



EDUCATIONWEBADVISOR

A Career Learning Company

# Title IX Coordinator Certification (Higher Education): 2024 Regulations

**Session 4:** Case Studies and Compliance Audits  
Presented by: Richard F. Verstegen

# Overview



I

## Case Studies

- Discrimination
- Harassment

II

## Working With Law Enforcement

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## Conclusion



Study

Case

# Case Studies





# Case Study



- **Discrimination – athletics**
  - The district chooses a new girls' softball coach, who is a current teacher in the district.
  - The district had received other applications, but the district believed that the current teacher would be a good fit for the position.
  - A parent is very upset with this selection, arguing that the boy's baseball team has more competent and experienced coaches, and therefore the district is violating Title IX because it has failed to provide the girls with the same type of coaching.
  - The parent wants to file a complaint.

# Poll Question

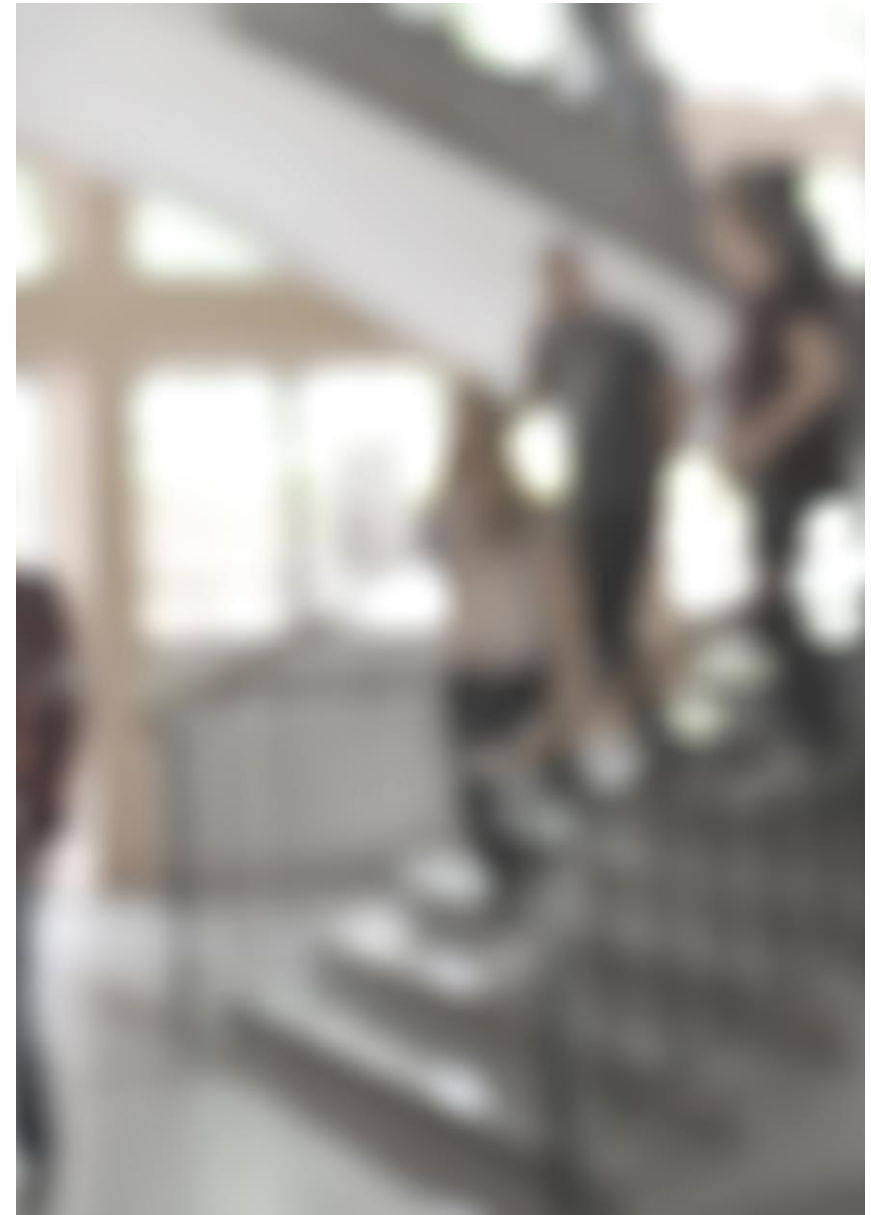
How should the District handle this issue?

