

# 6.22 **sunday**

11:45 am – 12:45 pm

1:00 pm – 2:15 pm

## **SIG1. Museums, Libraries and Collections**

Ann Appelbaum, Jewish Theological Seminary of America

## **SIG2. Church-Related and Religious Institutions**

Maria Alfaro-Lopez, John Carroll University

## **SIG3. Community Colleges**

Anna Marie Mascolo, Nassau Community College

## **SIG4. External Counsel**

Kathleen Rinehart, Whyte Hirschboeck Dudek, S.C.

## **SIG5. General Counsel**

Jerry Blakemore, Southern Illinois University

## **SIG6. Historically Black Institutions**

Pamela Boston, Norfolk State University

## **SIG7. University System Counsel**

Nicholas Rostow, State University of New York

## **SIG8. Health Sciences and Academic Medical Centers**

Robert Pelaia, University of Florida

Health Science Center,

## **1A. Data Privacy Issues - Know Your Rights and Responsibilities**

- Transborder flows of information
- Privacy policies
- On the horizon: biometric data collection, storage and use
- Data breach notification
- Technical issues related to compliance with Payment Card Industry (PCI) standards
- Enforcement of security standards in court

### **Panelists:**

John Nicholson, Pillsbury Winthrop Shaw Pittman LLP

Arthur McCombs, Johns Hopkins University

Maureen Dwyer, Moderator, Pillsbury Winthrop Shaw Pittman LLP

Vadim Schick, Pillsbury Winthrop Shaw Pittman LLP

## **1B. Lawyering After Ledbetter: Pay Equity Claims in Academe**

- Legal update, including case law review under Equal Pay Act, Title VII, ADEA, etc.
- EEOC systemic initiatives involving pay equity
- How to manage the risk: pros and cons of doing a review of faculty salaries, composition of decision makers for faculty salaries, starting salaries and market defenses, outside offers that impact equity
- Avoiding the reverse pay equity claim

### **Panelists:**

Aron Schwartz, Greenbaum, Rowe, Smith & Davis LLP

Wayne Richardson, Moderator, Fairleigh Dickinson University

Judy Keenan, Equal Employment Opportunity Commission

## **1C. Meeting the Challenges of a Diverse Student Body**

- Defining diversity on our campuses
- Overview of current state of the law on admissions, financial aid and other funding, and special programs aimed at recruiting and supporting a diverse student body
- Campus issues arising from a diverse student body
- Accommodations: disabilities (physical, mental, educational, facilities), religious, and discretionary vs. legally mandated accommodations
- Tensions: free speech v. harassment, clubs and activities geared toward specific groups, health and safety of the individual vs. the whole, and privacy rights
- Other Issues: successfully bringing diverse groups together, differences between public and private universities, fostering robust discussion of diverse viewpoints, and avoiding stifling less popular or minority views

### **Panelists:**

Dickens Mathieu, Moderator, Tufts University

Susan Sawyer, Yale University

Anne Bilder, University of Wisconsin System

## **1D. Tracking and Reporting Legal Office Activity**

- Tracking legal office activities - software options and other methods
- Reporting legal office activities - frequency, format, content and best practices
- Evaluating the legal office budget
- Tracking and reporting work by outside counsel - fees, measuring value added, tracking accountability, and other best practices
- Reporting negative news - practical tips

### **Panelists:**

Christine Helwick, California State University

Dana Scaduto, Dickinson College

Nancy Footer, University of North Texas System

### **1E. Alternatives to Risk Management: Everyone (Anyone) in the 'Pool'?**

- Consortiums, associations and other collaborative efforts: what works and what doesn't
- Captive and self-insurance: how have they evolved? are they cost effective?
- "Enterprise" risk management: combining risk management with institutional compliance programs
- Harnessing on-line technologies to facilitate training, administration and more
- The role of legal counsel: partnering with risk managers to produce innovative results

**Panelists:**

Beth Carmichael, Five Colleges, Inc.  
Brad Bohler, Gallagher Bassett Services, Inc.  
Paul Lannon, Holland & Knight LLP

### **1F. Working with (or in) Your Government Relations Office**

- When and how to coordinate efforts
- Dealing with different points of view and approaches
- Lobbying and ethics laws and rules
- Achieving legislative success for your university

**Panelists:**

Ada Meloy, Moderator, American Council on Education  
Kent Nelson, University of Idaho  
Paul Supowitz, University of Pittsburgh

### **1G. Academic Medical Center Issues**

- The Impact of Stark II on mission support payments
- Vendor relationships - The standards are changing for better or for worse
- FERPA, HIPAA & resident physician records
- Increased focus on health care board accountability
- 80 hour workweek: who is doing the work now?

