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Kerry W. Langan

Member

klangan@bsk.com

Syracuse, NY

Today's Agenda

Kerry Langan – (12:00PM)

- Welcome and Agenda

Brittany Schoepp-Wong – (12:00PM-12:10PM)

- Title VI Admissions Data

Candace Gomez – (12:10PM-12:20PM)

- Attorney General's Proposed Rules for SAFE for Kids Act

Stephanie Fedorka – (12:20PM-12:30PM)

- New York Paid Sick Leave Refresher and Common Issues

Kerry Langan – (12:30PM)

- Questions / Wrap Up

Title VI: Admissions Data



Brittany Schoepp-Wong

Member

bschoeppwong@bsk.com

New York, NY

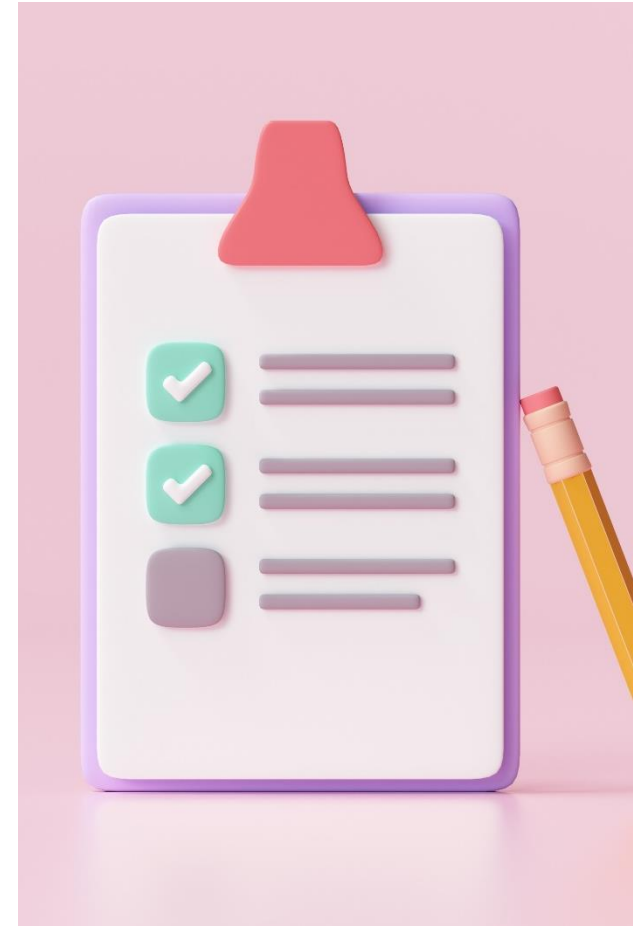
Presidential Memorandum



- August 7 memorandum directed the Secretary of Education to “**expand the scope** of required reporting to provide adequate transparency into admissions” including through “accuracy checks” of IPEDs data
- Simultaneously, Secretary McMahon issued a directive to the National Center for Education Statistics to initiate a series of changes to IPEDS during the 2025-26 academic year

IPEDS

- “Integrated Postsecondary Education Data System”
- Series of surveys – not just admissions
- Completion of the IPEDS survey is a condition of Title IV funds
- Race and sex are already collected



New Admissions and Consumer Transparency Supplement



- NCES published its intentions to revise information collection through what it is calling ACTS survey component
- Expansion to collect by race/sex pair on a series of data points
- Different data sought for applicants, admitted students, and enrolled students
- Also covers graduate programs, broken down

New Admissions and Consumer Transparency Supplement



- Data by race/sex pair on various academic achievements as students progress

New Admissions and Consumer Transparency Supplement



- Five year lookback to establish a “baseline”
- “Data alone is not determinative as to whether institutions are engaging in unlawful discrimination, but the Department may use data to develop risk-based enforcement practices.”

Public Comments

- NCES sought comments on all aspects of proposal
- Specific input sought on:
 - Objective characteristics to determine low- and high-risk compliance
 - Risk of open enrollment institutions using financial aid to violate Title VI
 - Burden on IHEs



Public Comments



- Comments closed October 14
- Over 3,400 comments, from institutions, higher ed groups, and members of the public
- Practical Issues:
 - Issues of availability of data, particularly looking backward
 - Privacy
 - Accuracy
 - Decentralized
 - Burden
 - Timeline

Public Comments



- Procedural issues
- Substantive Issues:
 - Over-reliance on quantitative measures
 - Lookback includes COVID and pre-SFFA
 - Lack of guidance on what will be considered an issue
 - Tension with SCOTUS direction to assess students on individual basis
 - Lack of relevance to institutions who never considered race or protected characteristics
- Alternatives

Next Steps?

