



National Association of College and University Attorneys
Presents:

How to Play the Game: Navigating the State Legislative Process

Webinar

March 5, 2024

12:00 PM – 2:00 PM Eastern
11:00 AM – 1:00 PM Central
10:00 PM – 12:00 PM Mountain
9:00 AM – 11:00 AM Pacific

Presenters:

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System

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How to Play the Game: Navigating the State Legislative Process



Karen Johnson Shaheed serves as Executive Vice President and General Counsel and Chief of Staff at Bowie State University. She manages all legal matters for the University, providing advice and counsel to the President and campus administrators on a variety of legal and policy issues affecting the university. She also oversees government relations, working to advance the university's mission and interests as its principal liaison to local, state and federal agencies and officials. She has served on an interim basis twice as Provost and Vice President for Academic Affairs for the university. With

over 30 years of experience in law, higher education, legislative affairs and public administration in the state of Maryland, Karen has served as Secretary of Higher Education and CEO of the Maryland Higher Education Commission, the statewide coordinating agency for postsecondary education, Deputy Chief of Staff to the Governor, and Assistant Attorney General and Assistant Secretary for Regulatory Policy and Programs at the Department of Labor, Licensing & Regulation. She began her career as a litigator at a major law firm in Baltimore. She has served as an adjunct professor of legal writing and advocacy.

Karen has been a NACUA member since 2004. She has previously served on the Committee on Membership and Member Services and the NACUANOTES Editorial Board. She currently serves on the Committee on Board Operations.

Karen has also spoken at several NACUA events. Karen received her B.A. in Political Science from the University of Maryland, Baltimore County, and her J.D. from the University of Maryland School of Law. She has been with Bowie State University since 2007.



Derek Langhauser is Of Counsel to the Maine Community College System. He previously served for over 25 years as its General Counsel and President. Derek is a Fellow and former President of NACUA and long-time member of the JCUL Editorial Board. He teaches constitutional law for the University of Maine Law School and his political experience includes serving as Chief Legal Counsel to two Governors and a United States Senator.



Bill Mullooney serves as Vice President for Policy and General Counsel for Valencia College in Orlando, Florida. He serves as Valencia's chief legal officer and as its lobbyist and legislative counsel to the executive and legislative branches of the State of Florida. He also serves as Program Chair for the biannual Community College Conference on Legal Issues. He earned his B.B.A. degree from the University of Miami School of Business, and his J.D. and LL.M. degrees from the University of Miami School of Law. Prior to his position at Valencia, Dr. Mullooney served as General Counsel at

Whittier College in California and before that as University Ombudsman at the University of Miami. While at Whittier, Dr. Mullooney was an Adjunct Professor of Law at the Whittier Law School, where he taught classes in Sports Law and Higher Education Law. While at Miami, he launched the university's Student Honor Code and served as an Associate Faculty Master at the Hecht Residential College.

Dr. Mullooney is a member of the Florida Bar and the State Bar of California. He is Florida Bar Board Certified as a Specialist in Education Law. He is a member of the Florida Association of Professional Lobbyists and is certified as a Designated Professional Lobbyist. He has completed three elected terms of service on the Board of Directors of the National Association of College and University Attorneys (NACUA), serving as a member-at-large, then as Secretary, and in his most recent term, he served as the Chair of the Board. He also has served on the Boards of the Florida Colleges Activities Association, the Association of Florida Colleges (AFC), and the AFC Foundation. He also serves on the Florida Bar's Education Law Committee and the American Association of Community College's Legal Advisory Group. He has spoken on issues regarding higher education law at numerous panel discussions and conferences presented by NACUA, the Association of Governing Boards, the American Council on Education, College and University Personnel Administrators-HR, Stetson University Conference on Law and Higher Education, National Association of Student Personnel Administrators, Southern Association of College and University Business Officers, American Association of Community Colleges, Association of Community College Trustees, National Association of Directors of Athletics, International Association of Campus Law Enforcement Administrators, and AFC.