**Panelists:**

Rachel Nosowsky, The University of Michigan  
Melissa Markey, Hall, Render, Killian, Heath & Lyman, PLLC  
Robert Pelaia, Moderator, University of Florida Health Science Center,

### **1H. Student Discipline in the Face of Criminal Prosecution**

- Overview of student judicial processes: private v. public institutions, due process
- Similarities and differences between student judicial processes and criminal prosecution and procedure
- Role of counsel: participation of student's counsel, interaction of institution counsel, judicial coordinator, and district attorney
- Subpoenas, FERPA and sharing of information and records
- Case law update

**Panelists:**

Frank Mazzairelli, New York County District Attorney's Office  
Michael Layish, The Ohio State University  
Robin Parker, Moderator, Miami University  
Andrea Goldblum, The Ohio State University

### **1I. Forum: Higher Education Employment Law**

**Panelists:**

Edward Brill, Proskauer Rose  
Henry Morris, Arent Fox LLP

# 6.23 monday

9:15 am – 10:45 am

## 2A. Disabilities Within Intercollegiate Athletics

- Impact of enrollment of physically disabled military veterans
- Proposed legislation re-participation of disabled students in intercollegiate athletics
- Effect of ADA, Title IX and Rehabilitation Act on athletic participation by disabled students

### Panelists:

Elsa Kircher Cole, National Collegiate Athletic Association  
Melinda Grier, University of Oregon

## 2B. Why a Good Relationship with Your Academic Senate Is Important: How to Be Part of the Campus Conversation

- Defining your advisory role, in a good way: think long term
- How far can you go when advising academic governance committees or bodies: When is it time to step out of the picture?
- When shared governance is out of whack: can and should you be the one to help “fix” it?

### Panelists:

Linda Shannon, St. John's University  
David Birnbaum, Moderator, University of California  
Lyle Zuckerman, Kauff McClain & McGuire LLP  
Barbara Wingo, University of Florida

## 2C. Don't Cross Your Fingers and Hope It Won't Happen to You - Tackle your FLSA Issues Before It's Too Late

- What we've learned since the 2004 regulations
- Reasons for the proliferation of FLSA class action claims and a review of recent cases
- Common employer mistakes, including misclassification issues, improper deductions from exempt employees' pay, and failure to compensate for all hours worked
- Special issues for higher ed. institutions
- How best to implement changes to resolve issues
- Best practices for avoiding potential FLSA claims

### Panelists:

Patricia Bergeson, Rosalind Franklin University of Medicine and Science  
Carl Lehmann, Gray Plant Mooty  
Daniel Kaufman, Moderator, Michael Best & Friedrich LLP

## 2D. Crisis on Campus: What to Do... Before the Next One

- Interactive panel, simulating “table-top” exercises (e.g., violence on campus) and providing strategies for:
  - Prevention
  - Management
  - Response

### Panelists:

David Williams, Vanderbilt University  
Barbara Geffen, Moderator, The AGOS Group, LLC  
Oren Griffin, Mercer University  
Gary Margolis, University of Vermont

## 2E. Law and Order: Essentials of Criminal Law

- Search and seizure: residence hall rooms, offices, backpacks and vehicles; physical and electronic
- Right to counsel
- Interviews and interrogation (Miranda issues)
- Detention of suspects
- Grand jury
- Preserving evidence and documenting incidents
- Surveillance and undercover investigation

### Panelists:

Shelley Sanders Kehl, Moderator, Kehl, Katzive & Simon, LLP  
Shelley Sadin, Zeldes, Needle & Cooper, PC  
S. Andrew Schaffer, New York City Police Department  
Marcia Isaacson, State University of New York

## 2F. Who Holds Rights in IP Developed At Your Institution, What Rights They Have, and How To Say That Clearly in Your IP Policy

- Review of key conflicts and misunderstandings that can arise between faculty, staff, students, sponsors, and the institution regarding ownership of intellectual property
- How to craft and administer an IP policy that minimizes or avoids these problems
- Examples of successful policies, procedures, and practices

### Panelists:

Diana Vogel song, American University  
Gregory Brown, University of Minnesota  
Patrick Woolley, Polsinelli Shalton Flanigan Suethaus  
Kathy Schulz, Moderator, New York University

## 2G. High Finance, Morals Clauses, and Bonuses: Fun with Coaching Contracts

- New issues in drafting and sample contracts: compensation, media rights, termination and liquidated damages, bonuses and incentives, conduct off the field
- Negotiating strategies
- Dealing with the coach's agent
- Litigation with the coach

### Panelists:

T. Scott Varady, University of Arkansas - Fayetteville

John Dowling, Moderator, University of Wisconsin-Madison

Julie Vannatta, The Ohio State University

## 2H. Navigating NACUANET and the NACUA Website

- Learn how to use NACUANET and the NACUANET archives
- Learn about the many resources on the NACUA website and how to access them
- Get answers to your questions about NACUANET and the NACUA website

### Panelists:

Karl Brevitz, NACUA

Loretta Johnson, NACUA

John Bishop, NACUA

## 2I. Forum: Campus Real Property and Development

### Panelists:

Roman Petyk, University of Pennsylvania

Charles Barber, The George Washington University

## 2J. The P2P File-Sharing News: A Peer-to-Peer Discussion Group

- Latest industry letters and tactics
- Cases, litigation and other developments of interest
- Challenges to industry investigative methods and witnesses
- Proposed legislation
- Current campus issues