- Uncertainty on timing
- Nearly all staff at NCES laid off
- Prepare by:
 - Who/what/where of existing data
 - Identification of key stakeholders and implementers, and assessment of workload
 - Assessment of systems – uniformity, third-party, manual?
 - Retention periods
 - Planning for midstream changes
 - Project management and role of counsel



Stop Addictive Feeds Exploitation (SAFE) for Kids Act



Candace J. Gomez

Member

cgomez@bsk.com

Long Island, NY

Goals for Today

- Understanding the background on why the SAFE for Kids Act was passed (2022 Tops Supermarket Shooting in Buffalo, NY);
- Understanding the requirements/definitions/nuances of the SAFE for Kids Act, in terms of the proposed regulations from the Attorney General; and
- Looking forward to seeing how the SAFE for Kids Act will be implemented both by the Office of the Attorney General (OAG), as well as private social media parties such as Instagram.

Background on SAFE for Kids Act – 2022 Tops Supermarket Shooting

- In May of 2022, a then-18-year-old white supremacist targeted a Tops supermarket in a mostly Black neighborhood in Buffalo, NY.
- The shooter livestreamed part of the attack on Twitch, a social media platform, until the livestream was shut down by the service in under two minutes.
- 10 people were killed as a result of the attack, and 3 people were injured.
- Currently, there is a lawsuit working its way through the state courts, alleging social media algorithms are fundamentally dangerous, and that social media has the potential to radicalize individuals to the point where they can commit acts of violence such as the Tops shooting.
 - See Patterson, Donna et. al. v. Meta Platforms, Inc., et al (805896/2023) (Erie County Supreme Court; Note that the Appellate Division 4th Department denied this product liability case regarding addictive algorithms being used by social media companies in a 3-2 decision this past summer. It's now working its way through the Court of Appeals.).

The SAFE for Kids Act – Procedural History

- The SAFE for Kids Act was passed the New York Legislature on June 7, 2024, and was signed into law by Gov. Kathy Hochul on June 20, 2024.
- **When does the SAFE for Kids Act take effect?** → 180 days after the New York State attorney general promulgates rules and regulations necessary to effectuate the provisions of the SAFE for Kids Act.

WHAT IS THE “SAFE” FOR KIDS ACT?

The SAFE for Kids Act (Senate Bill S7694A)

- **The SAFE for Kids Act** → Prohibits online platforms (i.e., social media companies) from providing minors with an addictive feed that use data concerning that minor (or the minor's device) to personalize the material the minor sees, a feature that is linked to addictive behavior and extending time spent on social media to unsafe levels, unless they have a parent's consent.
 - Feeds on apps like TikTok and Instagram would be limited to posts from accounts young users follow.
 - Companies are barred from sending notifications to minors between midnight and 6 a.m. unless parental consent is granted.
 - Addictive feeds and nighttime notifications are tied to depression, anxiety, eating and sleep disorders, and other mental health issues for children and teenagers.
 - The proposed rules for implementing the provisions include standards for determining a user's age and parental consent.

What is an “Addictive Feed”?

- **Addictive Feed** → An online service (or portion thereof) where multiple pieces of media generated or shared by users are recommended, selected, or prioritized for display to a user based (in whole or in part) on information associated with the user or the user’s device.
- **A feed is not defined as an “addictive feed” if media is recommended, prioritized or selected:**
 - Based on information that is not persistently associated with the user or the user’s device and does not concern the user’s previous interactions with media generated or shared by other users;
 - Based on user-selected privacy or accessibility settings or technical information concerning the user’s device.
 - Only in response to a specific search inquiry by the user;
 - Exclusively next in a preexisting sequence from the same author, creator, poster or source;
 - As necessary to comply with the SAFE for Kids Act; and
- **Additionally, a feed is not defined as an “addictive feed” if:**
 - The user expressly and unambiguously requested certain media to be displayed (e.g., the user subscribed to an author, a page or a group).
 - The user expressly and unambiguously requested that certain media, authors or pages be blocked, prioritized or deprioritized.
 - The media is direct and private communication (e.g., direct messaging).

