

## Higher Education

Leaders of higher education institutions today face challenges and opportunities unlike anything their predecessors encountered. As student and faculty populations grow more diverse, the rules and values governing campus life are evolving and becoming more complex at a faster rate. As traditional streams of resources constrict and historical enrollment patterns shift, new funding avenues are emerging.

What has not changed is the determination among today's academic leaders to respond to those challenges and opportunities with a dignity and honor that befit their academic mission. And to work relentlessly to secure the resources their scholars need to carry out that mission.

The lawyers at Michael Best understand that even in the most contentious disputes, institutions of higher education seek to preserve an overt respect for all the parties involved. Our team knows the importance of acting strategically in the aggressive pursuit of potentially lucrative sources of funding and the importance of protecting campus cultures and reputations.

Our extensive work includes counseling more than 80 institutions of higher education on a full range of legal issues, including labor and employment matters, such as Title IX and immigration matters. In our work as full-service outside counsel to many university leaders, our lawyers take calls on whatever campus exigencies occur, from intellectual property protection, technology transfer, and employment matters to real estate transactions, project development, and cybersecurity. We know how educational institutions work, what academic leaders face, what they do, and why they do it.

Guided by that knowledge and inspired by our profound respect for their values, we help steer campus leaders through the challenges presented by an increasingly complex society and a changing academic landscape.

After working alongside academic leaders for decades, our lawyers have forged a fundamental knowledge of the nuances of handling legal matters in an academic setting, and we are at the forefront of legal issues, such as the threshold question of whether personal jurisdiction exists to sue universities in courts across the country. That knowledge

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informs all of our counsel, as we guide our clients toward resolutions that engender mutual respect on campus — and that honor the principles to which universities aspire.

Our society always has looked to higher education for innovation on the world's great challenges and questions. But today, innovation has become an urgent need for universities themselves. The growing commercial potential of academic research has created a massive new prospective funding source — one that few institutions can afford to ignore. Navigating these opportunities, and forging relationships built on entrepreneurship and innovation, are at the very core of what Michael Best's attorneys do with our university clients all over the country.

Even in the face of immense opportunity, we have learned to counsel discipline. Rushing to secure intellectual property protection for everything that comes out of the lab, for example, is both costly and inefficient. Campus leaders must think strategically about which inventions and advancements they seek to run through the burdensome patent process. That's why we've helped several major institutions create systematic, strategic processes for determining which innovations to pursue. We helped one longtime university client create a program through which inventors can make funding requests of investors every eight weeks, as their innovations advance through the commercialization process.

Even when institutions have processes in place, they must take steps to protect the collaborative spirit of an academic setting, not only to facilitate the overall mission but also to preserve confidence in leadership among faculty, staff and students. And with rising pressure to commercialize, combined with an increase in corporate partnerships and other intersections with the business world, many at educational institutions struggle to understand new demands and expectations.

As counsel, we view ourselves not only as legal advisors but also as partners, and we frequently visit our clients' campuses to conduct workshops, hold office hours, and take other steps to help their faculty and staff gain a better grasp on the workings of the patent process and the commercial sector.

## **Experience**

### **Title IX Related Litigation**

We were retained to represent a college defending a student discipline Title IX decision in state court litigation. The disciplined student claimed breach of contract and various other causes of action and sought a Temporary Restraining Order. We prepared a response to request for the Temporary Restraining Order and obtained denial of the order and dismissal of the matter.

### **Private Liberal Arts University Science Center Development**

We represented a private liberal arts university in the \$19 million development of a new, state-of-the-art science center. The approximately 50,000-square-foot center will house classrooms, as well as modern laboratories for biology, chemistry, and biochemistry. As counsel to the university, Michael Best worked with the local municipality to clean up property boundaries, rights-of-way, and certified survey maps; assisted with the RFP process; and drafted and edited construction manager and architect agreements.

### **Foundations**

Over the years, our higher education clients have asked us a wide range of questions related to foundations, from special donations to tax exemptions. Most recently, we were asked by a client to

provide a model memorandum of understanding for best practices to establish the independence between foundations and their respective colleges.

### **University System Environmental Compliance**

We provide litigation representation and regulatory advice related to the environmental compliance of approximately 50 coal-fired boilers which provided heat and electricity to facilities located on 13 university campuses. We helped the state evaluate the current and anticipated future regulations to find long-term, cost-effective compliance strategies to upgrade or replace these assets. This high-profile project was precipitated by lawsuits filed by the U.S. Environmental Protection Agency, Sierra Club, and other state entities.

### **Chicago Loop Dormitory Shared by Prominent Universities**

We represented a consortium of three private universities in the development, construction, operation, and leasing of an 18-story dormitory building that they share. The building, which features suite-style and apartment-style units, also features first-floor retail space and a conference center, as well as amenities including a third-floor rooftop garden, workout center, and food court.

### **Representation in Title VII Action**

We served as lead counsel for an institution of higher education in a federal court Title VII action brought by a former faculty member who had unsuccessfully applied multiple times for a full-time faculty appointment, the institution's equivalent of a tenured position. The final such application occurred after the faculty member had filed a discrimination complaint. The faculty member alleged that the decisions resulted from race, national origin, and religious discrimination, as well as retaliation. In support of his claims, the plaintiff cited alleged comments about his religion and national origin by his department chair, and he pursued a "cat's paw" theory. In granting summary judgment, the district court adopted our arguments across the board and agreed that the plaintiff's alleged proof of discrimination could not support an interference of discrimination or retaliation. Plaintiff did not appeal.

### **Private Research University Defamation Lawsuit**

We defended a private research university client against a defamation lawsuit filed by a former employee in the Circuit Court of Cook County, Illinois. The employee claimed the university had given her a defamatory performance review prior to her termination, and she later amended her complaint to add a claim for tortious interference with prospective economic advantage.

Michael Best moved to dismiss all claims with prejudice. The court granted our motion and denied the plaintiff's motion to reconsider, and the Illinois Appellate Court affirmed the decision. We also obtained a dismissal of the plaintiff's related charge before the Illinois Department of Human Rights.

### **Representation of College Board of Trustees**

We represented a college in a matter involving the removal of the college president and numerous administrative reorganizations. Proceedings included Board meetings, Board hearings, administrative law judge hearings, and federal court litigation. Our team defended against claims of breach of contract, due process, and race discrimination. We obtained victory at all levels, including the Federal Court of Appeals.



## **Licensing & Technology Agreements**

We developed a new template for our university clients to utilize in all licensing deals.