Materials

- 1.) Derek P. Langhauser, “Maxims for General Counsel in Legislative Relations” (*attached*)
- 2.) William J MULLOWNEY, “Influencing, Reacting to, and Supporting the State Legislative Process” (*attached*)
 - a. Example of “One-Pager” Used to Explain a Bill and Request Support
 - b. Example of a Whimsical Depiction of “How a Bill Becomes a Law”
- 3.) Karen Johnson Shaheed, “Post Session Compliance” (*attached*)
 - a. Sample Legislative Session Summary and Compliance Tracking
- 4.) Anna Moir, “Quick Tips for Engaging with the Legislative Process” (*attached*)
- 5.) Congress.gov, [State Legislature Websites](#).
- 6.) Matthew Camp, LaShundra Jackson-Winters, Karen Johnson Shaheed, and Susan Mulliken, “[Government Relations: Bridging the Gap Between Campus, the State, and Congress](#)” (NACUA Annual Conference, June 2023)
- 7.) U.S. Department of Education, [State Contacts](#) (providing contact information for education state agencies, including the higher education state agencies, in each state).
- 8.) Sampling of Institution Policies and Websites
 - a. Duke University, The Office of Government Relations, [University Policies](#).
 - b. Syracuse University, [Government Relations Policies](#).
 - c. University of Virginia, [Office of State Government Relations](#).
 - d. Virginia Tech Office of Government and Community Relations, [Presidential Policy Memorandum No. 268 – Revision 1](#) (February 16, 2023).
- 9.) State Legislative Staff Websites and Related Resources. On these websites, you can often research publications on drafting bills, information on the legislative process, and bill or new law summaries, in addition to other helpful information about the legislative process, legislative attorneys, and other personnel such as budget specialists in your state. This is a non-exhaustive list of such websites in each state and should be used as a

starting point. A few states did not have such websites readily available and in those cases, the link is to those states' legislature websites.

1. Alabama – [Legislative Services Agency](#)
2. Alaska – [Legislative Affairs Agency](#)
3. Arizona – [Legislative Council](#)
[Joint Legislative Budget Committee](#)
4. Arkansas – [Bureau of Legislative Research](#)
5. California – [Office of Legislative Counsel](#)
[Legislative Analyst's Office](#)
6. Colorado – [Office of Legislative Legal Services](#)
[Legislative Council](#)
7. Connecticut – [Legislative Commissioners' Office \(LCO\)](#)
[Office of Fiscal Analysis](#)
8. Delaware – [Division of Research](#)
9. Florida – [Office of Economic and Demographic Research](#)
10. Georgia – [Office of Legislative Counsel](#)
11. Hawaii – [Legislative Reference Bureau](#)
12. Idaho – [Legislative Services Office](#)
13. Illinois – [Commission on Government Forecasting and Accountability](#)
14. Indiana – [Legislative Services Agency](#)
15. Iowa – [Legislative Services Agency / About](#)
16. Kansas – [Office of Revisor of Statutes](#) and
[Kansas Legislative Research Department](#)
17. Kentucky – [Legislative Research Commission](#)
18. Louisiana – [House Legislative Services](#)
[Senate Staff Divisions](#)
19. Maine – [Legislative Information Office](#)
[Office of Policy and Legal Analysis](#)
20. Maryland – [Department of Legislative Services](#)
21. Massachusetts – [Legislature Website](#)
22. Michigan – [Legislative Service Bureau](#)
[Senate Fiscal Agency](#)
[House Fiscal Agency](#)
23. Minnesota – [Office of the Revisor of Statutes](#)
[Minnesota House Research Department](#)
[Senate Counsel, Research and Fiscal Analysis](#)
[Minnesota Legislative Reference Library](#)

