

# National Association of College and University Attorneys

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Kathleen Curry Santora, Chief Executive Officer

**Information**

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TO: NACUA Board of Directors

FROM: Marianne Schimelfenig, Chairperson, Committee on Annual Program  
Karl F. Brevitz and Camille Heenan, Staff Liaisons

DATE: June 4, 2009

SUBJECT: June 2009 Report of Committee on Annual Program

### Charge to the Committee

The Committee is responsible for formulating and planning the Annual Conference program for the 2009 Annual Conference (to be held in Toronto June 24 – 27) to include selection of topics and speakers, in close coordination with the NACUA officers and staff, and in coordination with the other programmatic and informational services of the Association.

### Committee Leaders

Marianne Schimelfenig, Chair  
Jonathan Alger, Vice Chair

Since our last report to the Board in March (attached), registration for the annual conference was opened and additional sessions have been added to the program. Here is an update of developments since March.

### Conference Registration

As of June 2, paid registrations for the Annual Conference totaled 672. While attendance will be down in Toronto from previous annual conferences due to the economic climate, we did anticipate the reduced attendance and modified our projections accordingly. Attendance will be above the revised projections for this year's conference, which is a resounding affirmation of the value of NACUA programming to our members, the outreach efforts of the NACUA staff and the hard work of our Program Committee in designing this year's schedule of sessions and attracting outstanding presenters for each of them.

### Plenary Sessions

*In addition to our opening Plenary session, which will feature William Jarvis, Managing Director of Research at the Commonfund Institute, speaking on "The State of the Economy and Its Impact on Higher Education", we have added a second plenary session on Thursday morning. Terry Hartle, Senior Vice President for Governmental Relations and Public Affairs at the American Council on Education (ACE) will speak on "Hot Topics from the Nation's Capital: The First Six Months of the Obama Presidency and the 111th Congress"*

*"To advance the effective practice of higher education attorneys for the benefit of the colleges and universities they serve"*

## **Added Sessions**

Since our last report, we have added one more session to the new conference track on legal issues arising out of the declining economy: “Borrowing in a Bad Economy—Current Legal Issues in College and University Borrowing”. The other sessions in the track are:

- Reductions in Force and Furloughs: Effective Planning and Implementation
- The GC Office: Doing More (or at least as much) With Less
- Economic Distress and Institutional Endowments and Investments
- Financial Distress and Faculty Issues
- Campus Collective Bargaining in a Bad Economy

In addition the following sessions have also been added to the schedule:

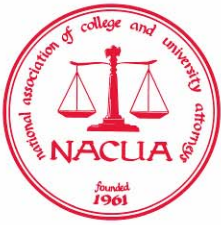
- Regulating Firearms on Campus
- The Google Book Settlement: Issues and Options
- Hot Topics in Immigration Compliance (follow-on Discussion Group to earlier session)
- Sharing IT Services Across Colleges and Universities: What Models Should We Use?

## **Broadcasting of Selected Conference Sessions**

As referenced in the March report, we did offer members unable to attend the conference the opportunity to attend selected sessions via broadcast (live audio and PowerPoint on-line) in an effort to provide them with an opportunity to participate and also to obtain needed CLE credits. Registration levels for the broadcast sessions were not sufficient to support the expense entailed in presenting them. As a result we are now exploring other options and will likely deliver the three sessions shortly after the conference in a web archive format to all members who are interested.

## **Committee Activity**

The Committee has held two conference calls since the March Board meeting to provide members with an opportunity to ask questions, provide assistance with any unexpected difficulties and reinforce procedure. The committee has worked very hard throughout the past year to plan and develop conference sessions that not only cover the many active areas of practice for NACUA members, but, also, respond directly to the issues currently facing members due to the unique financial circumstances presented this past year and likely to face member institutions in years to come. The outcome of this effort is an outstanding program and, as a result of all this good work and the better-than-anticipated attendance given the challenges presented this year for our members, we are looking forward to a truly really excellent conference. Our thanks to all of the members of the 2009-2010 committee for their diligent, responsive and creative work on their sessions.



