

SPOTLIGHT ON Higher Education

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Esq.**



Why did you decide to join JAMS?

Early in my legal career, I attended a mediation of an employment dispute at JAMS. I knew then that I was interested in pursuing a career as a neutral and that my skills and interests would be best served by a career in ADR rather than as a litigator. However, I also wanted the experience of being a lawyer, and I practiced labor and employment law for 10 years. When I was ready to make the transition into an ADR career, I worked with some neutrals at JAMS to gain experience and to learn from the best. I also started mediating cases through court-annexed programs and developing a labor arbitration practice. Joining JAMS was the culmination of these efforts.

What in your background or experience compelled you to try to serve the higher education dispute resolution process?

Having deep experience in employment matters, I understand the emotional aspect of claims of wrongful termination and discrimination. I am also familiar with highly charged claims involving sexual assault and sexual harassment. In addition, I am an experienced arbitrator of both labor and employment matters, and am adept at hearing management under challenging circumstances. My skills and experience make me uniquely suited to serve in the higher education dispute resolution process.

What is the key to a successful Title IX appeal process?

A successful Title IX appeal process starts with well-drafted policies that clearly outline the parties' rights and obligations. Having a panel of experienced external hearing officers in the appeal process gives the parties the assurance that all issues have been addressed with neutrality, fairness, and considered, careful analysis. It also removes the burden of administering a complex process from the faculty and administration so they can devote their attention to their primary duties.

JAMS, as a neutral third party, offers higher education institutions various internal training and facilitation services. Can you tell us how higher education institutions could benefit from these services?

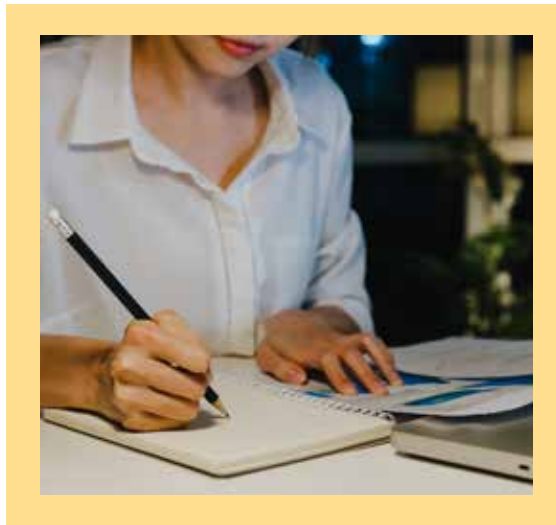
JAMS, as a highly respected provider of dispute resolution services, is uniquely positioned to serve the rapidly changing needs of higher education institutions. First, the rules and regulations governing Title IX processes have undergone significant changes in the past few years, placing new burdens

on institutions to adapt their policies and expanding the scope of the adjudication process. Second, the COVID-19 pandemic has resulted in major transitions to remote and hybrid education of students and now back to in-person education, increasing administrative burdens. Finally, the past year has brought increased attention to issues of diversity, equity and inclusion, and increasingly complex waters for students, faculty and administration to navigate. All of these trends have the potential to create more conflict. Having a neutral third party like JAMS ready to provide tailored internal

training and facilitation services would be an extremely beneficial resource for higher education institutions during these challenging times.

What have you observed in working with schools on Title IX issues?

In handling Title IX matters, I have observed the intense emotions of all parties as well as the importance of a rigorous and thorough investigation. The care with which these matters are handled at the university level has been impressive. However, at the dispute resolution phase, being able to rely on an ADR professional can be invaluable. Having the expertise of a trained and experienced third party who can administer a neutral and fair process is a way to assure all parties involved that they are being heard.



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What are some benefits to hearing Title IX cases virtually?

Even before the pandemic, many higher education institutions saw the benefits of virtual proceedings. Given the sensitivities and emotions involved, having the parties appear from comfortable and separate locations can alleviate anxiety. The availability of a virtual process may encourage wider use of the Title IX process. Even as the pandemic subsides and students and faculty return to campus, having a virtual option for Title IX cases remains an important benefit.

The Department of Education's Office for Civil Rights has launched a comprehensive review of the current Title IX regulations. What changes do you expect in the near future, if any?

Given the length of time it will take for the Biden administration to conduct its review of the Title IX regulations, higher education institutions should expect the current DeVos regulations to remain in place for the near future. However, there is an opportunity to not only make revisions to Title IX regulations that are in keeping with the current regulations, but also anticipate potential changes going forward. Three areas in which there could be changes are 1) expanding of the scope of Title IX to off-campus conduct, which had been limited by the DeVos regulations; 2) creating more rules around the conduct of hearings to protect witnesses

from harassment or intimidation, now that respondents can cross-examine complainants; and 3) incorporating recent jurisprudence from various circuit courts of appeal that have ruled on due process rights of the accused (in addition to the question of cross-examination by respondents).



Many campuses have been exploring restorative justice as a path forward in Title IX proceedings. Why is restorative justice important to a higher education institution?

The current Title IX regulations permit “informal resolutions,” and restorative justice approaches can play an important role under the right circumstances. Restorative justice aims to repair the damage by the wrongdoer and facilitate the healing of the impacted party.

This may not always be achieved in a typical adjudication process, where punitive remedies may be imposed upon a finding of a policy violation. Having a neutral third party with deep experience in restorative justice, such as JAMS, can ensure that all parties are treated with sensitivity, dignity and fairness.

Robin H. Gise, Esq. is a JAMS neutral based in New York. She is available nationwide as a mediator, arbitrator, referee/special master and Title IX hearing officer. To schedule a case, visit jamsadr.com/gise or call 212.607.2773.

To learn more about the innovative conflict resolution strategies offered by JAMS Solutions for Higher Education, visit jamsadr.com/solutions or contact Jennifer Sambito at solutions@jamsadr.com.