The SAFE Act for Kids – Proposed Regulations from the Office of the Attorney General (OAG)

- On September 15, 2025, the OAG released a 144-page Notice of Proposed Rulemaking regarding the SAFE for Kids Act.
- Attorney General Letitia James recently stated to the Associated Press: “Children and teenagers are struggling with high rates of anxiety and depression [i.e., a growing mental health crisis] because of addictive features on social media platforms.” Thus, the SAFE for Kids Act seeks to curb this growing concern with the following (but not limited to) proposed regulations:
 - Prohibition of addictive feed;
 - Prohibition of nighttime notifications;
 - Actual knowledge of minor age status and age assurance methods;
 - Appeals process;
 - Data use and protection;
 - Severability; and
 - Parental consent

Looking Forward – Implementing the SAFE for Kids Act

- Under the SAFE for Kids Act, options for confirming a user is at least 18, according to the OAG, include requesting an uploaded image or verifying a user's email address or phone number to check against other information.
- Users under 18 who want to receive algorithmic feeds and nighttime notifications would have to give the companies permission to request consent from a parent.
- The AOG's office has also noted that Instagram and other social media platforms themselves have been implementing various forms of age assurance in recent months.

New York Paid Sick Leave Refresher and Common Issues



Stephanie H. Fedorka

Assockate

sfedorka@bsk.com

Rochester, NY

Paid Sick Time - Common Questions - Policies

- Is a written policy or notice to employees necessary?
 - What needs to be in the written policy?
- Can we limit carryover?
- One Bucket Method – Nuances and complications
- Can we have different policies for different classifications of employees?
- Policies for the multi-state employer

Paid Sick Time - Common Issues – Application and Enforcement

- What can employers do if they request documentation and the employee does not provide it?
- Can employers require an employee to use accrued sick time if they know the employee is going to be absent for a qualifying sick leave purpose?
- Can employers use an existing PTO policy to comply with the prenatal leave law requirements?

Penalties and Remedies for Violations of NYLL § 196-b

- Civil Penalties – NYLL § 197
 - \$500 for each offense
 - A penalty of up to double the unpaid wages for willful or egregious violations or repeat offenses
- NYSDOL and Civil Remedies – NYLL § 198
 - Unpaid wages
 - Costs and attorney's fees
 - Prejudgment interest
 - Liquidated damages equal to 100% of the unpaid wages in a NYSDOL action
 - Liquidated damages up to 100% of the unpaid wages in a civil action
- Criminal Penalties – NYLL § 198-A
 - Initial violation
 - Misdemeanor punishable by either:
 - A fine of \$500 to \$2,000 OR
 - Imprisonment up to one year
 - Subsequent violations within 6 years of an earlier conviction
 - Felony punishable by either or both:
 - A fine of \$500 to \$2,000
 - Imprisonment up to one year plus one day
- No private right of action created by 196-b

Penalties and Remedies for Violations of NYLL § 215

- Civil Penalties

- A fine between \$1,000 and \$10,000
- A fine up to \$20,000 if there has been a violation in the preceding 6 years

- NYSDOL and Civil Remedies

- Injunctive relief
- Lost compensation
- Liquidated damages up to \$20,000
- Rehiring or reinstatement to former or equivalent position
- Front pay in lieu of reinstatement
- Costs, attorney's fees, and damages in civil actions

- Criminal Penalties

- First offense other than a violation of a rule or provision for the health and safety of employees:
 - A fine of not more than \$100
- First offense of a violation of a rule or provision for the health and safety of employees, either or both:
 - A fine of up to \$100
 - Up to 15 days imprisonment
- Second offense, either or both:
 - A fine between \$100 and \$500
 - Up to 30 days imprisonment
- Subsequent offenses, either or both:
 - A fine of at least \$300
 - Up to 60 days imprisonment

Questions



Kerry W. Langan

Member

klangan@bsk.com

Syracuse, NY

Title VI Admissions Data

Brittany Schoepp-Wong, bschoeppwong@bsk.com

Attorney General's Proposed Rules for SAFE for Kids Act

Candace Gomez, cgomez@bsk.com

New York Paid Sick Leave Refresher and Common Issues

Stephanie Fedorka, sfedorka@bsk.com

Sexual Harassment Prevention Training

To combat harassment in the workplace, every New York State employer must provide harassment prevention training for all employees annually.

For more information on Bond's online sexual harassment training [click here](#) or email bondonline@bsk.com

Thank You

The information in this presentation is intended as general background information.
It is not to be considered as legal advice.
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