### Panelists:

Randolph Geller, University of Oregon

Jack Bernard, The University of Michigan

## 2K. FERPA: The Proposed Regulations, Responses and What's Next

- Key changes in the proposed regulations, including directory information, information disclosure, re-disclosure and safeguards, de-identification, health and safety emergencies, and enforcement
- Responses and concerns of higher education
- Changes in institutional practices if proposed regulations were adopted

### Panelists:

Steven McDonald, Rhode Island School of Design

Margaret O'Donnell, The Catholic University of America

Rodney Petersen, EDUCAUSE

Jonathan Alger, Rutgers, The State University of New Jersey

## 3A. Lenders, Vendors, and Conflicts of Interest

- Recent legislative and regulatory changes to the ways institutions manage student lending relationships - including adoption of codes of conduct
- Other areas and vendor relationships that have the potential to raise similar conflicts of interests concerns
- Responding to NYS Attorney General investigations
- Conflicts of interests and ethics
- Public relations
- Best practices recommendations

### Panelists:

John Przepyszny, Drinker Biddle & Reath LLP

Joseph Oliva, St. John's University

Peggy Plympton, Lehigh University

Clayton Steadman, Clemson University

## 3B. This Is Not Your Father's OFCCP: Affirmative Action and More Today

- OFCCP desk audits
- Salary assessment standards and audits
- Developments in the internet applicant rule
- Case studies
- Compensation reviews

### Panelists:

Darrell VanDeusen, Moderator, Kollman & Saucier, P.A.

Amy Adelman, Emory University

David Cohen, DCI Consulting Inc.

# 6.23 monday (cont'd)

11:15 am – 12:45 pm (cont'd)

## 3C. Lessons from the Inside: How to Survive as General Counsel of a College or University

- How to earn the cooperation, and hopefully respect, of your client representatives
- Defining the role of General Counsel in a constructive way
- How to determine and communicate to client representatives when the GC may provide legal advice to them and when their interests are in conflict with those of the client institution
- How to represent your client zealously, even when the client representative is difficult.

### Panelists:

Andrew Hughey, Central State University  
Jeanine Arden Ornt, Moderator, Case Western Reserve University  
Steven McDonald, Rhode Island School of Design

## 3D. Current Employment Immigration Issues Affecting Colleges and Universities

- Social Security mismatch
- Best practices in compliance: I-9, auditing, training
- Attorneys responsibility in the labor certification process: PERM
- Visa/Permanent residency processing
- National origin discrimination
- The volunteering problem
- No duty to sponsor
- Creative approaches to obtaining staff visas

### Panelists:

Jose Olivieri, Michael Best & Friedrich LLP  
Leigh Polk Cole, Dinse, Knapp & McAndrew, P.C.  
Mary Idzior, Moderator, Princeton University

## 3E. Compliance: A Practical Protocol for the Entire Campus (and Beyond)

- Why compliance?
- Critical components of compliance
- Developing a compliance protocol for all campus concerns
- Specific priorities and challenges

### Panelists:

Jeff Chasen, Moderator, The AGOS Group, LLC  
Thomas Butcher, Grand Valley State University  
William Kauffman, Saint Louis University

## 3F. Learning from Presidential Crises

- Representing the institution and managing the competing demands of clients
- Surviving the scandals with integrity and sanity intact
- Dealing with the media and the regulators
- Preventing future abuses and the conditions that led to poor performance
- Structuring remedial actions – and avoiding overreactions

### Panelists:

Lori Fox, Moderator, The J. Paul Getty Trust  
Bethany Bridgham, American University  
Peter Erichsen, Ropes & Gray LLP  
Kenneth Andre McKanders, Eastern Michigan University

## 3G. Digital Works

- Scholarly digital collaborations on your campus and beyond
- Going public: when internal digitization projects evolve for a wider audience
- Resolving faculty and institutional ownership and rights in digitization projects
- Management and stewardship responsibilities and copyright liabilities for websites and digital repositories

### Panelists:

Gloria Phares, Patterson Belknap Webb & Tyler LLP  
Lauren Schoenthaler, Stanford University

## 3H. The Best Defense: Navigating Complex Criminal Matters on Your Campus

- A conversation on strategies to minimize or manage potential exposure in complex criminal matters
- Conducting parallel internal investigations
- Representing multiple parties and administering joint defense agreements
- Relating to the government
- Handling privilege and confidentiality-disclosure responsibilities
- Monitoring “non-target” government investigations
- Advising the board
- Press relations
- Avoiding collateral damage – ancillary civil and regulatory risks

### Panelists:

Pamela Bernard, Moderator, Duke University  
Kent Alexander, Emory University  
Jamie Gorelick, WilmerHale

## 3I. Forum: Sponsored Research and Technology Transfer

### Panelists:

Robert Bienstock, Yale University

# 6.24 tuesday

9:15 am – 10:30 am

## 4A. Advanced ADA and FMLA

- The proposed changes to the DOL's FMLA regulations
- Servicemember FMLA
- Recent ADA developments
- Case studies on FMLA and ADA issues
- Institutional policies and avoiding common mistakes

### Panelists:

Darrell VanDeusen, Kollman & Saucier, P.A.  
Richard Weitzner, Moderator, The George Washington University  
Megan Norris, Miller, Canfield, Paddock and Stone

## 4B. Walking the Ethical Tightrope: Developing and Managing Conflict of Interest Policies

- Conflict of interest as a component of ethics
- What every conflict of interest policy should include
- Where to place administrative management and oversight of the policy (GC, Internal Audit, Other)
- The roll-out, developing a culture of risk management
- Documenting compliance with the policy
- When to prohibit conflicts and when to allow and manage or monitor them
- Addressing special concerns: board members, board member owned business, major donors, and perceived conflicts with no law violation (eg. study abroad issues, student loans, etc.)

