HIGHER EDUCATION

Barley Snyder's Higher Education team provides counsel to numerous colleges, universities, trade schools and other post-secondary educational institutions throughout the region. Attorneys in the group have extensive experience working with institutions of higher education in a broad range of areas, including Title IX, governance, real estate development and land use, employment, benefits, immigration, off campus housing, tenure, student rights, health care, privacy, security and student safety, intellectual property, litigation, contracts, foundation issues, campus security, financing and much more.

Title IX:The last few years have seen major changes with respect to colleges and universities' responsibilities to prevent and remedy sexual discrimination, sex-based harassment, and sexual assault occurring in their education programs and activities. The U.S. Department of Education introduced a major new regulatory scheme in 2020, and those regulations will be overhauled again in the next year or so. Several of our attorneys provide a host of legal services to assist institutions in navigating these changes. We help colleges and universities craft their Title IX compliance policies to reflect their institutional priorities. We draft appropriate non-disclosure agreements and rules of decorum. We train Title IX Coordinators, investigators, informal resolution facilitators, hearing officers, and decision makers for both live hearings and appeals. We are there for Title IX Coordinators throughout the grievance process to ensure that they are complying with the myriad and sometimes conflicting Department of Education's requirements. Several of our attorneys have served as outside investigators and are qualified to serve as outside hearing officers or informal resolution facilitators. One of our attorneys has served as a Title IX Coordinator since the 2020 regulatory overhaul and is able to serve as an interim Title IX Coordinator if a college or university needs someone to step into the position on an emergency basis. Several of our attorneys have assisted institutions in successfully responding to complaints filed with the Department of Education's Office for Civil Rights. Likewise, several of our attorneys have assisted institutions in successfully navigating Title IX litigation in federal court. We have even assisted institutions in responding to law enforcement subpoenas and search warrants for criminal matters related to Title IX incidents.

Student Matters:The presence of students on campus and the relationship of institutions to them create a host of potential legal issues. Our attorneys regularly counsel college and university clients on applicable federal regulatory matters including FERPA and obligations under the Americans with Disabilities Act (ADA). In addition, our attorneys work with colleges on student discipline and conduct codes and assist administrators with individual disciplinary matters, whether involving academic dishonesty, alcohol or other forms of misconduct. Barley Snyder attorneys have experience in student rights and grievance procedures, fraternity relations, student aid, regulations regarding student loans and scholarships, Title IX issues and NCAA compliance. Our litigators vigorously defend our higher education clients. Here are some examples of our litigation victories:

- We successfully convinced the Pennsylvania Commonwealth Court that the Pennsylvania Human Relations Act and the Pennsylvania Fair Educational Opportunities Act do not allow claims for monetary damages against institutions that refuse to accommodate student use of marijuana, even

when such use is permitted under the Pennsylvania Medical Marijuana Act.

- We obtained summary judgment in a lawsuit filed in federal court claiming that a college engaged in race discrimination when it removed a student from the institutions nursing program because the student twice failed the programs clinical component.
- We obtained summary judgement in a lawsuit filed in federal court alleging that a teaching hospital engaged in national origin discrimination by refusing to promote a surgical resident.

Labor and Employment:Colleges and universities face significant challenges on the labor and employment front. Our attorneys regularly assist colleges in developing policies and practices to avoid discrimination and other similar employment claims, and also provide training to management officials on minimizing risk. When litigation cannot be avoided, the firm has attorneys experienced in employment litigation at both the federal and state level. Our attorneys have substantial experience in counseling colleges and universities on matters involving the Family and Medical Leave Act (FMLA), the Americans with Disabilities Act (ADA), the Fair Labor Standards Act (FLSA), immigration issues and all matters involving employee benefits. Our Higher Education group also has attorneys who deal regularly with labor unions, assisting employers during union organizing campaigns, and, where applicable, negotiating labor contracts and handling grievances and arbitrations, although our attorneys collaborate with college and university clients on maintaining a union-free environment.

Faculty Matters:Colleges and universities are unique in offering policies and procedures to grant tenure. Tenure decisions are sensitive and often the subject of actual or threatened legal action. Our attorneys regularly advise the academic officials of colleges and universities on handling their tenure decisions in a way that limits risk of legal action, and often work with the appropriate committees to provide guidance.

Campus Security:We counsel higher education clients with their campus security matters, ranging from obtaining police officer appointments for qualified colleges to reviewing standard operating procedures for their safety and security departments. We counsel institutions to ensure that they are complying with regulatory requirements, including regarding issues related to Clery Act, Violence Against Women Act and the Campus SaVE Act compliance.

