

Higher Education

Dykema has a dedicated Higher Education Practice with attorneys across the country who advise public and private colleges (including community colleges) and universities on how best to achieve their objectives. We have an inter-disciplinary practice comprised of attorneys with wide-ranging backgrounds including government policy, employment and labor, real estate, intellectual property, immigration, tax, health care, privacy and corporate governance and finance. We serve as outside General Counsel for several higher education and higher education trade association clients, as well as outside counsel for corporations doing business with both public and private colleges and universities.

Several of our attorneys participate in higher education organizations, including membership in the National Association of College and University Attorneys (NACUA) and NAFSA: the Association of International Educators.

Dykema provides counsel on issues relating to:

- Developing and administering policies and practices to ensure compliance (including proper reporting) with respect to such statutes as Title IX, Clery Act, the SaVE Act, FERPA and the Sexual Violence Elimination Act, as well as both state and federal constitutional requirements. Our lawyers have developed policies and trained faculty, administrators and staff regarding implementation of the policies and compliance with the statutes and constitutional protections;
- Developing academic standards, disciplinary policies and security procedures for school facilities and campuses, including best practices for fraternities, sororities, sports programs and other social organizations and campus police departments;
- Ensuring compliance with statutes and regulations, including those relating to discrimination, harassment, retaliation, accommodations, privacy and immigration;
- Defending decisions when challenged by administrative process or litigation, including issues relating to academic freedom, failure to grant tenure, Title IX and/or Clery Act complaints, accessibility and discipline for academic or conduct reasons;
- Advising on crisis management when tragedies have occurred;
- Crafting policies and guidelines for student and faculty use of social networking sites;
- Drafting legislation on educational regulatory and funding issues;
- Outsourcing of transportation, information technology, food and other services;
- Advising on real estate transactions, including the creation of a national historical district, negotiating with developers, architects, construction managers and general contractors on construction and renovation projects;
- Developing appropriate standards for competitive bidding and requests for proposals and resolving bid controversies and protests;
- Advising regarding accrediting bodies, responding to inquiries and appeals of accreditation decisions;

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- Protecting assets bequeathed to universities or colleges, including litigation to protect those interests;
- Advising regarding planned gifts, drafting gift pledge agreements and guidelines for capital campaigns;
- Providing tax-exempt guidance and employee benefits counseling, including pension, welfare, nonqualified deferred compensation, fringe benefits, HIPAA compliance, etc.;
- Advising on public-private partnerships, cooperative agreements (both between higher education institutions and higher education and K-12 entities), affiliation agreements, tax increment financings, interlocal and intergovernmental agreements;
- Counseling on public employment and collective bargaining matters, ballot proposals and public finance and bond matters;
- Counseling regarding compliance with open meetings and public information laws and regulations;
- Providing intellectual property counsel regarding university ownership of patents and protection of trademarks;
- Advising on federal earmark legislation and state appropriations; and
- Representing public and private colleges and universities in various litigation matters in both state and federal courts.

Representative Experience

Labor, Employment and Immigration

- Represented numerous public universities and community colleges with regard to all aspects of labor relations (including collective bargaining, arbitrations and administrative hearings), as well as all matters involving employment law (including administrative charges, discrimination claims and other wrongful termination claims).
- Represented an institution of higher education in claims brought under Title III of the ADA, negotiated a resolution and avoided litigation.
- Represented a public college in drafting “expressive speech” policies and procedures.
- Represented a private university in a failure to promote and graduate case resulting in a summary judgment for the university.
- Represented a private university in a multi-party claim filed by the EEOC alleging the use of an English Only rule.
- Represented a private university in a national origin discrimination claim brought by an Asian faculty member who was terminated resulting in a summary judgment for the university.
- Representing a private university in connection with complaints filed alleging Title IX violations based on the handling of a claim of sexual assault.
- Represented numerous multi-campus higher education institutions regarding immigration and I-9 and J-1 waiver issues.

Government, Regulatory and Legislative

- Represented and counseled a higher education trade association on a variety of regulatory, legislative and litigation issues affecting institution members.
- Represented and counseled a state public university on regulatory issues involving the creation of new medical school programs.
- Represented clients in all phases of contract procurement and development, including public bidding requirements, freedom of information act, open meetings act, conflicts of interest laws, state ethics, lobby and registration requirements, and other regulatory and legal requirements.
- Represented public universities on a variety of regulatory and rulemaking issues related to state fire safety rules and their applicability to campus dormitories and public assembly halls.
- Represented a public university in government investigation-related matters.

Privacy, Technology and Intellectual Property

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- Assisted a private liberal arts university in developing privacy and cybersecurity policies, including policies for the proper protection of personal information from European students under the European General Data Protection Regulation.
- Represented public and private higher education institutions regarding HIPAA and FERPA matters relating to student health and counseling centers.
- Represented several private educational industry companies (including software providers) with regard to intellectual property, trademark and antitrust matters.

Real Estate and Finance

- Assisted state public universities on the purchase and sale of real estate related to new satellite campuses and medical school program.
- Served as bond counsel, underwriter's counsel and obligor's counsel for bonds issued by community colleges, universities and private colleges.
- Represented a client in restructuring its over \$1 billion student loan portfolio following the collapse of the auction rate market.