



## Colleges and Universities

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Vorys has the privilege of representing some of the country's largest and oldest colleges and universities. Our team works side by side with faculty members and university staff on issues related to various departments such as human resources, accounting, athletics, facilities, safety and information technology. We also work closely with senior leadership, directors, officers, trustees and board committees.

Many of our partners and former partners serve on the boards of trustees and in other official capacities of various colleges and universities. In addition, several of our Vorys alumni have established in-house careers at colleges and universities throughout Ohio.

## What We Do

We counsel and represent our higher education clients in their general legal matters such as commercial business transactions, bond issuances, environmental compliance, intellectual property, board governance, privacy and data security, employment law and litigation, immigration, employee benefits, government relations, affiliation agreements and other contracts, construction disputes, public contracting, real estate, taxation, technology and corporate compliance and general litigation.

Our team also assists higher education institutions as they deal with new and emerging issues, such as data security, conflicts arising out of research contracts, pay equity issues, safety and environmental risks created by deteriorating/aging facilities and COVID-19 related challenges including rising expenses, shrinking enrollment and virtual-based competition

## Key Areas of Focus

### Academic Specific Challenges

We have considerable experience with an array of legal issues that are unique to colleges and universities, including faculty tenure and promotion, students' rights and discipline, student accommodations, athletics and compliance with NCAA regulations, affirmative action, FERPA, the Cleary Act, Title IX, Title VI, Section 504 of the Rehabilitation

Act, the ADA, accreditation and state regulatory compliance. Our experience includes:

- We assisted a private, independent, four-year, liberal arts college with an internal investigation related to a high-profile matter, which entailed our responding to subpoenas and inquiries from law enforcement officials, advising the Board with respect to disciplining or terminating certain employees, delivering a report to the Board of Trustees, and preparing for any possible ensuing litigation. No lawsuits were filed, and the college was not implicated in any criminal proceeding. The engagement lasted nearly one year.
- We represented a public institution in an injunctive action brought in federal court by a professor after the university decided to terminate a research center, which the professor had directed. The professor's claims included: (1) a taking in violation of the 5th and 14th Amendments and 42 U.S.C. 1983; (2) failure of due process in violation of the 14th Amendment and Section 1983; and (3) breach of a prior memorandum of understanding regarding the closing of the center. We won a temporary restraining (TRO) hearing and eventually summary judgment.
- We successfully tried a wrongful death case for a public university in the Ohio Court of Claims, in which a graduate student died following a scientific expedition. The case had numerous legal issues important for universities, including the duties of care and preparation owed by the university officials to the student both before and during the expedition.
- We successfully defended a public university in a Title IX and negligence lawsuit brought by a female student who allegedly was the victim of an on-campus date rape.
- We successfully defended a private university in a Title IX case brought by a male student who alleged he was falsely accused of sexual assault.

## Employment Law

Vorys' labor and employment practice encompasses a variety of functional areas working together as a team for our clients. Our success in this area is a byproduct of strong employment counselors, sound labor attorneys and a deep knowledge of academic institutions. Our primary goal is to use our legal knowledge and experience to assist colleges and universities in anticipating and preventing employee relations problems through education, training and counseling.

We also assist our clients in preparing and implementing personnel policies designed to minimize the potential for employer liability. Our lawyers are devoted to understanding our clients' objectives, creating practical solutions, providing technical advice at the highest levels and ensuring immediate service and response.

The scope of our services include:

- Counseling clients regarding the practical impact of government requirements and assisting in the development and implementation of programs to avoid liability
- Monitoring and analyzing developments in laws and regulations affecting employers and communicating these developments to affected clients
- Conducting audits of employment policies and practices to ensure compliance and to provide suggestions for minimizing liability

- Suggesting cost-saving alternative methods of complying with laws and regulations

Our team has broad and deep experience in this area. We have defended clients in more than 400 single-plaintiff labor and employment litigation matters throughout the U.S in the past two years. We have also represented clients in dozens of class-action employment matters, including:

- Affirmative Action programs
- Covenants not to compete and trade secrets
- Drug and alcohol policies and testing
- Employee discipline and termination
- Employment counseling
- Employment policies and manuals
- Equal Employment Opportunity
- Family and Medical Leave Act
- Harassment, including sexual harassment
- Management training
- Wage and hour/Fair Labor Standards Act (FLSA)
- Whistleblower protection
- Worker Adjustment and Retraining Notification Act (WARN)
- Workplace technology policies

## Privacy and Data Security

Vorys has advised public and private colleges and universities on keeping their data safe. Whether by collecting, storing and sharing customer information, conducting privacy audits or refining data security and privacy policies, we help our clients comply with constantly changing domestic and global regulations.

When clients experience data breaches despite their prevention and safety efforts, we represent them in investigations before the Federal Trade Commission (FTC), negotiate consent decrees and advise on complying with the data breach notification laws adopted in 46 states.