- Inform the parent of the ability to file a complaint under your Title IX grievance procedure
- Inform the parent of the ability to file a complain under your Title IX grievance process
- Inform the parent that we are not going to address these types of issues
- Do nothing



# Case Study

- **Harassment – in school**
  - A staff member observes an exchange between a boy and a girl in the high school hallway. The boy tells the girl, “Here comes the hottest thing in this hallway. Looking good as always Maddy!” The girl responds, “Shut up, Jake!” The boy responds, “OK, but I’m a great kisser. Text me.” The girl responds, “Cut it out. We’ll see you later.”
  - The staff member has never observed any similar conduct by Jake in the past.
  - The staff member wonders whether to report this conduct.



# Poll Question

Must the staff member report this conduct to the Title IX Coordinator as Title IX harassment?

- Yes
- No
- Not sure





# Case Study

- **Harassment – in school**
  - A female high school student meets with an academic advisor. She tells the advisor that she broke up with her ex-boyfriend about a month ago, and he has been following her.
  - He cornered her that morning in an isolated stairwell of the school and said that he has been watching her all the time. He said he can't stand the thought of her dating someone else, and that if she doesn't stop hanging out with this new guy, someone is going to end up hurt.
  - The advisor reports this information to the Title IX Coordinator.



# Poll Question

Must the advisor report this conduct to the Title IX Coordinator as Title IX harassment?

- Yes
- No
- Not sure



# Case Study

- **Pregnancy**
  - A staff member observes a posting on social media by a student.
  - The posting states: “If you do not see me in school over the next month, it is because I just found out that I am pregnant. I need to focus on myself and the baby. Appreciate all the support for my friends!”
  - The staff member has observed that this student has not been coming to school recently.
  - The staff member wonders whether to report this conduct.