### Panelists:

Janine DuMontelle, Moderator, Chapman University  
Dennis Blumer, Arent Fox LLP  
Susan Marie Thomas, University of California

## 4C. Litigation Strategies: Taking the High Road or Playing Tough

- Pre-Trial Strategies: e.g., choosing your counsel, pondering counterclaims and motions, picking the right discovery tools
- Trial Strategies: e.g., considering the fact finder, development of themes, tactics for cross-examination of witnesses and use of courtroom technology
- Post-trial and Media Issues: e.g. "no comment" or aggressive campaign?

### Panelists:

Ada Meloy, American Council on Education  
J. Cal Mayo, Mayo Mallette PLLC  
Elisabeth Sheh Walter, Moderator, California State University

## 4D. Student Affairs and Athletics Case Law Update

- The proposed changes to the DOL's FMLA regulations
  - Servicemember FMLA
  - Recent ADA developments
  - Case studies on FMLA and ADA issues
  - Institutional policies and avoiding common mistakes
- Robin Green Harris, Ice Miller LLP  
Phyllis Karasov, Moderator, Moore, Costello & Hart, PLLP  
Robert Clayton, Littler Mendelson, P.C.

## 4E. Legal Technology Tips, Tricks, Gadgets and Other Cool Stuff--2008 Edition

- Amazing free software and web utilities
- Unconventional (but useful) technical advice
- Tools for a paperless or paper-reduced office
- Tools for protecting yourself against hackers, viruses and spyware
- Remote control and web meeting tools that are easy and inexpensive
- Encryption tools for your computer, email and passwords
- Great web sites you've probably never heard of
- Tips for getting the best deals on legal technology
- Where to get technical advice for free or very little money
- Gadgets you didn't realize you needed (until now)

### Panelists:

Barron Henley, Henley March & Unger Consulting, Inc.

## 4F. Forum: Legal Issues in Operating Overseas Programs

### Panelists:

Donica Thomas Varner, The University of Michigan  
Peter May, World Learning

## 4G. Undocumented Resident Aliens: Employment and Admission Issues

- Admission issues
- In-state tuition issues
- Financial aid issues
- New I-9
- DHS "No Match" program
- DHS enforcement efforts
- State and local legislation and initiatives targeting undocumented employees and students

### Panelists:

Nancy Tribbensee, Arizona Board of Regents  
H. Ronald Klasko, Klasko, Rulon, Stock & Seltzer, LLP

# 6.24 tuesday (cont'd)

11:00 am – 12:15 pm

## 5A. Recent Developments in Taxation

- Update on current tax developments
- New disclosure requirements of the re-designed Forms 990 and 990-T
- Compliance with intermediate sanctions legislation in recruitment, executive compensation and retention activities
- Current IRS initiatives related to tax-exempt bonds, compensation, unrelated business income tax, and tax-exempt hospital compliance
- Recent legislation related to safe harbor guidelines for research agreements and private business use, exempt organizations and political activities
- Proposed regulations regarding exempt organization involvement in prohibited tax shelter transactions
- Implementation of the 403(b) and 409(A) regulations

### Panelists:

Elizabeth Salasko, Moderator, University of Pennsylvania  
Susan Brown, Morgan, Lewis & Bockius LLP  
Sean Scally, Vanderbilt University  
Edward Jennings, The University of Michigan - Ann Arbor

## 5B. Presidential Exits: General Counsel's Role in Presidential Transitions

- Identifying the client/fiduciary obligations
- Role of general counsel in presidential departures, searches, hiring
- Due diligence checklist - presidential departures, hires
- Communications with the board
- Staying on under a new president - "wisdom of the ages"

### Panelists:

Francine Tilewick Bazluke, University of Vermont  
Beverly Ledbetter, Brown University

## 5C. Labor Negotiations and Arbitration

- Livable wage issues and their impact on collective bargaining
- Involvement of student groups in labor issues and collective bargaining
- Card check majority alternatives to elections, neutrality agreements and their impact on organizing and negotiations
- Part-time faculty issues at the bargaining table

### Panelists:

John Wolf, Rutgers, The State University of New Jersey  
Susan Kaplan, The George Washington University  
Joseph McConnell, Morgan, Brown & Joy, LLP  
William Reedy, Moderator, Vermont State Colleges

## 5D. Record Retention: To Keep or Not to Keep

- What records are required to be kept by statute
- How long must records be kept
- What other statutes impact the record keeping obligation (i.e. FERPA & HIPAA)
- How to design a record keeping protocol including examples of best practices

- How to make sure the institution is following these practices
- Steps to preserve records when there is litigation
- The impact of e-discovery rules on record keeping