We advise clients on an array of privacy and data security issues, including:

- Commercial relationships
- Compliance audits
- Compliance with California the Consumer Privacy Act (CCPA), California Privacy Rights Act (CPRA) and General Data Protection Regulation (GDPR)
- Cross-border data transfers
- Data security breaches

- Email and telemarketing regulation
- Employee privacy issues
- Litigation
- Privileged and nonprivileged forensic investigations
- Privacy policies and procedures
- Regulatory investigations
- Training programs

### Intellectual Property

Our college and university clients rely on our intellectual property lawyers to guide them through complex strategic planning, sensitive negotiations and other important details of intellectual property protection. Our attorneys have extensive experience and offer full service assistance for intellectual property issues, including those related to acquisition, protection, enforcement and exploitation of trademarks and copyrights, as well as in unfair competition, trade secrets, computer law and related matters.

We have managed the following:

- Patents – conducting and preparing patentability opinions; drafting and prosecuting patent applications in various technologies; and attending to maintenance and policing of issued patents
- Agreements – negotiating and drafting patent license agreements, sponsored research agreements, collaborative research agreements, material transfer agreements, confidentiality agreements and employment agreements (as they relate to ownership of inventions)
- Audits – reviewing existing IP policies to determine effectiveness of invention disclosure and technology transfer programs.
- We have provided counsel on a proposed rewrite of a client's intellectual property policy; copyright matters related to a faculty-authored textbook containing extracts from a commercially available software program; and technology transfer and commercialization matters.

### Litigation

Our litigation practice spans the nation. We represent colleges and universities in every imaginable kind of dispute, whether it involves allegations of civil or criminal liability, whether it concerns personal injuries, claimed violation of statutes, or professional malpractice, or whether it is to be resolved in a trial court, on appeal, or through arbitration, mediation, or some other form of alternative dispute resolution. Our experience includes:

- Vorys represented The Ohio State University as special counsel in the landmark construction case of Dugan & Meyers Constr. Co., Inc. v. Ohio Dept. of Admin. Servs. We successfully defended the University against the contractor's claims for delay damages and equitable relief, and obtaining judgment from the Ohio Supreme Court that defined essential elements of Ohio construction law regarding the sanctity of contract, the Spearin doctrine, Cumulative Impact claims, constructive notice and express and implied warranties.

- We have managed numerous litigation claims involving bequests to a university.
- We have handled several commercial matters, including the review and preparation of leases and property construction contracts, management of construction claims, the review of revisions to Code of Regulations and assistance with complying with Ohio data privacy and security laws. We have counseled on the application of CALEA, FERPA, the Payment Card Industry Data Security Standards, the TEACH Act, the Clery Act and the HEOA.
- We have advised college and university clients on tort matters involving alleged mold exposure and alleged asbestos exposure and litigated mold and asbestos tort suits for many clients.
- For several years, we have handled numerous workers' compensation issues in connection with private universities in Ohio.
- We have handled numerous workers' compensation hearings.

## News

News, 1.2.2024

Vorys Elevates Ten to Partner

News, 11.16.2023

Smith Elected as Vice President of the Ohio Association of Civil Trial Attorneys

2.23.2023

Billington Featured as Forum 360 Guest

News, 8.18.2022

115 Vorys Attorneys Named to the 29th Edition of The Best Lawyers in America® List; 33 Vorys Attorneys Named to Best Lawyers: Ones to Watch in America List

6.29.2022

59 Vorys Attorneys Included in 2022 *Columbus* CEO's Best Lawyers

News, 1.4.2022

More Than 40 Vorys Attorneys Included on Ohio Super Lawyers and Rising Stars Lists

News, 3.10.2021

Vorys Welcomes Experienced Employee Benefits and Tax Counsel

News, 4.16.2015

Ziance Quoted in *Herald-Star* Story Titled "University Seeks Project Commitment"

News, 5.13.2011

Vorys Partners Named Fellows of the Ohio State Bar Foundation

News, 11.19.2009

Vorys Partners Named "Lawyer of the Year" by Best Lawyers®

News, 11.2008

Smith and Bridgman quoted in *The Daily Reporter* article "Economy may be first concern for Obama, but labor-related issues follow close behind"

News, 11.3.2008

Teague and Kappel featured in *Legal Bisnow* article "Lobbying Report"

## Publications

Client alert, 9.7.2023

Key Contract Terms and Conditions for AI Products and Services Part 2 – Commitments, Disclaimers, Regulatory, Privacy, and Risk Allocations

Client alert, 8.29.2023

Key Contract Terms and Conditions for AI Products and Services, Part 1 - Data Ownership and Licensing

