

# BakerHostetler



The University of Texas at Austin

Accounting and Financial Management

## Public Policy Issues and Concerns

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1

## Agenda

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- Campus Speech / Campus Politics
- Student Athletes
- Race in Admissions and Charitable Programs
- Donor Advised Funds
- Endowments

2

2

## Campus Speech / Campus Politics

- At a hearing in December 2023, university presidents Liza Magill (U. Penn), Claudine Gay (Harvard) and Sally Kornbluth (MIT) said that context mattered in response to Rep. Elise Stefanik's question whether "calling for the genocide of Jews" amounted to bullying and harassment on campus.
- Presidents Gay and Magill have since resigned under pressure from donors.



3

3

## Campus Speech / Campus Politics

- Students are protesting university investment in arms and defense companies related to Israel's war with Hamas.
- Some campuses have had encampments and buildings occupied by protesters.
- Police have made mass arrests and some campuses have canceled graduation ceremonies.



4

# Congressional Action

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- **Nov. 15, 2023:** Ways and Means hearing on the nexus between antisemitism, universities, and terror financing.
- **March 21, 2024:** Rep. Smith sends letter to tax-exempt universities seeking information on efforts to protect Jewish students and on foreign-sourced funding.

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# Student-Athletes

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- 1930s New Deal Era Legislation for “Employees”
  - FLSA – federal minimum wage, overtime, and child labor
  - NLRA – protect freedom of association in private-sector workplace for seeking better working conditions without fear of retaliation
  - SSA (plus Medicare in 1960s is FICA) – issue Social Security Numbers and provide Social Security retirement, survivors, and disability insurance programs
- Supreme Court interprets “Employee” using Economic Reality Test
  - 1944 to 1947 “employee” was the same under these statutes
    - NLRB v. Hearst Publications, Inc., 322 U.S. 111 (1944) – NLRA
    - Rutherford Food Corp. v. McComb, 331 U.S. 722 (1947) – FLSA
    - United States v. Silk, 331 U.S. 704 (1947) – SSA
  - Economic Reality Test – employees are those who as a matter of economic realities are dependent upon the business to which they render service.

6

6

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First appeared as part of the conference materials for the  
12<sup>th</sup> Annual Higher Education Taxation Institute session  
"Public Policy Issues and Concerns"