24. Mississippi – [Legislature Website](#)
25. Missouri – [Joint Committee on Legislative Research](#)
26. Montana – [Legislative Services Division](#)
27. Nebraska – [Legislative Research Office](#)
[Revisor of Statutes](#)
[Legislative Fiscal Office](#)
28. Nevada – [Legislative Counsel Bureau](#)
29. New Hampshire – [Office of Legislative Services](#)
30. New Jersey – [Office of Legislative Services](#)
31. New Mexico – [Legislative Council Service](#)
32. New York – [Legislative Bill Drafting Commission / Legislative Library](#)
[Division of the Budget](#)
33. North Carolina – [Legislative Analysis Division](#)
[Fiscal Research Division](#)
34. North Dakota – [Legislative Council](#)
35. Ohio – [Legislative Service Commission](#)
36. Oklahoma – [Legislative Service Bureau](#)
37. Oregon – [Office of the Legislative Counsel](#)
[Legislative Fiscal Office](#)
38. Pennsylvania – [Legislative Reference Bureau](#)
39. Rhode Island – [Legislative Council](#)
40. South Carolina – [Legislative Council](#)
41. South Dakota – [Legislative Research Council](#)
42. Tennessee – [Office of Legal Services](#)
43. Texas – [Legislative Council](#)
[Legislative Budget Board](#)
[Legislative Reference Library](#)
44. Utah – [Office of Legislative Research and General Counsel](#)
45. Vermont – [Office of Legislative Council](#)
46. Virginia – [Division of Legislative Services](#)
47. Washington – [Office of the Code Reviser](#)
48. West Virginia – [The Legislative Services Division](#)
[Office of Reference & Information](#)
49. Wisconsin – [Legislative Reference Bureau](#)
50. Wyoming – [The Legislative Service Office](#)

NACUA Webinar

HOW TO PLAY THE GAME: NAVIGATING THE STATE LEGISLATIVE PROCESS

March 5, 2024

Derek P. Langhauser
Of Counsel
Maine Community College System

Maxims for General Counsel in Legislative Relations

I. Introduction

Legislatures have a controlling influence on the operation of many colleges and universities. As lawmakers, they delegate power, confer jurisdiction, define liabilities and impose duties. As stewards, they appropriate money, confirm nominees and provide operational oversight. As bodies politic, they attract media attention, influence the enforcement of laws and shape public opinion. Because of the reach of these powers, it is important for college administrators and their lawyers to understand not only a legislature's formal decision-making processes, but also the informal dynamics that often determine the outcome of their work. To that end, the following maxims may be used to inform your institution's legislative strategy. While God may have needed only Ten Commandments, experience teaches that legislatures need about thirty.

II. Maxims

A. Legislators Generally

1. **Legislators Deal Primarily in Concepts, Not Content.** Because of the amount, diversity and complexity of full legislative agendas, legislators deal more in concepts than content. Reduce your case to concepts and be prepared, as necessary, to move into content. Do not start with content and leave it to the legislator to derive the concepts.
2. **Legislators are More Likely to Represent than Lead.** Know whether you are asking a legislator to represent their constituents or whether you are asking them to lead their constituents. While some legislators revel in the leadership mode, even self-styled legislative pioneers are often not eager, in the end, to tell their constituents why the legislator knows better than the constituents themselves what is best for them.

3. **Legislative Decision-making is More Inductive Than Deductive.** The political nature of elective office means that legislators respond ultimately to the stimuli of their constituents. This means that legislators' dominant reasoning is often not on an initiative's given merits, but on how their vote thereon fits within their sense of how the given issue furthers a broader political view.
4. **When Preparing Legislators, Assume Nothing.** Legislators are busy and very distracted. Do not assume that even experienced legislators know your issues, your operation, or your impact on their constituents. Prepare them by giving them in advance your hearing testimony and succinct talking points. Remind them of the dates and times of hearings, work sessions and floor debates. Tell them exactly the specific action they need to take (i.e., "vote out a minority report" or move to "recede and concur"); when they need to take it (i.e., when bill is coming out of committee or on the floor after second reading); and how to take it (i.e., make a motion to "reconsider and request leave to speak to their motion.") Finally, always prepare more than one person to do your bidding in the event that, for whatever reason, your lead person misses the committee debate or floor vote.
5. **Legislators Hate Surprises (Unless, of Course, it's a Surprise Fundraiser).** Regular communication is a key to consistently stable legislative relations. Information is power, and legislators who are informed are more trusting and effective. Keep legislators regularly advised of interesting developments and important policy decisions. Provide advance notice of potential or emerging problems so that you can avoid the auditor-styled "gotcha" phenomenon that validates the *raison d'être* of the more difficult legislators.
6. **Distinguish Legislators' Public Roles from Their Private Words.** As noted above, legislators' most specific and proximate need is *to be seen* representing their constituents with the appropriate amount of energy for a visible period of time. So if they are speaking publicly in terms that differ from your private discussions, do not confuse this dynamic with hypocrisy or untruthfulness, and do not let it dissuade you from your ultimate goal of crafting privately a resolution more favorable than that suggested by their professed public outrage.
7. **Distinguish Membership from Partisanship.** Party affiliation is not legislators' only sense of identity. Legislators also identify across party lines as members of

