SpencerFane®

Higher Education

Honor roll legal advice. (And we study over spring break.)

Whether serving as outside investigators in high-profile university cases or advisers to college leaders on essential strategies and policies, Spencer Fane Higher Education attorneys provide timely, steady guidance to minimize clients' risks and nurture opportunities. We counsel universities across the full range of legal challenges, enabling boards and administrative teams to remain focused on an institution's mission and goals.

Overview

Resolving the complex legal and regulatory issues unique to colleges and universities

Spencer Fane Higher Education attorneys help public and private universities and colleges address the complex legal issues unique to higher education. Working closely with boards of trustees, CEOs, athletic directors, and general counsel, we tailor solutions that help clients further their organizational objectives and interests.

As a full-service firm, we also help universities protect their investments by assisting with transactional issues, such as vendor and employment contracts, intercollegiate sports contracts, and intellectual property protection.

Areas of Focus

Charitable Giving and Endowment Management

Guiding institutions and their benefactors who want to set aside assets for charitable purposes. The Spencer Fane Higher Education team works with educational institutions to plan, create, and administer charitable organizations. With significant experience coordinating between organizations and donors, we provide counsel on:

- **Establishing and maintaining the tax-exempt status** of university foundations.
- **Charitable contributions**, including deductibility and other issues.
- **Creating charitable giving plans**.
- **Compliance with state charitable solicitation laws**.
- **Federal and state securities and insurance laws**, and how they apply to deferred giving vehicles.
- **Direct and deferred giving programs**, including creating and maintaining charitable remainder unitrusts and annuity trusts, charitable gift annuities, endowments, donor-advised funds, and pooled income funds, including compliance with the federal Philanthropy Protection Act of 1995.
- **Creating and maintaining trusts**, both revocable and irrevocable.
- **Probate estates and trusts**, including monitoring clients' interests.

Governance

Optimizing governance structures for operational effectiveness and strategic growth. Bringing extensive experience counseling boards and senior leadership teams, Spencer Fane Higher Education attorneys have helped public and private colleges, universities, and other educational institutions build, restructure, and reenergize governance systems to address both day-to-day and long-term needs.

Advising on institutional best practices at all levels, we provide counsel on:

- **Board governance issues**, including policies and internal procedures, achieving board diversity, and other governance issues.
- **Implementation of more effective shared governance systems**.
- **General operational policies and procedures**.
- **Employment laws** as they apply to nonprofit organizations.
- **Crisis management** arising out of institutional challenges.

Internal Investigations and Crisis Management

Working closely with boards and college and university administrators to address sensitive and crisis situations. In a sector as highly regulated as higher education, even the best-run institutions can encounter complex administrative challenges requiring investigation and management by an independent third party.

The Spencer Fane Higher Education team has deep experience:

- **Conducting independent, institutionwide investigations** into compliance and financial management.
- **Assisting with student disciplinary matters**, including policies, procedures, and proceedings.
- **Investigating misconduct** related to fraternity and sorority activities.
- **Investigating employee misconduct**.
- **Providing emergency counsel to colleges and universities** in situations such as a pandemic or natural disaster.
- **Advising institutions being investigated** by legal or government entities.

Regulatory and Accreditation

Colleges and universities owe their very existence and viability to accreditation and the credibility it confers to an institution of higher education. Similarly, maintaining compliance with a plethora of federal and state regulatory requirements underlies an institution's reputation and operational success.

Collaborating closely with academic and business teams, our Higher Education lawyers advise on:

- **Regional and professional accreditation and compliance**.
- **Federal and state education laws**, including the Family Educational Rights and Privacy Act (FERPA) and the Individuals with Disabilities Education Act (IDEA), and Section 504.
- **Responding to government investigations**, including those conducted by the U.S. Department of Justice Office for Civil Rights and other governmental agencies.
- **Development of educational programs and schools in other countries** in cooperation with foreign educational organizations.

Title IX

Assuring administrative and learning environments free from gender discrimination and sexual harassment is essential not only for regulatory compliance but for institutional success. The Spencer Fane Title IX team has extensive experience guiding educational institutions in this crucial and sensitive area. We advise on:

- **Title IX policies and procedures**
- **Title IX complaints**
- **Title IX audits** to determine institutional compliance with equal participation and equal benefits requirements.
- **Institutional responses to sexual assault cases**, acting as outside counsel to investigate.
- **Title IX investigations**, serving as outside investigators and review panel members for colleges and universities.
- **Training of institutional personnel who have Title IX duties**.
- **Training and education related to sexual misconduct**.