



School Law FYI

Title IX Deliberate Indifference: Lessons from Arana for School Administrators

LIBBIE OSABEN, BRIAN P. GOODMAN, HEATHER CURNUTT, RICK VERSTEGEN |
08.10.26

In *Arana v. Board of Regents of the University of Wisconsin System*, the United States Court of Appeals for the Seventh Circuit revisited an important Title IX question: when does a school's response to a report of student-on-student sexual assault constitute deliberate indifference? The decision provides practical guidance for school administrators responding to Title IX reports.

The Seventh Circuit Court of Appeals Decision

After *Arana*, a student at the University of Wisconsin-Madison (the "University"), reported that she had been sexually assaulted by another student who was a prominent member of the University's football team, the University issued a no-contact order to both students, adjusted their class schedules, conducted an investigation, held a hearing, and expelled the accused student.

However, after the accused student was acquitted of related criminal charges, he petitioned the University for readmission. The University chose to readmit the student but left the no-contact order in place.

Arana subsequently filed suit against the University, alleging it acted with deliberate indifference in violation of Title IX. Under Title IX, an institution acts with deliberate indifference when its response is "clearly unreasonable in light of the known circumstances." *Davis v. Monroe Cnty. Bd. of Educ.*, 526 U.S. 629 (1999).

The University prevailed on summary judgment. The majority found that no reasonable jury could conclude the University acted with deliberate indifference because of the prompt, documented steps it took to address *Arana's* report. The

University's response was not clearly unreasonable in light of the known circumstances. The court reaffirmed that the University took *some* steps to protect Arana and that is all Title IX requires.

Lessons for School Administrators

While the decision affirms the high bar for Title IX deliberate indifference claims, school administrators should still prioritize:

- *Prompt Action.* Schools that respond timely to reports are generally in a stronger position when defending the reasonableness of their response.
- *Documentation.* Careful documentation of investigations, supportive measures, and decisions can help demonstrate that a school's actions were reasonable under the circumstances.
- *Ongoing Review.* As time passes and circumstances evolve, schools should evaluate whether their initial supportive measures remain effective.

If you have any questions about Title IX, please contact a member of the [Boardman Clark School Law Practice Group](#).

DISCLAIMER: Boardman & Clark LLP provides this material as information about legal issues and not to give legal advice. In addition, this material may quickly become outdated. Anyone referencing this material must update the information presented to ensure accuracy. The use of the materials does not establish an attorney-client relationship, and Boardman & Clark LLP recommends the use of legal counsel on specific matters.

Primary Authors



Libbie Osaben
(608) 286 7187



Brian P. Goodman
(608) 283-1722



Heather Curnutt
(608) 286 7237



Rick Verstegen
(608) 286-7233

School Law Practice Group Members

Libbie Osaben

(608) 286 7187

Brian P. Goodman

(608) 283-1722

Heather Curnutt

(608) 286 7237

Rick Verstegen

(608) 286-7233

Douglas E. Witte

(608) 283-7529

William L. Fahey

(608) 286-7234

David P. Weller

(608) 286-7235

Rhonda R. Hazen

(608) 283-1724

Matthew W. Bell

(608) 286-7239

**Christopher T.
Schmidt**

(608) 286-7157

Daniel T. Fahey

(608) 286-7216

Eric B. Hagen

(608) 286-7225

Michael C. Wieber

(608) 283-1797

Jennifer C. Johnson

(608) 286-7151