their house and of their Legislature. Do not pick fights that will coalesce that bi-partisan legislative identity against you.

B. Relationships Generally

- 1. Make Friends Before You Need Them.** Personal relationships are the foundation of legislative action. Legislators, key staff, and fellow influential lobbyists (hereinafter others) listen to people they know, like, or respect. Develop a rapport with them that you can then use to establish both short-term alliances and long-term relationships. Take the time to approach legislators outside of the pressures of a session. Learn their background, education, business interests and legislative goals. Legislators like to feel important and they never feel more important than when they are talking about themselves. And do all of this *before* you need their help.
- 2. Don't Get Caught up in the Merits of Your Position.** Merit is rarely determinative in legislative debates. Merit is always relative; that is, the merits of your issue are meaningful only if they match a legislator's or their constituents' interests. The key, therefore, is to think as much, if not more, about the legislators' needs as you do your own merits, and to persuade legislators that their interests are the same as yours.
- 3. Communication is a Two-Way Street.** Asking input from legislators and others on issues makes them feel more like they are part of the exercise of power and less like they are on the receiving end of it.
- 4. Reward Your Friends Publicly.** Legislators and others serve in order to make, and to be seen making, a difference. It is, therefore, not enough for a legislator to “do the right thing” for you, they must be seen doing the right thing for their constituents and/or clients. This means providing – in person and/or through the media – public forums in which your supporters' work can be acknowledged and praised.
- 5. Co-opt Possible Opponents Early.** Remember the lesson of European history that multi-front battles against several opponents are exhausting and often unsuccessful. Eliminate as much opposition to your bill as early as possible. Identify at the outset potential opponents and seek their support or neutrality. Where possible, incorporate their thinking into your draft.
- 6. Define Your Issues and Problems Before Your Opponents Do it for You.** All entities have their critics and dissenters and, if you cannot co-opt them, then make sure that you, and not any such opponents, are the one to explain your problems or mistakes. This means answering forthrightly the tough questions, even if the message

is not the most positive. You will show honesty and candor and, if legislators hear it directly from you first, they will be more likely to define the issue on your terms.

7. **Know When to Have Others Make Your Arguments for You.** The messenger can be as important as the message, and legislators respond best to their constituents, other legislators and certain people they trust. Identify and strategically use these people to make your case for you. But do so with care: legislators do not appreciate being bullied by phone campaigns or rallies, and unskilled presenters can do more harm than good. And use your top persons selectively; the power of their positions will diminish if they are overexposed.

C. The Legislative Process

1. **Know Where You Are in the Process.** Legislatures work in stages. First is the committee process: pre-hearing, hearing and work sessions. Second is the floor process: acceptance of committee reports, first and second readings, concurrence with the other house, engrossment and enactment. Generally speaking, your options and ability to affect the outcome narrow as this process progresses.
2. **Confirm All Information.** Legislatures are vast rumor mills. Listen to all that you hear, carefully consider the sources and confirm accuracy from dependable legislators or staff. But be sure to react with care. Inattention can convert false rumors into hard fact, and undue attention can invite new, or awaken old, opponents.
3. **Learn, Respect, and Use Legislative Staff Members.** Legislators rely heavily on staff to distill information and recommend positions. Staff have power because they have access, and they control the translation, to their bosses. Stroke their egos and marshal their power by keeping them informed. Staff can be pivotal, especially ones to over-worked leadership and impressionable new members.
4. **Know How and When to Compromise.** Legislators represent many diverse but interconnected constituencies. Because the number of entities seeking legislative funding or support is always great, no idea regardless of individual merit is considered in isolation. Inevitably, you will be asked to compromise your position, so know your bottom line and seek creative win-win positions that help legislators appease their competing constituencies. The more precisely you define your own needs, and the better you understand your legislators' competitive needs, the easier this task becomes.