### Panelists:

Crystal Talley, Boston University  
Natasha Baker, Curiale Dellaverson Hirschfeld & Kraemer, LLP  
Stephen Barker, Sturgill, Turner, Barker & Moloney, PLLC  
Judith Malone, Moderator, Bentley College

## 5E. Clients Behaving Badly: Ethical Considerations

- The important 2003 revisions to Rules 1.6 and 1.13 of the ABA Model Rules of Professional Conduct
- The lawyer's "up-the-ladder reporting" and "reporting out" options under the ABA Model Rules, with consideration of the SEC's new Standards of Professional Conduct
- Troublesome conduct by trustees and institutional officers: case studies and hypotheticals
- Advice to lawyers on juggling ethical and all-too-practical considerations
- Avoiding the lawyer's nightmare of personal legal exposure

### Panelists:

Neil Hamburg, Moderator, Hamburg & Golden, P.C.  
Lawrence White, Lawrence White Consulting  
Stephen Dunham, Johns Hopkins University

## 5F. It's 2:00 pm - Do You Know What Your DSO Is Doing? What Every General Counsel Needs to Know About Its International Students Office

- Student visas-F, J, and M
- SEVIS- institutional obligations and liabilities
- Employment of foreign students- including OFAC and export rules
- Role of general counsel

### Panelists:

Joanna Silver, Cullen and Dykman LLP  
Russell Ford, Littler Mendelson, P.C.  
Christopher Wilson, Moderator, Miami University

## 5G. Troublesome Clauses in Federal Contracts and Grants

- Recap of 2007AAU/COGR troublesome clauses study
- FAR/DFAR/etc. clauses
- Non science/security problem clauses
- Best practices for negotiation
- Late breaking developments and issues
- Looking to the future

### Panelists:

Robert Hardy, Council on Governmental Relations  
Alexandra McKeown, Johns Hopkins University  
David Mayo, California Institute of Technology

2:00 pm – 3:15 pm

### 5H. The Paperless Office: Scanning and Paper Reduction Strategies That Work

- Stop managing, collecting and looking for paper
- Reduce paper and increase efficiency, organization and mobility
- Effective use of “off-the-shelf” technology
- Hardware and software to create an implement your office paper reduction system

**Panelists:**

Barron Henley, Henley March & Unger Consulting, Inc.

### 5I. Forum: Intercollegiate Athletics, Sports Law, and the NCAA

**Panelists:**

Kenneth Andre McKanders, Eastern Michigan University  
Elsa Kircher Cole, National Collegiate Athletic Association

### 5J. Outsourcing Email and Other Electronic Services

- Negotiating with Google, Microsoft and other providers
- Key contracting concerns, clauses and issues
- Ideas on contract language
- Comparing experiences in dealing with providers
- Implications for e-discovery
- IT and GC cooperation

**Panelists:**

Rodney Petersen, EDUCAUSE  
Mary MacDonald, University of California

### 6A. Going Green on Campus - The Legal And Business Issues Behind The Headlines

- Publicizing sustainability credentials
- Legal/business issues, including LEED (Leadership in Energy and Environmental Design) certification
- Jurisdictions where LEED certification/green building components are legally mandated or given preferential permitting treatment
- Saving money and resources and increasing stature
- Demand for sustainability education of students
- Trends and steps to be resource efficient and reduce “carbon footprint”
- Case study of University of Florida’s sustainable development initiative

**Panelists:**

Charles Kibert, University of Florida  
Bonnie Barnett, Drinker Biddle & Reath LLP  
Howard Zweig, Moderator, Drinker Biddle & Reath LLP

### 6B. Out of the Closet, Onto the Campus

- Current issues in sexual orientation, gender identity and domestic partnerships
- Current legal and societal status and trends
- Impact of these changes in higher education
- Strategies in overcoming obstacles to addressing rights of employees and students

**Panelists:**

Traevana Byrd, Ithaca College  
GayLynn Kirn Conant, Lombardi, Loper & Conant, LLP  
Shannon Minter, National Center for Lesbian Rights

### 6C. Making Sure Your Contract is Worth the Paper It’s Written (or Not Written) On

- Consistent policies and systems - authority to sign contracts, signature requirements, pre-signature review, centralized organization of contracts
- Range of risk allocation provisions - how much risk can and should the university assume
- Insurance, additional insured endorsements and indemnification issues
- Specialized contracts - employment, facilities construction, leases, outside clinical and internship agreements

**Panelists:**

Mary Brockington, Moderator, Strickland Brockington Lewis LLP  
Martin Oppenheimer, Tufts University  
Alyssa Keehan, United Educators Insurance Reciprocal Risk Retention

### 6D. Negotiating Difficult Clauses in Industry Research Agreements

- Understanding the values, cultures and goals of the parties: why universities are not contract research organizations
- IP clauses in context: basic research, clinical research, testing agreements and more
- Limitations on data use and dissemination
- Solving problems by giving more: open source or public domain language
- Knowing when to roll-over, or when to walk away: weighing benefits against risks
- Moving beyond the standard position: are there other models for collaboration besides the standard SRA?