Governance:We assist our higher education clients in establishment of governance best practices; compliance with intermediate sanction and other state and federal tax requirements; IRS Form 990 compliance; corporate charters, bylaws and other organizational documents; conflict of interest policies and codes of conduct; board committee structures and charters, including audit and compensation committee responsibilities; senior executive compensation planning; joint ventures, affiliations and complex affiliate and subsidiary structures; and faculty governance.

Investment and Endowment:The firm advises clients on endowment and investment matters, including development of investment policies, election of total return endowment policies, contracts with investment managers, unrelated business taxable income issues and non-traditional investments such as private

equity funds, venture capital funds and limited partnerships.

Land Use, Real Estate Development and Construction Projects:Our real estate attorneys represent clients in the acquisition and development of real estate, including zoning and land development approvals, lease and construction contract negotiation, tax assessment issues, federal and state funding, Act 2 "brownfields" remediation issues and other environmental matters, joint venture arrangements, and public/private partnerships.

Intellectual Property:The intellectual property attorneys in our group represent colleges and universities in connection with all aspects of intellectual property, many of them unique to institutions of higher learning, including: patent, trademark, and copyright investigation, prosecution and registration; trade secret protection; development, license and other software agreements; comprehensive intellectual property policies regarding use, ownership and licensing of intellectual property; intellectual property employment agreements; information technology access, use and security policies; copyright infringement and fair use; brand protection and enforcement; licensing and transfer of intellectual property and technology; social networking, peer-to-peer file sharing, and other Internet issues; distance learning; intellectual property portfolio management; electronic commerce issues; all forms of intellectual property and related litigation including copyright, patent, trademark, trade secret, and unfair competition.

Health Care:We assist educational institutions in health care matters including student health services, confidentiality of student health information, mental health issues, informed consent and other issues related to health services and counseling, insurance reimbursement, protected health information and compliance with HIPAA/HITECH and other privacy/security requirements.

Immigration:Barley Snyder offers a full range of services in the area of immigration and nationality law. Our immigration attorneys provide practical guidance and creative solutions to academic institutions regarding their immigration needs. They have extensive experience in employment-based immigrant and nonimmigrant visas, including Outstanding Professor and Researcher, green cards, PERM labor certification, and temporary worker categories such as H-1B (Specialty Occupations), O-1 (Extraordinary Ability in the sciences, arts, education, business, or athletics), and TN (NAFTA professionals). Also, we provide guidance and training on worksite enforcement matters, including the Form I-9 employment verification process, E-Verify process, workplace audits, and issues relating to F-1 student visas and employment authorization through Optional Practical Training. Our attorneys regularly consult with human resources professionals, foreign faculty and students alike, in addressing their respective concerns and in formulating the best and correct approach suited to their situation.

Development and Charitable Giving:Barley Snyder works closely with the Development/Planned Giving Offices of higher education institutions and nonprofits with respect to issues surrounding major gifts and planned giving. We provide advice regarding such planned giving vehicles as charitable lead trusts, charitable remainder trusts, gifts of life insurance, marketable securities, tangible personal property and real estate. We also represent foundations and higher education institutions on issues relating to terms of

restrictions on gifts and bequests, as well as interpretation of existing restrictions. We provide guidance on the oversight of payment of bequests from the estates of deceased donors.

Corporate Matters:Barley Snyder has a long history of representing nonprofit corporations in general corporate matters and in those areas unique to educational institutions, such as 501(c)(3)compliance, executive compensation, corporate governance, corporate accountability, fundraising rules and regulations, lobbying, and fiduciary matters,including trust and estate administration, tax compliance, litigation and investment policies. Our firm also has substantial experience structuring loans, scholarships and other financial assistance programs.In addition,we have helped numerouseducational institutions navigate theirstrategic growthplans through mergers and acquisitions. Barley Snyder's Higher Education attorneys have experience with the unique aspects related to nonprofit mergers and acquisitions,and we canhelp you through thatcomplex process,including due diligence,negotiations, government approvals,donor restrictions, retirement plan impacts, tax designation status and more.

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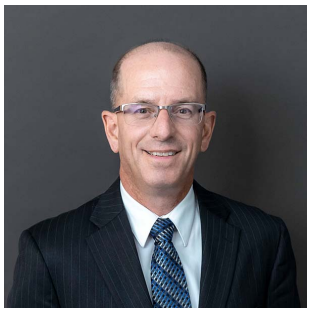


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