5. **Always Remember Tomorrow.** There is always a next session, next bill, next appropriation, next need for legislative support. Respect this fact and do not jeopardize long-term relationships for short-term gains. If you cannot persuade legislators, oppose them respectfully. You probably already lost them and, if you are visibly gracious, they will appreciate and remember the courtesy. Finally, legislators generally share mutual institutionally based respect, so do not position those legislators who support you to attack those legislators who oppose you. Neither will appreciate that.
6. **It Ain't Over 'Til it's Over.** Bills and their ideas have many lives. A bill can be completely amended yet its concept can remain intact. A bill can be killed and its concept incorporated into another, seemingly unrelated, bill. Bills that lose votes can be tabled indefinitely and votes that are lost can be reconsidered. Bills that are killed can be retrieved from "legislative files," and bills sent to an executive can be recalled. All of this can and does happen, particularly in the waning hours of the last days of the legislative session. Indeed, most of the consequential decisions are often left to the end when time and patience are short. The closing days are the most important time of any legislative session, so have your lobbyist at the chambers until the legislators adjourn, get in their cars and drive away.

D. **Legislative Dynamics**

1. **Distinguish Power from Will.** Absent constitutional constraints, legislatures have the power to do almost anything. What is often lacking, however, is the collective will to exercise that power. Particularly with appropriation requests, know that if there's a will there's a way. Help legislators find that way by designing different options from different funding sources.
2. **Work for Comity But Play to Power.** Some issues win by clear majorities based on political comity and/or perceived merit. Others get muscled through by simple majorities based on pure power. If you appeal simultaneously to both comity and power, then you are less likely to get caught between the chasms of Tip O'Neil's observation: "When you're right, I'll always be with you. When I'm right, I won't need you."

3. **Defense is Easier Than Offense.** It is easier to kill or soften a bill than it is to pass one. For example, there are at least four ways to derail an unfriendly measure. First, one can try to persuade the sponsors to withdraw the bill by challenging the need to address the given matter *with a law*. For example, can they address their concern through the interpretation or enforcement of an already existing law, regulation, policy or practice? If that fails, one can seek an amendment that excludes your entity from the scope of the bill. If that fails, one can invite a funding battle by adding a fiscal note. Finally, one can seek an amendment that provides additional resources or authority to alleviate the bill's negative impact upon you.
4. **While Novelty is Appealing, Known Approaches are Easier to Sell.** Not every question for a new law requires a novel approach. Look for analogues in existing law that may be applied. They attract support more easily.
5. **If You Can't Explain It in 60 Seconds You May Lose Your Audience.** The pervasive need for the sound-bite summaries requires you to be able to state very succinctly your issue and your rationale. There is no "complexity exception;" indeed, the more complex and issue, the greater the need for a terse and effective summary. You can always provide more detailed back-up data to staff.
6. **Anticipate Unintended Consequences.** In the legislature, a bill is commonly referred to as a "vehicle" and for good reason. The legislature can either take over the wheel or add a trailer. Issues and debates often take a direction far from your narrow goal. Think through carefully the likelihood and desirability of being led down such roads before putting a concept into play.
7. **Respect the Power of Coincidence.** Coincidence, the frequent rival of logic, is either a welcome ally or an unwelcome enemy in the legislative process. So know the climate of the times before advancing a position. Be aware of public sentiment, editorial commentary, election dates and issues, term limits, regional developments and national trends. They all have an effect on mobilizing or freezing the will of legislators. Because your fortune can quickly change during a session, know the process and players well enough to know when and how to change tacks when a coincidental development occurs.

8. **Respect the Power of Symbols and the Appeal of Davey’s Fight Against Goliath.** Seemingly isolated personal or local events can take on greater -- and often negative -- metaphorical power. For example, a student whose belligerence has driven you crazy for months can easily persuade the chair of your legislature’s appropriations committee to ask incredulously: "We give you two hundred million dollars a year and you're telling me you can't accept a simple transfer credit from this hard-working single parent?" Or a legislator will really mean it when asking, “cutting-edge research for the next generation is really nice but are your parking lots safe at night right now?”