**Panelists:**

BethLynn Maxwell, University of Texas System  
Mark Bohnhorst, Moderator, University of Minnesota  
Theresa Colecchia, University of Pittsburgh

# 6.24 tuesday (cont'd)

2:00 pm – 3:15 pm (cont'd)

## 6E. Scylla and Charybdis: Navigating Between FERPA's Disclosure Restrictions and Clery's Duty to Warn

- An overview of Clery compliance and disclosure requirements
- Disclosure of information about troubled students under FERPA
- HIPAA, Tarasoff, state medical confidentiality laws, and other rocks and hard places
- Managing a student review team consistent with disclosure and non-disclosure requirements
- Update on new guidance, requirements, and expectations from Washington

### Panelists:

Steven McDonald, Rhode Island School of Design  
Robin Parker, Miami University  
Christopher Holmes, Moderator, Baylor University

## 6F. Help - My Inbox is Exploding! How to Organize and Control Your E-Mail

- Eliminate junk mail you don't need to see or read
- More efficiently handle, organize, sort and store email you do need
- Tips and techniques for regaining control of your in-box and increasing email efficiency

### Panelists:

Barron Henley, Henley March & Unger Consulting, Inc.

## 6G. Forum: Campus I.T. Security and Telecommunications

### Panelists:

Lee Smith, The University of Texas at Austin  
David Harrison, University of North Carolina General Administration

## 6H. Review, Preview, and Predictions: U.S. Supreme Court and Federal Appellate Court Cases Affecting Higher Education

- A look at this year's significant Supreme Court cases of interest to college and university counsel
- Interesting appellate court cases you may have overlooked
- Trends in Supreme Court and circuit court jurisprudence
- Cases to watch

### Panelists:

Maureen Mahoney, Latham & Watkins  
Derek Langhauser, Moderator, Maine Community College System  
William Thro, Commonwealth of Virginia

## 6I. Web 2.0: New Virtual Technologies and Legal Issues on Your Campus

- What is Web 2.0 and what are Web 2.0 technologies?
- Legal principles that will apply to Web 2.0 issues
- Overview of Web 2.0 technologies: wikis, virtual worlds, podcasting, social networking and gossip sites, 'mash-ups' and other virtual technologies
- How your faculty and students may be using the technologies
- Applying legal principles to Web 2.0 issues: control, management and records issues; user-generated and anonymous content; IP infringement; defamation; free speech
- Questions and Answer

### Panelists:

Beth Cate, Indiana University  
Jack Bernard, The University of Michigan  
Loretta Martinez, Moderator, Colorado State University System

3:45 pm – 5:00 pm

## 7A. Tax Exempt Bonds: You Have the Money, Now What?

- Definition of private business use; allocation and measurement of "bad use"
- Elements of a bond compliance program
- Monitoring of such areas as: funded research, grants and contracts; leases and similar arrangements with commercial and non-profit organizations; management agreements; summer programs; student housing; and miscellaneous arrangements that can give rise to "bad use" revenue
- Other considerations, such as Bayh-Dole and national security laws
- Role of counsel, both in-house and external
- Federal regulatory compliance

### Panelists:

Richard Newman, Arent Fox LLP  
Melinda Simon, Emory University  
Edward Jennings, The University of Michigan - Ann Arbor  
Kathryn Baerwald, Moderator, Georgetown University

## 7B. Pitfalls in Employer Diversity Programs

- Commonly used employer diversity initiatives, including affinity groups, surveys, training programs, data collection and analysis, and incentives to achieve diversity goals
- Review of legal issues, including reverse discrimination, discoverability of diversity programs, and use of employer diversity information in litigation

### Panelists:

Dennis Duffy, Baker Botts L.L.P.  
Karen McAndrew, Dinse, Knapp & McAndrew, P.C.  
Patrick Dunkley, Moderator, Stanford University

### **7C. Managing Risk Through Education: The General Counsel's Role in Training**

- Should GC conduct training sessions and what is the effect on attorney-client privilege?
- Picking and choosing training topics
- Making time to conduct training
- Who should you train?
- How do you get/persuade/require people to come?
- How do you enforce attendance?
- Getting buy-in from the top
- Unique faculty issues

**Panelists:**

Miguel Alexander Pozo, Lowenstein Sandler  
Wayne Richardson, Fairleigh Dickinson University

### **7D. Tried and True Approaches to Settlement and Severance Agreements**

- Model settlement provisions
- Lessons learned from settlements gone awry
- Political considerations of settlement and severance agreements
- Confidentiality clauses - do you really want it?
- Status of law re taxation issues and ADEA waivers

**Panelists:**

Beth Tyner Jones, Womble, Carlyle, Sandridge & Rice  
Marc Mootchnik, Moderator, California State University  
Kathleen Rinehart, Whyte Hirschboeck Dudek, S.C.

