

Wednesday, March 5

Welcome and Introduction to Program

1:00 p.m. - 1:15 p.m.

Henry L. Cuthbert

*President, National Association of College and University Attorneys
Associate General Counsel, Duke University*

Kathleen Curry Santora

CEO, National Association of College and University Attorneys

Andrew Hughey

Central State University

01. The “Quiet Revolution in Employment Law”: Effective Higher Education Employment Compliance Programs

1:15 p.m. - 2:30 p.m.

- The “effective compliance” defense in employment law
- Institutional policies
- Training programs
- Grievance procedures
- Minimizing the risk of punitive damages and individual liability

Neil G. Wolf (Moderator)

SmithAmundsen, LLC

Ellen M. Babbitt

Babbitt, Land, Silverstein & Warner, LLP

Jeffrey I. Chasen

The AGOS Group, LLC

Break

2:30 p.m. - 2:45 p.m.

02. Auditing Your Hiring Practices

2:45 p.m. - 4:00 p.m.

- OFCCP Requirements
- Search Committee Issues
- Reference and background checks
- The employment application and contract
- FLSA aspects of hiring

Melissa Jackson (Moderator)

University of Wisconsin-Green Bay

Jennifer Kirkland

Washington & Lee University

Catherine S. Ryan

Reed Smith

Carlene Placide

Dorsey & Whitney

Break

4:00 p.m. - 4:15 p.m.

03. Dismissed: Termination of the High Profile and/or Hostile Employee

4:15 p.m. - 5:30 p.m.

- Separation agreements
- Confidentiality issues
- Future cooperation
- Non-disparagement
- Interplay with criminal investigations
- Managing the media

Carrick D. Craig

Western Michigan University

Robert J. Zech

Miller, Nash, LLP

Michael Sullivan

Paul, Plevin, Sullivan & Connaughton

Reception for Registrants and Presenters

5:30 p.m. - 6:30 p.m.

Thursday, March 6

Continental Breakfast *Sponsored by Bennett Bigelow & Leedom, P.S.*

7:00 a.m. - 8:00 a.m.

Faculty Issues Track

04A. Tenure, Faculty Discipline, Academic Freedom and Litigation by Faculty

8:00 a.m. - 9:15 a.m.

- Tenure as a contractual concept
- Judicial deference to academic decision-making
- Sanctions: termination and alternatives to termination
- Addressing the academic freedom defense

J. Charles Waldrup (Moderator)
University of North Carolina System
Professor Barbara A. Lee
Rutgers University
Lawrence White
Lawrence White Consulting, LLC

Immigration and Overseas Employees

04B. Current Immigration Issues

8:00 a.m. - 9:15 a.m.

- H-1B Visa issues
- Labor Certification/Permanent Resident Issues
- Department of Labor rule requiring employers to pay employee's PERM application and legal fees
- Policy considerations for labor certifications and related expenses
- Dealing with employee counsel
- I-9 Audits and Enforcement

Oscar Budde
Perez & Morris, LLC
Steven Springer
David Ware & Associates

Break

9:15 a.m. - 9:30 a.m.

Faculty Issues Track

05A. Adjunct and Part Time Faculty Issues

9:30 a.m. - 10:45 a.m.

- Increased reliance on non-tenure track faculty
- Unionization
- Academic freedom
- Job security and de facto tenure
- Contract issues
- Benefits

Kevin D. Satterlee *Boise State University*
Nicholas DiGiovanni
Morgan, Brown & Joy
Susan B. Kaplan
The George Washington University

Immigration and Overseas Employees

05B. Faculty and Personnel Issues in Study Abroad and Overseas Programs

9:30 a.m. - 10:45 a.m.

- Hiring Overseas Counsel
- Structuring Programs That Involve Employment Relationships--Identifying and Choosing the Best Options
- Hiring and Contract Arrangements -- U.S. and non-U.S. Employees
 - Employing Host Country Nationals and Expatriates
 - Application of U.S. Laws Abroad
 - Work Permits and Visas
 - Professional Licensure and Certification Issues
 - Benefits and Tax issues
 - Safety and Security Concerns
 - Controlling Law
- Employee Behavioral & Risk Management Issues
 - Responding to Employee Misbehavior
 - Cultural Chasms
 - Long Distance Investigations
 - When and How to Intervene
 - Injuries On and Off the Job

- Evacuations
- Terminations Of Host Country Nationals
 - Controlling Law
 - Severance Payments

David Williams, II (Moderator)
Vanderbilt University
 David Aronofsky
University of Montana
 William P. Hoye
IES

Break
 10:45 a.m. - 11:00 a.m.

Discussion Groups
 11:00 a.m. - 12:15 p.m.

| 06A. Employee Background Checks | 06B. Immigration Issues | 06C. OFCCP Issues | 06D. Overseas Employment Issues | 06E. Tenure Problems |
|---|---|---|--|---|
| Joanna Carey Cleveland <i>UNC-Chapel Hill</i> | Oscar Budde <i>Perez & Morris, LLC</i> | Simao J. Avila <i>University of California</i> | William P. Hoye <i>IES</i> David Aronofsky <i>University of Montana</i> | Barbara A. Lee <i>Rutgers University</i> |

Luncheon
 12:15 p.m. - 1:30 p.m.