Client alert, 7.12.2023

Supreme Court Ends Affirmative Action in Higher Education

Client alert, 1.13.2023

FTC Proposes Rule to Ban Non-Compete Agreements

Client alert, 12.23.2021

Federal Vaccine Mandates End-of-Year Roundup

Client alert, 8.9.2021

Mandatory COVID-19 Vaccine for University Students Survives Federal Court Challenge

Client alert, 8.2.2021

U.S. Supreme Court Defends High School Student's First Amendment Rights

Client alert, 7.7.2021

Top 3 Takeaways for Collegiate Student-Athlete Sponsors after Ohio Passes NIL Bill

Client alert, 3.15.2021

COVID-19 Safety/Ventilation Funding Available to Universities, Colleges and Schools

Client alert, 6.17.2020

U.S. Dept. of Education Issues Interim Final Rule Governing Eligibility for CARES Act Emergency Financial Aid Grants, Effective Immediately

Client alert, 5.27.2020

Department of Education Finalizes New Title IX Regulations Governing Sexual Harassment

Client alert, 4.27.2020

Department of Education Releases FAQs on CARES ACT Funding for Universities

Client alert, 4.20.2020

Update: Federal COVID-19 Relief Efforts Impact Higher Education Institutions

Client alert, 4.13.2020

COVID-19 Implications on Higher Education

Client alert, 3.30.2020

Ohio Governor Mike DeWine Signs COVID-19 Related Legislation

Client alert, 3.23.2020

Overview of Ohio Department of Health "Director's Stay at Home Order"

Client alert, 3.22.2020

Ohio Department of Health Director Issues "Stay at Home Order"

Client alert, 1.21.2020

*Federal Tax Bulletin*: Retroactive Repeal of the 'Parking Tax' for Tax-Exempt Employers

Client alert, 10.9.2018

*Client Alert*: Sixth Circuit Reaffirms Due Process Right to Cross-Examine Title IX Accuser

Client alert, 6.29.2018

*Labor and Employment Alert*: Department of Labor Issues Guidance on Overtime Exemptions in Colleges and Universities

Client alert, 5.16.2016

*Client Alert*: Ohio Supreme Court Rules That Board Communication of Any Kind -- Even Email, Texts, or Tweets -- May Constitute a Meeting, Which Could Violate Ohio Open Meetings Act

Authored article, *TLNT.com*, 8.20.2015

Why the NLRB Ruled That College Football Players Can't Unionize

Client alert, 3.27.2014

*Labor and Employment Alert*: NLRB Regional Director Holds Northwestern University Football Players Are Employees, And Can Unionize

Client alert, 7.2.2013

*Labor and Employment Alert: University of Texas Southwestern Medical Center v. Nassar*: Court Requires High Standard In Title VII Retaliation Cases

Client alert, 5.11.2011

*Client Alert*: New Compensation Restrictions Coming for Colleges and Universities

Client alert, 11.24.2008

*Client Alert*: EPA Makes Hazardous Waste Management a Little Easier at Colleges and Universities

## Speaking Engagements

Event, 4.25.2024

2024 Cincinnati Labor and Employment Seminar

Event, 9.13.2023

AF&PA Fall 2023 General Counsels Coordinating Committee Meeting

Event, 8.18.2023

OACTA Litigation and Trial Skills Workshop

11.15.2019

College and University Professionals Association's HR Ohio Chapter 2019 Fall Conference

2.6.2019

Cannabis on Campus

11.30.2018

CLE Conference

5.1.2018

Crisis Preparation and Response for Campus Leaders

4.20.2018

HR Ohio Chapter 2018 Spring Conference

11.17.2017

2017 Fall College and University Professional Association for Human Resources Conference

10.6.2017

Annual Fall Ohio Conference

10.5.2017

2017 JASCO Economic Business Seminar

10.4.2017

Ohio Athletic Conference Professional Development Conference

8.13.2017

2017 International Legal Technology Association Conference

5.7.2017

Mortgage Bankers Association Legal Issues & Regulatory Compliance Conference

4.28.2016

The Ohio Attorney General's 24th Annual Conference for Public College and University Attorneys



### What We Do

Vorys has assisted clients with matters including faculty tenure and promotion, students' rights and discipline, athletics and compliance with NCAA regulations, affirmative action, FERPA, the Cleary Act, Title IX, Title VI, Section 504 of the Rehabilitation Act, the ADA, accreditation and state regulatory compliance.

Additionally, we support our higher education clients in other general legal matters, such as academic, workplace safety and corporate and business. These representative matters are detailed below:

### Academic

- We assisted a private, independent, four-year, liberal arts college with an internal investigation related to a high-profile matter, which entailed our responding to subpoenas and inquiries from law enforcement officials, advising the Board with respect to disciplining or terminating certain employees, delivering a report to the Board of Trustees and preparing for any possible ensuing litigation. No lawsuits were filed, and the college was not implicated in any criminal proceeding. The engagement lasted nearly one year.
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