### **7E. Motivation without Promotion**

- Staff sabbaticals
- Alternative work arrangements
- Non-legal roles in the institution
- Compensation strategies

**Panelists:**

David Williams, Vanderbilt University  
David Hanson, Emory University

### **7F. Trademark Licensing: Cashing In Without Selling Out**

- Licensing, Marketing and Media Rights in Athletics
- Unrelated Business Income Tax Considerations
- Unauthorized Affiliations and Ambush Marketing
- Best Practices in Trademark Policies and Enforcement

**Panelists:**

Evan Appel, Click & Null, P.C.  
Chris Kellner, Emory University  
E. Gail Gunnells, Moderator, Board of Regents of the University System of Georgia  
T. Scott Varady, University of Arkansas - Fayetteville

### **7G. Diversity Dilemmas: An update on Admissions, Financial Aid and Outreach Issues**

- Use of race, national origin and other factors in light of recent court decisions
- Reiteration of OCR guidance
- Consideration of models and approaches to administering financial aid and managing outreach programs
- Ballot initiatives and other recent developments

**Panelists:**

Jonathan Alger, Rutgers, The State University of New Jersey  
William Thro, Commonwealth of Virginia  
Laurence Pendleton, Moderator, Colorado State University System

### **7H. Document Management in a Digital World**

- How to create systems and procedures to:
- Allow anyone in your office to quickly find documents they or anyone else created
- Uniformly label and store all office documents
- Create an audit trail for each document and track different versions
- Control security and access to your documents
- Add email and scanned documents to your system

**Panelists:**

Barron Henley, Henley March & Unger Consulting, Inc.

### **7I. Forum: Individual and Institutional Conflict of Interest Policies**

**Panelists:**

Carl Oxholm, Drexel University  
Kathleen Curry Santora, National Association of College and University  
Alexander Dreier, Hogan & Hartson LLP

# 6.25 wednesday

8:30 am – 10:00 am

## 8A. Avoid Harsh Penalties And Damaging Headlines: What You Really Need to Know about U.S. Export Controls

- Overview and update of current developments regarding U.S. export control regulations, including sharing technical data with foreign parties and foreign persons in the U.S. ('deemed' exports)
- Review of good management practices that can help you fully take advantage of applicable exceptions
- Compliance policies, procedures and 'best practices' that can improve compliance
- Harsh new penalties for violations of export control regulations, and enhanced government enforcement efforts

### Panelists:

Robert Hardy, Moderator, Council on Governmental Relations  
Jamie Lewis Keith, University of Florida  
Joan Koenig, Drinker Biddle & Reath LLP

## 8B. Let's Make a Deal: Presidential and Other High-Level Contracts

- Show me the money: compensation issues including reasonable/excessive compensation, deferred compensation under 457(f), bonuses, allowances
- Be careful what you ask for: multi-year vs. annual contracts, expectations/promises of the governing board, and other performance-based expectations
- Getting to goodbye: termination clauses, severance provisions, 409A considerations, releases, transition issues such as return to faculty and sabbatical
- Special considerations: medical staff compensation, development directors and confidentiality issues, when are non-compete or non-disclosure clauses appropriate

### Panelists:

Patricia Sachs Catapano, Moderator, Columbia University  
Martha Munsch, Reed Smith LLP  
Raymond Cotton, Mintz, Levin, Cohn, Ferris, Glovsky and Popeo

## 8C. Ombuds and Other Alternatives to Preventing, Managing and Resolving Disputes

- What is an ombuds office?
- How to create an ombuds office
- The legal issues involved (confidentiality and imputed notice)
- The benefits the office can provide in resolving disputes
- Tools for resolving campus disputes, such as mediation (both before and during litigation), neutral investigations, and independent fact-finding

### Panelists:

Ruth Raisfeld, Ruth D. Raisfeld, PC  
Marsha Wagner, Columbia University  
Mary Phelps Dugan, Moderator, University of Nevada - Reno  
Charles Howard, Shipman & Goodwin LLP

## 8D. Legal Ethics in the Electronic Era

- Ethical issues for attorneys involving technology, including Metadata concerns
- Client confidentiality and privilege
- Investigations by inside counsel and avoiding ethical conflicts
- Duty to preserve electronic evidence

### Panelists:

Thomas Butcher, Moderator, Grand Valley State University  
Jonathan Segal, Wolf, Block, Schorr and Solis-Cohen LLP  
Oren Griffin, Mercer University

## 8E. Creating and Managing Conflicts of Interest in Faculty Start-Ups: A How-To Guide

- Policies and procedures that facilitate both start-up activity and effective conflicts review
- Options for policies on university equity ownership and university research sponsored by faculty start-ups
- Coordinating institutional review of licenses, faculty consulting agreements, and sponsored program agreements related to start-ups
- Managing faculty participation in start-ups
- The current regulatory landscape and available guidance on individual and institutional conflicts involving faculty-start-ups

### Panelists:

Beth Cate, Moderator, Indiana University  
Stephen Sencer, Emory University  
Barbara Wingo, University of Florida

## 8F. OCR Complaints and the Role of Counsel

- The role of counsel in OCR complaints and subsequent investigations
- The interaction among all counsel involved, including counsel for the institution, counsel for the complainant, and counsel for OCR
- Types of violations that can lead to an investigation
- Counsel for the institution's role in preventative measures
- Major components of an OCR investigation
- Standard operating procedures of OCR

### Panelists:

Elizabeth Bunting, North Carolina School of the Arts  
Howard Kallem, George Mason University  
Timothy Blanchard, U.S. Department of Education