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## Attachment One

TO: NACUA Board of Directors

FROM: Marianne Schimelfenig, Chairperson, Committee on Annual Program  
Karl F. Brevitz and Camille Heenan, Staff Liaisons

DATE: February 23, 2009

SUBJECT: March 2009 Report of Committee on Annual Program

### Work Plan for 2008 - 2009

#### 1. Develop Proposed Topics for the 2009 Annual Conference.

During the summer, the following Committee Working Groups were appointed: Business and Real Property; Civil Rights and Diversity; General Counsel; Labor and Employment; Litigation and Risk Management; Professional Development; Research and Intellectual Property,; and Student Affairs and Athletics. These working groups worked over the summer to prepare 12 – 16 topic proposals per working group for consideration by the Committee, based on the suggestions of working group and committee members and on topic proposals received from other NACUA members. The list of Committee working groups appears at the end of this report.

#### 2. Select Final Topics for Inclusion in the 2009 Annual Conference.

The leaders of the various working groups met in Washington DC on September 26 to review all of the topic proposals prepared by the working groups. As a result of that meeting, 56 topics were selected to move forward for development in 8 subject matter tracks.

### **3. Addressing Economic Developments**

Since the September meeting the economy has experienced a significant downturn, with the resulting impact and legal ramifications for colleges and universities. Consequently, we have added a track of several new sessions to specifically address legal issues arising out of the economic distress being experienced by many member institutions. These sessions include:

- Reductions in Force and Furloughs: Effective Planning and Implementation
- The GC Office: Doing More (or at least as much) With Less
- Economic Distress and Institutional Endowments and Investments
- Financial Distress and Faculty Issues
- Campus Collective Bargaining in a Bad Economy

We anticipate adding more sessions to this track. In addition, the opening plenary session for the conference will address “The State of the Economy and Its Impact on Higher Education”.

In order to encourage attendance at the conference, we opened registration and conference hotel reservations two months earlier than usual. This step may also assist members in avoiding the possible impact of mid-year budget cuts or travel restrictions.

This also enabled us to discontinue the printed registration brochure, typically mailed to members in late March simultaneously with the opening of registration, with the resulting savings for NACUA. We will continue to produce the full conference brochure distributed on-site.

We have also worked with the conference hotel to arrange for members who wish to pre-pay their hotel reservations (and possibly lock-in a favorable exchange rate).

Finally, we are exploring the possibility of webcasting selected individual conference sessions or otherwise making them available to members unable to attend the conference.

### **4. Develop Selected Topics into Annual Conference Sessions.**

The session coordinators for the individual conference session have made excellent progress in organizing their sessions. There will be a conference call of the full Program Committee on March 4 to further assess session status. Information on the content and speakers for all sessions is available on the NACUA web page.

### **3. Encourage Diversity in Session Presenters.**

This year the conference will again feature a full track of sessions devoted to topics addressing diversity and civil rights, organized by a separate committee working group specifically tasked with responsibility for that track. At the meeting of the Committee on September 26, diversity in session formats and panelists was again included as an agenda item and special emphasis was placed on ensuring that some sessions outside of the Diversity/Civil Rights track also touched on or focused on diversity issues. Through

discussions at Committee meetings, with working group leaders and messages to committee members, emphasis has been placed on encouraging session coordinators to strive for diversity in the selection of annual conference presenters in terms of type of institution; race, gender and ethnicity; geographic locations, in-house and external counsel, and other factors reflecting the diversity of the NACUA membership. Committee member and co-leader of the committee working group on Diversity and Civil Rights Andrew Hughey is a member of the Board Advisory Council on Diversity and Inclusivity.

**4. Plan Pre-Conference Workshop for Lawyers New to Higher Education.**

NACUA Second-Vice President and Program Committee Vice-Chair Jonathan Alger has worked with Assistant Director of Legal Resources-Programming Camille Heenan on planning for the pre-conference workshop. A complete schedule of pre-conference topics and speakers is available on the NACUA web page.

**6. Plan Pre-Conference Roundtables for Institutional In-House General Counsel.**

In 2006 we introduced a pre-conference Roundtable for Newly or Recently Appointed General Counsel that was very well received. In addition, in 2007 we introduced a pre-conference Roundtable for Experienced General Counsel, which drew strong attendance. We will repeat both Roundtables at the 2009 Annual Conference. Registrant evaluations for both Roundtables were positive, and we will continue to refine format and content as a result of additional consultation with registrants and Roundtable leaders.

