

Issues facing public university counsel

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As in-house counsel, we are involved with issues such as

- Governance
- Employment and human resources
- Student affairs
- Campus security
- Athletics
- Financial and business affairs
- Risk management
- Government and community relations
- Procurement and contracts
- Intellectual property
- Various forms of dispute resolution

Overview



We work with a variety of constituencies outside and at the institution – both governmental and non-governmental

Who

- The SBOE
- Other state agencies (e.g. State Risk)
- The United States Department of Education
- Other federal agencies (e.g. U.S. attorney – ADA)
- The City of Boise
- ACHD
- Boise State University Foundation
- Boise State Alumni Association
- Bronco Athletic Association
- ACLU, developers, artists, associations, etc.

**Constituencies that we interact
with outside the University**

- Our Administration
 - The President, the Provosts, Administrative Vice Presidents (VP Student Affairs, our boss, etc.), senior administrators, deans, department heads
- Academic Departments
 - Staff and faculty
- Non-Academic Departments (e.g., Athletics, Security, Boise Public Radio, Health Center)
- Our Event Venues (Student Union, Taco Bell, Morrison Center)

Constituencies that we interact with at the University

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- Higher education law attorneys are involved with virtually every part of the institution since legal matters can affect each and every function of the college or university.
 - To some extent, we function as “generalists,” handling matters in multiple areas of law. While some of us are “specialists” and primarily focus on specific areas of law, and work primarily with one or two departments on campus.

What we do

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- Contracts
 - Volume-wise – mostly contracts.
 - Drafting, reviewing, negotiating
 - Variety of contract types
 - Counsel
 - Primarily, we counsel our University clients – research, interpret, and advise on the law.
 - Also
 - We do some litigation, some immigration, and IP management

What we do, cont.

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- Business, Finance & Contracts
 - First Amendment
 - Second Amendment
 - Privacy Law
 - Constitutional Law
 - Development & Fundraising
 - Employment and Labor Relations
 - Environmental Law
 - Governance – SBOE, internal policy development
 - Intellectual Property (creation/licensing; use of others')
 - Research & Technology Transfer
 - Lobbying and Legislative Affairs (advisory)
 - Litigation
 - Real Property Acquisition, Development & Zoning
 - Statutory & Regulatory Compliance
 - Taxation

Areas of law

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- Unique to Education
 - Title IX
 - Clery
 - FERPA
 - Other federal laws
 - Title VI
 - Title VII
 - ADA
 - ADEA

Federal laws

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- Specialty areas, for example
 - Immigration
 - Environmental Law
 - Unplanned resource allocations, like litigation
 - Required to use outside counsel
 - e.g., for torts because of our participation in State Risk

Outside counsel

- We have other JDs at the University, including:
 - Institutional Compliance
 - Export Controls
 - Research Compliance
 - NCAA Compliance
 - Trademark and Licensing
 - And of course, many as faculty

Other JDs at the University

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- Prior to the new legislation
 - Authority with SBOE
 - Policy violation
 - New legislation
 - 2014 Senate Bill 1254
 - Revised SBOE authority
 - Concealed carry allowed (be certain license holders)
 - BUT
 - Subject to limitations
 - Criminal penalties for carrying on campus w/o license
 - Also – immunity from civil liability

Guns on Campus

Issues and challenges

- Policy
- Notification, signage
- Security (enforcement), working with BPD
- Potential conflicts
 - Federal grants
 - Contracts
 - Children's Center
- Cars
- Storage

Guns on campus, cont.

- Public Forum Doctrine
 - Forums/non-forums
 - Time, place, and manner restrictions
- Commercial Speech
 - Market participant
- Homecoming Parade
 - Government speech
- Leafleting
 - Brand protection
- Establishment Clause
 - Religious art

First Amendment

- High profile contracts
 - Head coach agreements
- Public records requests
- Litigation
- Lease of state property
 - Greenspeed truck
- Due process
- Licensing of IP

Other specific examples

- Questions?

- Thank you!