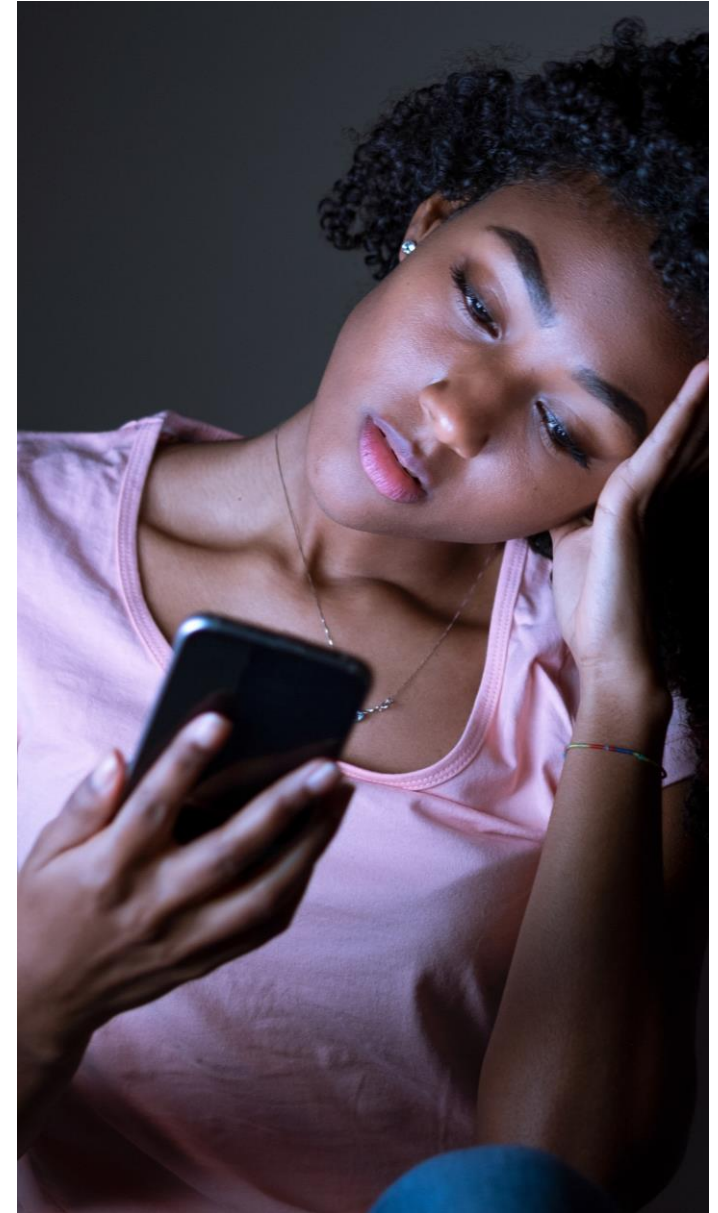


# Case Study

- **Harassment – employment**
  - A female employee reports that she overheard her supervisor state that “some days there is a too much estrogen in this office.” Three other women share the workspace. She reports this statement to the Title IX Coordinator. No action taken.
  - During her evaluation, her supervisor meets with her and cites her need for improvement in certain areas. The female employee reacted by getting very upset and crying during the meeting. The supervisor then stated that “I know women can be emotional, but you’ve got to address this calmly and professionally.”
  - The female employee believes the comments showed harassing conduct toward her. She reports this conduct to the Title IX Coordinator.

# Case Study

- **Harassment – off campus**
  - A high school male student sends a Snapchat message to a high school female student after school hours. The Snapchat contains inappropriate sexual comments about the student and inappropriate images. It is sent after school and over personal devices.
  - In school the next day, the male student asks the female student about the Snapchat. The male student's friends have also been asking her about the Snapchat at school that morning and pressuring her to “hook up” with their friend.
  - The student reports this conduct to the high school principal who is not the Title IX Coordinator.