**7. Plan Conference Plenary Session.**

We are delighted to have been able to enlist as our opening plenary session speaker Mr. William F. Jarvis, Managing Director of Research at the Commonfund Institute. Located in Wilton, Connecticut, the Commonfund Institute is the research and education division of the Commonfund. The Institute was established to provide the non-profit community, including colleges and universities, with investment information and professional development programs. Mr. Jarvis is responsible for the Institute's research, written analyses and publications. Prior to joining the Institute in 2006, Mr. Jarvis was Chief Operating Officer for Lime Capital Management, a privately-held hedge fund firm based in New York City. He was also an investment banker with J.P. Morgan, and practiced law with the firm of Davis Polk & Wardwell, providing legal advice to global banks and securities firms. Mr. Jarvis will speak on The State of the Economy and Its Impact on Higher Education, a topic of concern to all members.

## Attachment Two

## 2009 Annual Program Committee

### Working Groups

**Committee Chair:** Marianne Schimelfenig

**Committee Vice-Chair:** Jonathan R. Alger

#### **Business and Real Property Law**

*Sessions addressing college and university business and real property transactions and policies, including contracts, real estate acquisition and development, finance, endowments, fund-raising and development, and taxation.*

- Charles Barber
- Courtney Lang
- Elizabeth Salasko\*
- Lorry Spitzer\*
- Kate Tromble\*

#### **Civil Rights/Diversity**

*Sessions addressing civil rights and higher education discrimination law, including constitutional, statutory and regulatory issues in the contexts of employment, students and contracting, affirmative action and reverse discrimination, and sessions on diversity in professional development and the General Counsel's office.*

- Carrick Craig
- Laure Ergin\*
- Andrew Hughey\*
- Melissa Jackson
- GayLynn Kirn-Conant
- Therese Leone

#### **General Counsel**

*Sessions addressing topics of unique or exclusive concern to the institutional Chief Legal Officer [CLO]/general counsel, including governance, corporate compliance, major institutional initiatives, events or policies, government relations, emerging trends in higher education law practice, and law office management).*

- Jonathan Alger\*
- Jerry Blakemore
- Skip Capone\*
- Phil Ellenburg
- Kelly Capen Douglas
- Sonali Wilson

### **Labor and Employment Law**

*Sessions addressing college and university employment, labor relations and personnel policies, including employment discrimination, employment contracts, employee benefits, collective bargaining, and employment disputes and policies.*

- Steve Frenkil
- Dan Kaufman
- Barbara Lee\*
- Elizabeth Riley
- Gerard St. Ours\*
- Michael Sullivan

### **Litigation, Risk Management and Compliance**

*Sessions addressing college and university risk management, insurance, compliance, preventive law practice, litigation and ADR.*

- Edward Brill
- William Donohue
- Ann Franke\*
- Jeff Graves
- Paul Lannon\*
- Lorena Penalosa

### **Professional and Personal Development\*\***

*Sessions addressing professional and personal development of NACUA members, including skills development, ethics and professional responsibility, career advancement, effective law practice, and balancing personal and professional lives.*

- Susan Carney
- Robin Parker\*
- Harriet Lewis
- Maria Alfaro-Lopez\*
- Ada Meloy
- Nancy Footer

### **Research and Intellectual Property**

*(Sessions dealing with college and university sponsored research, research compliance, clinical trials, technology transfer, patents, copyright issues, and trademarks)*

- Ann Adams\*
- Alex Dreier\*
- Kathleen Irwin
- Judith Leonard
- Mary MacDonald
- Steve Sencer

### **Student Affairs and Athletics**

*Sessions dealing with college and university policies and issues affecting students and intercollegiate athletics, including admissions, financial aid and scholarships, student discipline, student organizations, Title VI and Title IX, athletes, athletic departments, and NCAA rules and compliance.*

- Kathryn Bender
- Amy Blum\*
- Kevin Mills
- Larry Nuti
- Karen Stone\*
- Lee Tyner

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\*Denotes Working Group Co-Leader

\*\*Responsible for at least 2 sessions devoted to legal ethics and the Rules of Professional Responsibility.