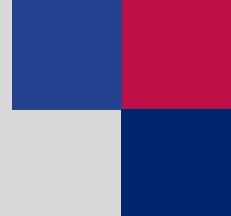




Association of
Title IX Administrators

Keeping Up with the Courts

20 Minutes to... *Trained*



YOUR FACULTY

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Strategic Risk
Management Solutions



Any advice or opinion provided during this training, either privately or to the entire group, is never to be construed as legal advice. Always consult with your legal counsel to ensure you are receiving advice that considers existing case law, any applicable state or local laws, and evolving federal guidance.

WHY KEEP UP WITH COURTS AND YOUR STATE LEGISLATURE?

- “Title IX” practice is currently very dynamic.
- Courts are increasingly asked to interpret the contours of Title IX and you must follow your local rules.
 - Federal courts look to other federal courts for helpful analysis.
- State legislatures are increasingly passing state laws to “respond” to Title IX.
- Other legal doctrines affect our work beyond Title IX!
 - Federal constitutional due process
 - Other federal civil rights laws
 - State constitutional due process claims
 - State civil rights laws
 - State common law claims

FEDERAL COURTS IN A NUTSHELL

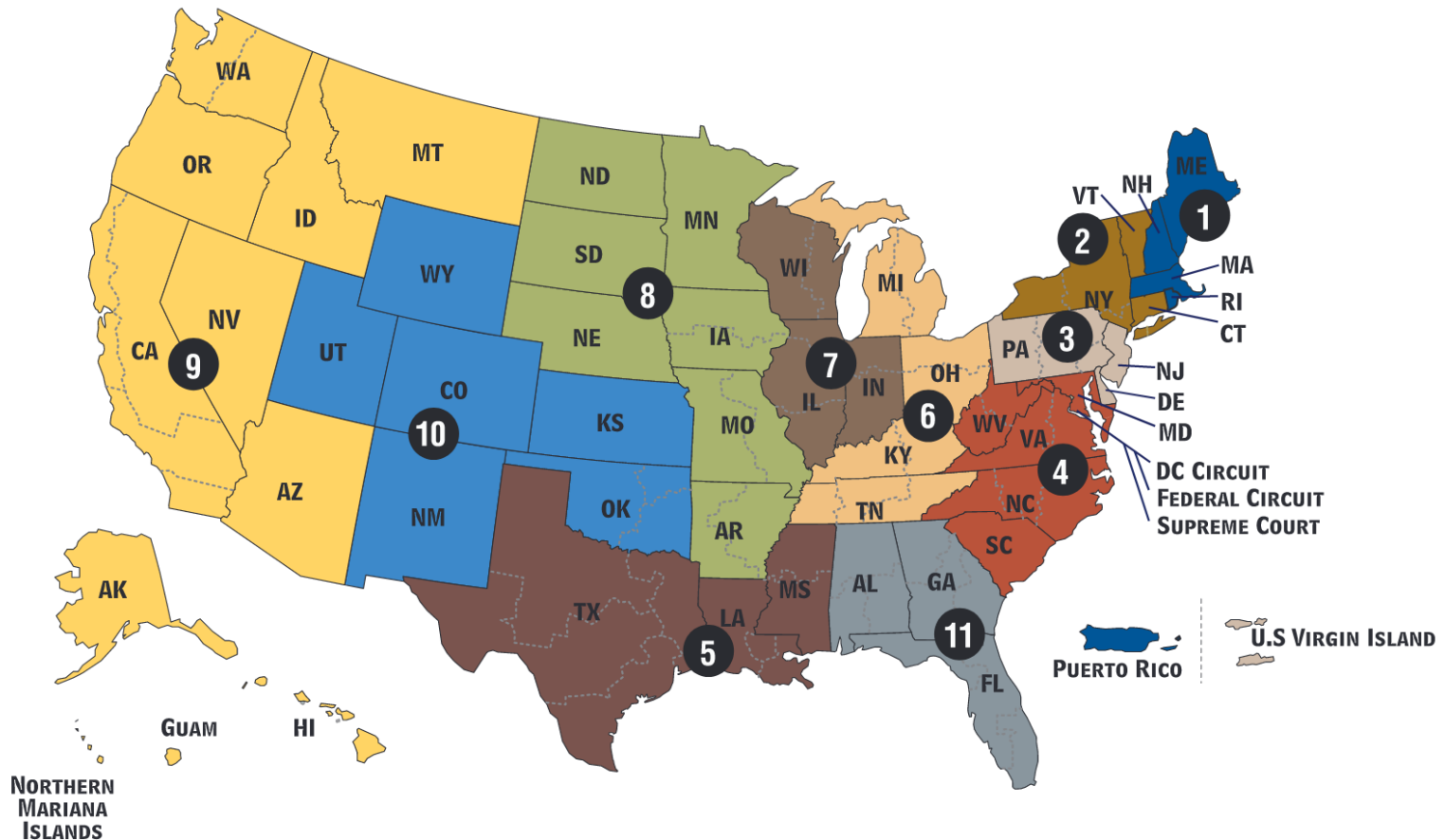
Federal Court

- **U.S. District Court**
 - Trial Court; Single judge or magistrate judge; Decisions binding only on single District (94 Districts)
- **U.S. Courts of Appeals (“Circuit Courts”)**
 - 12 Geographic Circuits: 11 + DC Circuit
 - Panel of three judges (also *en banc* option)
 - Decisions binding on entire Circuit
- **U.S. Supreme Court**
 - Final appellate court
 - Nine justices

U.S. COURTS OF APPEALS MAP

Geographic Boundaries

of United States Courts of Appeals and United States District Courts



Source: https://www.uscourts.gov/sites/default/files/u.s._federal_courts_circuit_map_1.pdf

LAWS, COURTS & REGULATIONS

