



# ElevatED:

Ascend and Transform  
Your World

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# Legal Responsibilities Every Higher Education Leader Should Know

*Ascending Through Risk.  
Transforming Leadership Decisions.*

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# Session Purpose & Learning Objectives

- Elevate legal awareness and transform everyday leadership decisions into proactive, risk-reducing practices
- Identify common legal risk areas across leadership roles
- Recognize decisions that limit or amplify institutional risk
- Understand the role of policies, reporting, and documentation
- Apply strategies that move leaders from reactive to intentional action



# Interactive Poll: Where You Lead

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- Supervising or supporting employees
- Managing students, programs, or operations
- Handling concerns, complaints, or incident reports
- Influencing decisions even without final authority

## **Key takeaway:**

legal risk exists wherever leadership influence exists



# Leadership in a Mainstream Legal Environment

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- Higher education leaders are not just educators
- Virtually every area of law now touches colleges and universities
- Legal risk exists wherever leadership influence exists
- Education is one of the most regulated environments in the country



# Governance is Leadership in Action

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- **Governance translates leadership into defensible decisions:** it clarifies who can decide, who must be consulted, and who is accountable.
- **Internal governance:**
  - board oversight • presidential authority • faculty/staff roles
  - delegated authority and decision pathways

# Governance is Leadership in Action

- **External governance:** statutes and regulations • accreditation expectations • regulators • courts.
- **Bridge to legal risk:** when decision rights are unclear, risk hides—these governance touchpoints are where the most common legal risk areas appear.



# Key Laws & Legal Risk Areas

# Key Laws and Legal Risk Areas (Part 1)

1. **Constitutional law:** free speech • due process • academic freedom
2. **Nondiscrimination laws:** Title IX • Title VI • ADA / Section 504
3. **Privacy:** FERPA • data governance
4. **Employment law:** hiring • tenure • termination • collective bargaining

# Key Laws & Legal Risk Areas (Part 2)

5. **Student rights & discipline:** conduct processes • campus safety
6. **Institutional liability (tort risk):** negligence • duty of care (especially student safety)
7. **Intellectual property:** research ownership • tech transfer • copyright
8. **Emerging issues:** online education • global campuses • AI & technology (constantly evolving)



# The Compliance Reality

- Compliance is fragmented across many laws and agencies
- No single checklist solves it
- Institutions need policies but also need systems (roles, routing, training, documentation)

# Risk Management Mindset

- **Reactive:**

- respond after a complaint, crisis, or lawsuit

- **Proactive:**

- identify risks early
- train consistently
- document decisions
- align policy + practice

# Leadership Roles in Legal Risk

- Recognize red flags and escalation triggers
- Follow reporting pathways and apply policies consistently
- Document concerns, decisions, and follow-up
- Leaders are not expected to investigate or manage risk alone



# Where Risk Pulls Leaders Down

# Where Risk Pulls Leaders Down

- Waiting to see whether issues resolve themselves
- Inconsistent application of policies
- Informal solutions without documentation
- Quick fixes without appropriate consultation



# Pre-Scenario Leader Toolkit



# Pre-Scenario Leader Toolkit

- Timely escalation
- Documentation
- Consistency
- Consultation Map

# **Leader Tool 1 (Timely Escalation)**

- **Don't Wait rule**
  - Escalate with enough concern (not every detail)
  - Same day when possible; within 24 hours for higher-risk issues
- **Immediate escalation triggers**
  - Safety threat / urgent wellbeing concern
  - Sex-based harassment / sexual misconduct (Title IX trigger)
  - Discrimination / harassment / retaliation (especially repeated or power imbalance)
  - Likely formal action (discipline; removal from duties; access restrictions)
- **In the moment:** address safety • preserve privacy • contact the right office • document receipt + actions

# Leader Tool 2 (Documentation)

- **Document contemporaneously**
  - Facts & observations; quotes when possible
- **Minimum checklist**
  - Date/time received; who reported; how received
  - What was said/observed; names; witnesses; locations; relevant dates
  - Actions taken: who notified, when, and how; any interim steps
- **Avoid**
  - Conclusions about intent; diagnoses; inflammatory labels
  - Promises of complete confidentiality
  - If unsure what belongs in writing: consult HR / General Counsel

# Leader Tool 3 (Consistency)

- **Similar cases & Rationale check**
  - Similar situations should involve similar process, timelines, and standards
  - If you deviate: objective reasons, documented
- **Consistency micro-checklist**
  - Use the same intake questions & routing steps
  - Use the same documentation location & naming convention
  - Non-retaliation check (no punishment for reporting/participation)

# Leader Tool 4 (Consultation Map)

- **Consult before decisions that change**
  - Status • access • discipline • protections
- **Who to loop in (examples)**
  - HR (discipline; accommodations/leaves; supervisory guidance)
  - Title IX (sex-based harassment/misconduct; supportive measures; reporting)
  - Student Conduct / Dean of Students (interim measures; due process; patterns)
  - Compliance / Ethics (intake routing; policy interpretation; pattern tracking)
  - Campus Safety (threats; emergency response; safety planning)
  - General Counsel (high-risk decisions; litigation/public records guidance)

# Case Scenario #1: The Cost of Delay

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## The Cost of Delay

- Leader hears informal harassment concern but delays reporting
- Discussion: risks of waiting; obligations despite incomplete information
- Leadership takeaway: escalate early (Tool 1) and document what you received and did (Tool 2)—leaders typically report and route concerns; they don't investigate

# Case Scenario #2: Policy vs. Practice Gap

# Case Scenario #2:

## Policy vs. Practice Gap

- Strong written policies applied inconsistently across departments
- Discussion: how inconsistency erodes credibility and legal defensibility
- Leadership takeaway: align policy and practice through consistent processes (Tool 3) and document the objective rationale for any deviations

# **Case Scenario #3: The Well Intended Shortcut**

# Case Scenario #3:

## The Well Intended Shortcut

- Leader resolves issue informally to avoid disruption or escalation
- Discussion: when speed increases risk
- Leadership takeaway: when speed impacts status/access/discipline, pause and consult (Tool 4), then document (Tool 2) the rationale and handoff

# Key Takeaways

- Legal risk thrives in silence, delay, and inconsistency
- Risk awareness is a leadership skill—not a legal one
- Proactive processes protect people and institutions
- Strong leadership transforms risk into trust and accountability
- Risk areas evolve—leaders need continuous monitoring and strong systems



# Closing & Questions

- **Ascend**: recognize risk early and escalate through the right pathways
- **Transform**: build operating-system habits (training, consistency, documentation, consultation)
- **Accountability**: delegation doesn't eliminate responsibility

# Questions?

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