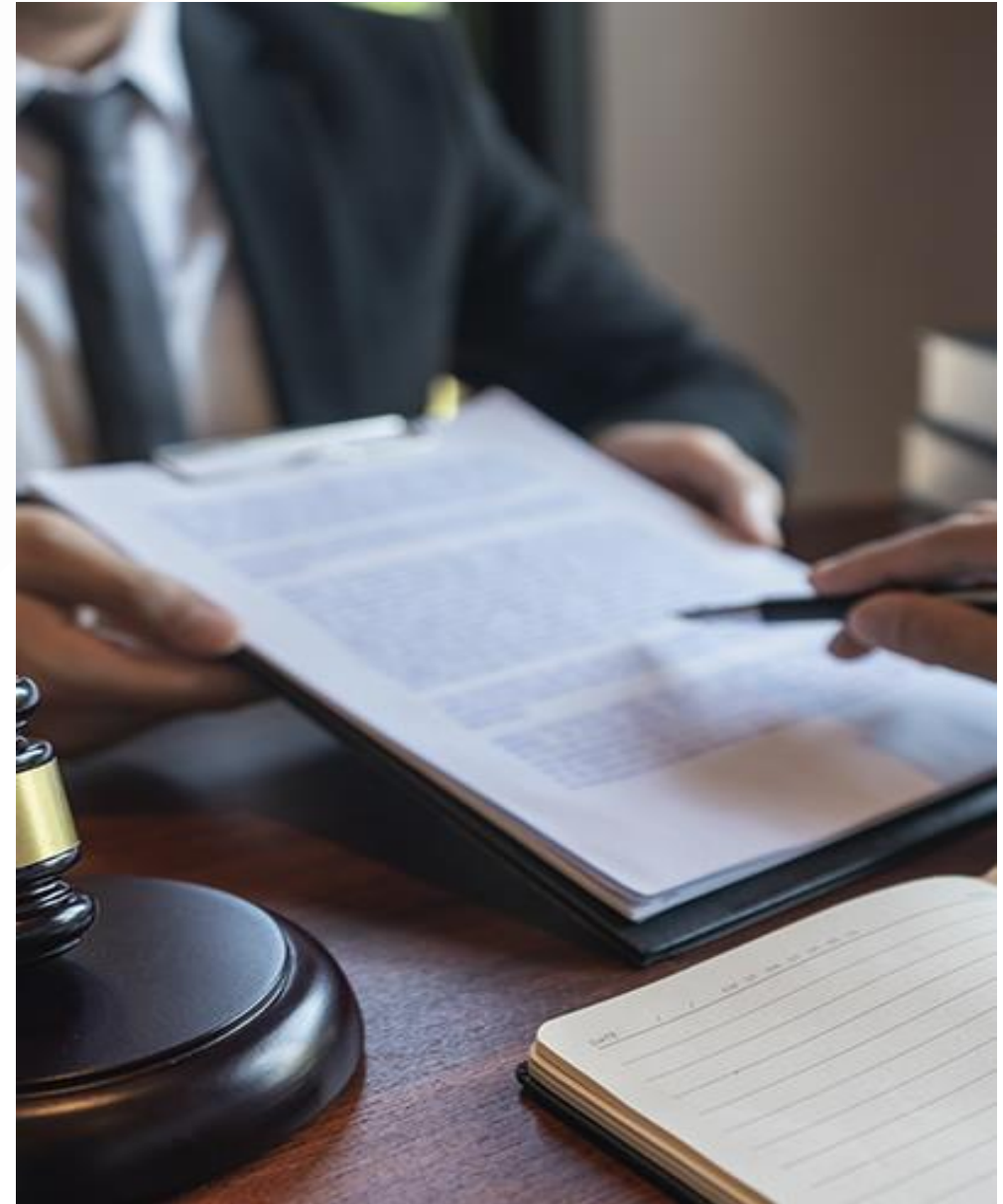
**Complaints**

# Addressing Complaints

# Addressing Complaints

## Working With Law Enforcement

- An institution should notify complainants of the right to file a criminal complaint, if applicable.
- If applicable, an institution should work with law enforcement to learn when the evidence gathering stage of the criminal investigation is complete.
- A Title IX investigation will never result in incarceration.



# Recordkeeping Requirements

- **A recipient must maintain for a period of at least seven years:**
  - (1) For each complaint of sex discrimination, records documenting the informal resolution process under § 106.44(k) or the grievance procedures under § 106.45, and if applicable § 106.46, and the resulting outcome.
  - (2) For each notification the Title IX Coordinator receives of information about conduct that reasonably may constitute sex discrimination under Title IX or this part, including notifications under § 106.44(c)(1) or (2), records documenting the actions the recipient took to meet its obligations under § 106.44.
  - (3) All materials used to provide training under paragraph (d) of this section. A recipient must make these training materials available upon request for inspection by members of the public.

# Prohibited Disclosure of PII

- A recipient must not disclose personally identifiable information obtained in the course of complying with this part, except in the following circumstances:
  - (1) When the recipient has obtained prior written consent from a person with the legal right to consent to the disclosure;
  - (2) When the information is disclosed to a parent, guardian, or other authorized legal representative with the legal right to receive disclosures on behalf of the person whose personally identifiable information is at issue;
  - (3) To carry out the purposes of this part, including action taken to address conduct that reasonably may constitute sex discrimination under Title IX in the recipient's education program or activity;



# Prohibited Disclosure of PII

- A recipient must not disclose personally identifiable information obtained in the course of complying with this part, except in the following circumstances:
  - (4) As required by Federal law, Federal regulations, or the terms and conditions of a Federal award, including a grant award or other funding agreement; or
  - (5) To the extent such disclosures are not otherwise in conflict with Title IX or this part, when required by State or local law or when permitted under FERPA, 20 U.S.C. 1232g, or its implementing regulations, 34 CFR part 99.

# Retaliation

- Retaliation means intimidation, threats, coercion, or discrimination against any person by the recipient, a student, or an employee or other person authorized by the recipient to provide aid, benefit, or service under the recipient's education program or activity, for the purpose of interfering with any right or privilege secured by Title IX or this part, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this part, including in an informal resolution process under § 106.44(k), in grievance procedures under § 106.45, and if applicable § 106.46, and in any other actions taken by a recipient under § 106.44(f)(1).