First Amendment Track

07A. First Amendment: Freedom and Limitations in the Workplace

1:30 p.m. - 2:45 p.m.

- Political, Religious and Offensive Speech
- Faculty and Staff Web Pages
- The Academic Bill of Rights

Susan O. Bradshaw (Moderator)
University of Texas-Austin
 Dr. Steven G. Olswang
University of Washington
 Cheryl A. Camerson
 Vice Provost for Academic Personnel
University of Washington

Diversity Track

07B. Searching for Diversity in Faculty and Administration

1:30 p.m. - 2:45 p.m.

- Search Committee best practices
- What's permitted, what's prohibited, what's required
- Outreach strategies
- Role of the EEO office
- Have diversity practices exposed institutions to litigation?

Sonali B. Wilson (Moderator)
Cleveland State University
 Charmaine Clowney
*Asst. Vice Chancellor for Diversity and
 Multicultural Affairs, Pennsylvania State
 System of Higher Education*
 Charlotte F. Westerhaus
Vice President of Diversity & Inclusion, NCAA

Break

2:45 p.m. - 3:00 p.m.

First Amendment Track

08A. Garcetti and Public Employee Free Speech

3:00 p.m. - 4:15 p.m.

- "official speech" v. "citizen speech"
- Speech related to scholarship or teaching
- Relationship to whistleblower claims
- Recent cases

Simao J. Avila
University of California

Diversity Track

08B. Faculty and Staff with Disabilities

3:00 p.m. - 4:15 p.m.

- The nature & scope of reasonable accommodations
- The impact of disability on tenure
- Strategies for responding to mental disabilities
- Recent cases

Valerie Harrison (Moderator)
Temple University
Natasha Baker
Curiale Dellaverson Hirschfeld & Kraemer LLP
Sean Burke
University of Pennsylvania

Break

4:15 p.m. - 4:30 p.m.

Discussion Groups

4:30 p.m. - 5:30 p.m.

| 09A Hiring Minority Coaches and Athletic Directors | 09B. Unionized Faculty Issues | 09C. Complying with the New Section 403(b) Regulations | 09D. Religion and Politics in the Campus Workplace | 9E. Disabled Faculty and Staff Issues |
|--|--|--|---|---|
| Charlotte F. Westerhaus <i>Vice President of Diversity & Inclusion NCAA</i> | James Greene <i>Dykema Gossett PLLC</i> | Charles Waldrup <i>University of North Carolina System</i> Sean Scally <i>Vanderbilt University</i> | Dr. Steven G. Olswang <i>University of Washington</i> Cheryl A. Camerson <i>Vice Provost for Academic Personnel University of Washington</i> | Valerie Harrison <i>Temple University</i> Natasha Baker <i>Curiale Dellaverson Hirschfeld & Kraemer LLP</i> Sean Burke <i>University of Pennsylvania</i> |

Friday, March 7

10. This too shall pass...Best Practices and Effective Dispute Resolution Tools to Manage Faculty and Departmental Conflict

8:30 a.m. - 9:45 a.m.

- What is the appropriate role of counsel?
- What type of dysfunctional faculty/department do you have?
- How can you best assist your Provost and Dean?
- When to seek outside help
- Effective use of dispute resolution

Elizabeth Denecke (Moderator)

Miller Nash, LLP

Melinda W. Grier

University of Oregon

Kathleen A. Rinehart

Whyte Hirschboeck Dudek, S.C.

Professor Eva Soeka

Associate Professor of Law and Director, Center for Dispute Resolution Education

Marquette University School of Law

Shelley Carthen Watson

University of Minnesota

Break

9:45 a.m.- 10:00 a.m.

11. "Legal Ethics: The Role of Inside and Outside Counsel--Who Is the Client and What Is Privileged?"

10:00 a.m. - 11:15 a.m.

- Remembering and disclosing who is the client
- Preserving and protecting privilege
- Which hat are you wearing today?

Andrew Hughey (Moderator)

Central State University

Dana Scaduto

Dickinson College

Robert Clayton

Littler Mendelson, LLP

Break

11:15 a.m. -11:30 a.m.

12. Conflicts of Interest and Commitment in the Employment Relationship

11:30 a.m. - 12:30 p.m.

- Entrepreneurship (for profit spin-offs and other sponsored research outcomes)
- Teaching (student rights and faculty obligations and use of wikis, blogs and new technologies)
- Dissemination of IP (open source software and other uses of university intellectual property)
- Effective strategies, practices and policies

Madelyn Wessell (Moderator)

University of Virginia

Christopher L. Ashley

University of Wisconsin System

Frederick G. Savage

The Johns Hopkins University

Adjourn