

HIGHER EDUCATION INTERNAL INVESTIGATIONS & COMPLIANCE

OVERVIEW

Today, universities and colleges face a broad and complex set of compliance challenges and potential government enforcement challenges. Bryan Cave Leighton Paisner has decades of experience assisting institutions of higher education navigate what are often the most sensitive, worrisome and potentially high-profile legal matters.

Our attorneys have the subject matter experience, skills, understanding and deep appreciation for the unique environment that exists in higher education to offer the necessary advice and, if needed, investigative counsel to successfully resolve even the most troubling or threatening challenges to an institution's finances, legal posture and reputation.

We understand institutions of higher education consist of one of the most pervasively regulated sectors of the national economy. The federal government in particular asserts major continuing stakes in – to take but a few examples – how universities account for and manage federal research funds, Medicare/Medicaid reimbursements, Title IV student aid funds; conduct human subject research; protect the privacy of its patients' and employees' health records; investigate and resolve complaints of sexual assault and other Title IX violations on campus; review and resolve faculty and executive conflicts of interest; manage the security and waste-disposal practices of laboratories working with the most dangerous pathogens and chemical substances; and achieve the kind of diverse student body that is essential to the highest quality educational experience.

Higher education regulatory compliance extends to program management in each of the following operational domains of university and college life, among others:

- Federally funded or foreign-sponsored research
- Stewardship of federally provided student aid funds
- Admissions and financial aid affirmative action programs
- Provision of health care including federal pay or reimbursement
- Security of protected health information and other data subject to state, federal and international data security/privacy laws

- The conduct of clinical trials and other sponsored research
- Compliance with exempt organizations tax law
- Capital finance and international transactions
- Handling of hazardous wastes and other toxins
- Management of endowment funds
- Management of state-appropriated higher education capital funds
- Compliance with export controls and international sanctions in connection with university operations abroad

The intensified regulatory burdens and increasing government enforcement pressures in these and other domains, coupled with the steadily increasing financial and political pressures confronting universities today, make higher education's compliance with all applicable laws and regulations especially complex. The administratively and financially decentralized structure of many universities also makes compliance planning and monitoring even more challenging.

Despite the most effective possible compliance planning, all institutions from time to time experience compliance breakdowns, and the ultimate legal consequences of such breakdowns are heavily dependent on the quality, independence, speed and sensitivity with which universities conduct and complete internal investigations to determine how the breakdown occurred, how it should be managed with the relevant agency or other authority, and how it can be prevented in the future.

Universities today must be able to immediately access attorneys experienced in conducting such internal investigations, whether under the direction of chief legal officers or on behalf of audit or special committees of the board. Our investigative and compliance experience encompasses investigations into, and counseling in connection with, allegations of executive and faculty misconduct, mismanagement of state appropriated funding for higher education, Medicare or Medicaid fraud, research funding improprieties, other allegations of False Claim Act violations, Title IX violations, environmental and select agent issues, Foreign Corrupt Practices Act and export controls and trade sanctions matters, privacy and data breach issues. We also have extensive and winning experience in the most complex False Claim Act cases targeting alleged health care reimbursement fraud.

MEET THE TEAM



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EXPERIENCE

A sampling of our experience in internal investigations and compliance planning at institutions of higher education include the following:

- Conducted a year-long independent investigation for the Board of Trustees of one of the nation's largest state universities concerning the university's improper use of restricted state funds for capital infrastructure projects. The investigation involved more than 50 witness interviews and the review of thousands of documents to uncover that institution had misused nearly \$100 million in state funds on over a dozen capital projects at the university over a ten-year period. The BCLP team issued a written report containing its factual findings and recommendations, which the Board of Trustees made public.
- Represented another flagship public university's governing Board in a crisis situation due to the high profile and inflammatory nature of the issues involved, which included sensitive racial issues and faculty discipline. The BCLP team conducted the investigation swiftly and efficiently, while affording the professor due process, in a novel legal area. The BCLP Report was released by the Board and, with the considerable aid of that report, the particular controversy sparking the investigation was effectively laid to rest.
- Provide ongoing advice and internal investigations assistance to various colleges and universities regarding employment and litigation, faculty and student issues (discipline, drug testing, health center, tenure, IP rights, etc.), employee benefits, employment tax filing obligations and characterization of certain payments to employees.

- Conducted internal investigations for a number of universities, including one major sports powerhouse, concerning athletic and sports medicine department compliance with regulations and best practices on sports-related concussion policies, educational programs, clinical management and return to play/learn decision-making and documentation.
- Conducted an internal investigation for a university concerning whether there had been religious or political discrimination in connection with a forum sponsored by an academic department of the university.
- Represented director of critical care and associate professor of medicine at major university health center in federal False Claims Act investigation involving alleged Medicare overbilling.
- Assessing, counseling on and managing major research university's Export Administration Regulation, Research Conflict of Interest and other compliance risks attendant to the conduct of sponsored research and licensing transactions.
- Conducted an internal investigation for a private university regarding an alleged embezzlement by a faculty member, including subsequent coordination with federal law enforcement issues.
- Conducted internal investigation for major Division I university concerning athletic and sports medicine department compliance with regulations governing sports related concussions.