- **Laws** passed by Congress (e.g., Title IX) – Enforceable by Courts and Office for Civil Rights (OCR)
 - Federal Regulations – **Force of law**; Enforceable by Courts and OCR
 - Regulatory Guidance from OCR – Enforceable only by OCR (e.g., 1979 Policy Interpretation on Title IX and Intercollegiate Athletics)
 - Sub-Regulatory Guidance from OCR – Addressed only by OCR (e.g., Preamble; Dear Colleague Letters)
- Federal Case Law – **Force of law** based on jurisdiction
 - Supreme Court – binding on entire country
 - Circuit Courts of Appeal – binding on Circuit, persuasive on others
 - District Court – binding on District, persuasive on others
- State Case Law – **Force of law**; binding only in that state based on court jurisdiction

TRENDS

State Legislation

- Due Process Protections
- Enhanced Supportive Measures
- Restrictions related to gender identity and access
- Hazing
- Restrictions re: LGTBQIA+ topics/training in schools

State Courts

- Breach of Contract
- Negligence

Federal Regulation

- Title IX Regulations

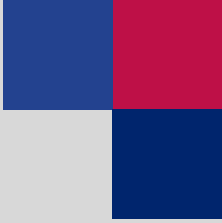
TRENDS (CONT.)

Federal Courts

- Deliberate Indifference standard and “subsequent harassment”
- Applicability of “before theory” claims
- Applicability to Sexual Orientation/Gender Identity/*Bostock*
 - Title VII
 - Title IX
- Applicability to private education due to federal funding
 - Paycheck Protection Program
 - Tax-exempt Status
- Equal Protection cases
 - Dress Codes

DOING YOUR OWN RESEARCH

- Follow ATIXA on social media and read “Keeping Up With the Courts” and other blog posts or publications
- Join ATIXA for “Time with IX” monthly topical discussions
- Google Title IX and click on recent articles
 - Title IX Today
- Ask your legal counsel how they “keep up”
 - Legal databases
 - Listservs
 - Association Memberships



QUESTIONS?

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