# Retaliation

- Nothing in this definition or this part precludes a recipient from requiring an employee or other person authorized by a recipient to provide aid, benefit, or service under the recipient's education program or activity to participate as a witness in, or otherwise assist with, an investigation, proceeding, or hearing under this part.
- Peer retaliation means retaliation by a student against another student.

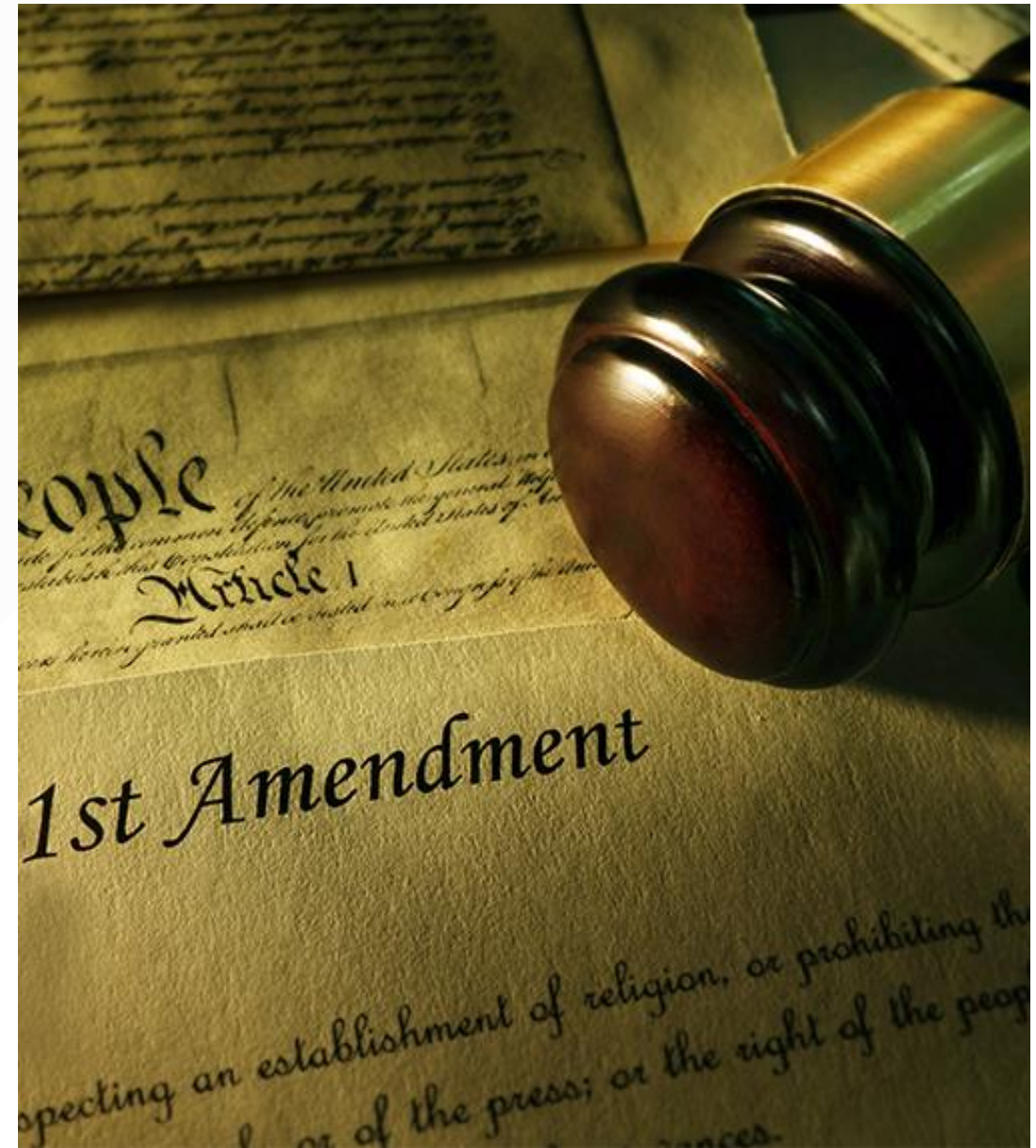
# Retaliation

- A recipient must prohibit retaliation, including peer retaliation, in its education program or activity. When a recipient has information about conduct that reasonably may constitute retaliation under Title IX or this part, the recipient is obligated to comply with § 106.44. Upon receiving a complaint alleging retaliation, a recipient must initiate its grievance procedures under § 106.45, or, as appropriate, an informal resolution process under § 106.44(k). As set out in § 106.45(e), if the complaint is consolidated with a complaint of sex-based harassment involving a student complainant or student respondent at a postsecondary institution, the grievance procedures initiated by the consolidated complaint must comply with the requirements of both §§ 106.45 and 106.46.