**8G. The Sandwich Generation**

- Care for aging or failing parents
- Putting children through college
- Planning and saving for retirement

**Panelists:**

Carmen Morano, Hunter College  
Kathryn Bender, Moderator, University of North Carolina  
Lawrence Berwitz, Berwitz & DiTata LLP

**8H. Navigating NACUANET and the NACUA Website**

- Learn how to use NACUANET and the NACUANET archives
- Learn about the many resources on the NACUA web page and how to access them
- Get answers to your questions about NACUANET and NACUAWEB

**Panelists:**

John Bishop, National Association of College and University  
Karl Brevitz, National Association of College and University  
Loretta Johnson, National Association of College and University

**8I. Forum: Copyright and Fair Use****Panelists:**

Gloria Phares, Patterson Belknap Webb & Tyler LLP  
Stephana Colbert, Temple University

**8J. Academic Freedom Today: Thriving or Threatened and the Role of General Counsel - A Conversation**

- Is academic freedom only for professors? Does the institution also enjoy academic freedom?
- What's the role of the university attorney in protecting academic freedom, especially if the institution's interests are not directly at risk?
- How can institutions best address (and resist) external pressures that threaten academic freedom on campus?
- What limits might be considered on corporate-sponsored research in the interests of academic freedom?

**Panelists:**

Robert O'Neil, Moderator, University of Virginia  
Derek Langhauser, Maine Community College System  
James Mingle, Cornell University  
Dorothy Robinson, Yale University  
Jonathan Alger, Rutgers, The State University of New Jersey  
Frederick Schaffer, The City University of New York

**8K. Get a (Second) Life: Web 2.0 Juicy Discussion Group**

- More on keeping up with and ahead of your students and faculty: wikis, podcasts, texting and twittering, virtual worlds
- Copyright, defamation, academic freedom, free speech

**Panelists:**

Jack Bernard, The University of Michigan  
Beth Cate, Indiana University

**9A. College and University Investments**

- What are the characteristics of a hedge fund that would be suitable (or unsuitable) for an endowment?
- How do hedge fund investments help or hurt an endowment's risk profile?
- What can an endowment manager do to properly perform due diligence on potential hedge fund investments?
- What are the current developments in the legislative and regulatory environment governing hedge funds and the nonprofit investors in hedge funds?
- How can a university manage the reputational issues posed (internally and externally) by alternative investments?

**Panelists:**

Benjamin Allensworth, Managed Funds Association  
James Carolan, Withers Bergman, LLP  
Lawrence Kochard, Georgetown University  
Kathryn Baerwald, Georgetown University

**9B. Conducting Effective Internal Investigations**

- Best practices of conducting effective internal investigations of employee misconduct
- Selecting an investigator (in-house or external)
- Effective interview techniques
- Proper documentation
- Privacy and confidentiality issues in workplace investigations
- Elements of an effective discrimination/harassment investigation

**Panelists:**

Carole Rossi, University of California  
Jill Rosenberg, Orrick, Herrington & Sutcliffe LLP  
Renee Smith Byas, Moderator, Lone Star College System  
Kimberly Shumate, The Ohio State University

# 6.25 wednesday

10:30 am – 12:00 pm (cont'd)

## 9C. After the Honeymoon: A New President One Year (or so) Later

- How to develop a collaborative and effective relationship with a new President: what should be on the General Counsel checklist
- Key factors in determining whether the transition between General Counsel and new President is working well for both concerned
- The role of the General Counsel with the Board during the first year with a new President
- When and how to know it's time for the General Counsel to move on

### Panelists:

Jeanine Arden Ornt, Moderator, Case Western Reserve University  
Clifford Stromberg, Hogan & Hartson LLP  
Judith Leonard, University of Arizona  
Wendy White, University of Pennsylvania

## 9D. Re-thinking Retiree Health Care

- Understanding what retiree health care benefits, arrangements, and promises your institution currently has in place
- Defining your goals: limiting liability, reducing financial statement liabilities, and limiting tax consequences to institution and/or employees
- The prefunding and design options - HRAs, HSAs, VEBAs, Section 115 Trusts
- Practical considerations in creating a game plan for restructuring your retiree health care arrangements

### Panelists:

Elena Langrill, Moderator, Maryland Office of the Attorney General  
Melissa Proffit Reese, Ice Miller LLP  
Wayne McClain, Ice Miller LLP  
Dan Rives, Indiana University

## 9E. Detecting and Addressing Alcoholism, Substance Abuse and Mental Health Issues in the Workplace

- Detecting alcoholism, substance abuse and mental health problems in the workplace
- What college and university lawyers can do to help
- Trying to help without inviting litigation
- Useful resources

### Panelists:

Patricia Spataro, New York State Bar Association  
Henry Morris, Arent Fox LLP

## 9F. How to Manage and Resolve Research Misconduct Allegations: Practical Suggestions

- Tools for detection of research misconduct
- Problems and difficulties identified by ORI in research misconduct investigations
- Role of legal counsel
- Possible legal claims arising from misconduct proceedings

### Panelists:

Alexander Dreier, Hogan & Hartson LLP  
Susan Garfinkel, Department of Health and Human Services  
Russell Herron, Moderator, University of Chicago