

Remember This

Key Takeaways

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