# Addressing Complaints – First Amendment

- **Consider First Amendment issues.**
  - In cases of alleged harassment, the First Amendment must be considered if issues of speech or expression are involved.
  - First Amendment rights may apply to the rights of complainants, respondents, or third parties.





# Addressing Complaints – FERPA

- **Consider student records issues.**
  - There will need to be a balance between confidentiality of student records and due process considerations.
  - Institutions may need to disclose evidence as part of the process which may bring concerns with disclosure of confidential student records.



# Compliance Review







# Compliance Review

- **Key questions**
  - When you receive a report, what steps do you take? Do you notify the complainant and respondent?
  - When you receive a report, what sort of steps do you take to prevent the recurrence?
  - Do you consider changes to any supportive measures? How do you monitor these measures?
  - When you conduct your investigation, do you approach such investigations in an objective and impartial manner?





# Compliance Review

- **Key questions**
  - Based on the alleged conduct, at what point do you contact law enforcement?
  - At what point do you resume your investigation?
  - When you receive a report of alleged sexual violence, do you report such conduct as alleged child abuse?

# Compliance Review

- **Key questions**
  - After completing an investigation, how do you document your final outcome or conclusions?
  - After completing your investigation, do you follow up with the victim or perpetrator to determine whether there has been any recurrence?
  - In what circumstances do you recommend discipline for any sort of sexual violence?





# Compliance Review

- **Review of policies**
  - Interim steps;
  - Evidentiary standard;
  - Definitions of sexual harassment;
  - Reporting policies and protocols;
  - Potential remedies for student victims and potential sanctions for perpetrators;
  - Sources of counseling, advocacy, and support; **and**
  - Notice of prohibition of retaliation.



# Compliance Review

- **Review of personnel**
  - Specific training that they have received on the sexual harassment and violence policies;
  - Knowledge of the policies and forms in the District; **and**
  - Application of these policies and forms in specific matters in the District.







# Compliance Review

- **Possible issues**


- Referral of matters to others;
- Investigations of issues consistent with policies;
- Interim measures considered, but mostly with alleged perpetrator;
- Filling out forms in a meaningful manner; **and**
- Delay in investigation or resuming investigations, when law enforcement is involved.

# Compliance Review

- **Revisions to various policies**
  - Designating coordinators.
  - Notice of non-discrimination.
  - Grievance procedures.
  - Determination of harassment.





A close-up photograph of a computer keyboard. The focus is on a pink key in the center that has the words "FINAL THOUGHTS" printed on it in bold, black, sans-serif capital letters. Surrounding this key are other standard keyboard keys, including "F10", "F11", "Insert", "Delete", and "Enter", which are in a dark grey or black color. The lighting is soft, creating a slight vignette effect.

**FINAL  
THOUGHTS**

# Conclusion

A stylized logo consisting of a white letter 'V' centered within a white parallelogram. This parallelogram is overlaid on a series of overlapping, slanted rectangular bars in blue, green, and yellow, creating a dynamic, geometric design.

**V**



# Conclusion

- Need to consider how to work with law enforcement.
- Need to maintain and create records as necessary.
- Need to consider other requirements, including retaliation and First Amendment.



# What was your key takeaway?

## Please let us know in the Q&A.

We will use your response with your first name and last initial on our website so others can benefit!







**Richard Verstegen**  
**Attorney**

# Questions?



**Boardman & Clark, LLP**



<https://www.boardmanclark.com>



**(608) 286-7233**



[rverstegen@boardmanclark.com](mailto:rverstegen@boardmanclark.com)

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