III. Conclusion

Working with a legislature day in and day out can make a Hamiltonian out of anyone. Just keep calm, carry on, and live to fight another day.

NACUA Webinar

HOW TO PLAY THE GAME: NAVIGATING THE STATE LEGISLATIVE PROCESS

March 5, 2024

William J Mullooney

Vice President for Policy and General Counsel
Valencia College

Influencing, Reacting to, and Supporting the State Legislative Process

I. The State Legislative Landscape

- A. In recent years especially, state legislative interventions into all areas of university operations have escalated at a rapid pace. From legislation on DEI issues in programs, offices, or curricula, to NIL in intercollegiate athletics, and from intense legislative interest in endowment balances and performance funding, the critical attention focused on institutions of higher education from state policy makers has never been more intense. Political polarization divides our campuses and complicates already complicated compliance challenges. Thus, the need for institutional presence in our state capitols when decisions are being made has never been more important. The need for state policy makers and leaders to hear directly from us our stories of success, which drives the state's workforce, the state's economy, and their legislative legacy. Our success is their success.
- B. The Executive branches of our state governments have been very active in implementing political priorities in the higher education sector. In many states, public institution/system trustees/regents are appointed by a governor to whom they are aligned, sometimes introducing internal governance challenges to an extent not experienced as much in the past. An example of this may be the recent opinion issued by the Virginia Office of the Attorney General, which stated in part, “[i]n fulfilling its responsibilities to the specific institution it serves, the primary duty of the board of visitors of each Virginia public institution of higher education is to the Commonwealth.” This opinion could be construed to be contrary to accreditation principles applicable to institutions with respect to external influences on board governance, as well as challenging traditional approaches to the fiduciary duties of governing board members to the institutions they serve.
- C. More and more, College and university attorneys are assuming greater roles in the state legislative processes, and in many cases, attorneys assume direct roles in government relations activities. Given their training in analysis and advocacy, attorneys are more than up to the task. Even if you are not part of the government relations team, it is important that you see the natural connection between the General Counsel's office and the office of governmental relations...that's right, the lobbyists.
- D. Regardless of the attorney's actual role in legislative matters, it is imperative that they familiarize themselves with the legislative process in their state. With this knowledge, combined with professional skills you already possess, seek ways to involve yourself in your institution's legislative efforts.

II. Learn the Game: Getting Started – Lobbying 101 (*In this game, credibility and relationships matter most*)

A. Know Legislative Structures –

Legislative (House/Senate...except Nebraska)

For each chamber, leadership offices, committees, and joint committees

Executive (Governor, Agencies)

Governor's staff (Chief of staff, policy, budget, appointments, etc.)

B. Know the People –

Become familiar with members of your local legislative delegation and offer yourself as a trusted resource within the university – they can count on you to help solve constituent problems, cut red tape, and help navigate your institution's vast resources when needed. Create relationships before you need them. With each matter addressed, your reputation grows.

Introduce yourself to key leaders and key committee chairs, as well as rank and file members. Learn who among them are supporters of higher education, and who may be unfriendly to your cause. Encourage and affirm the established friends and find ways to turn unfriendly legislators and their staff into friends. Even better, get to know their staff members and treat them well. They are influential gatekeepers who often are overworked and underappreciated. Appreciate them always, for they can make you or break you in your lobbying efforts, regardless of your role at the university or your relationship with their boss.

If you can, find and cultivate a legislative champion or two - Leaders who know your institution well and will consistently support it when needed. Even better, leaders who are headed to leadership positions in the process. Then, trust your champion.

C. Know the Process –

Learn the ways and means of lawmaking in your state– the importance of legislative calendars, chamber rules, bill tracking from filing to passage or otherwise, and the customs and practices of working in the legislative arena.

Patience is key. Members and staff have busy schedules and are often difficult to pin down for meetings, and when finally scheduled, often must reschedule for myriad reasons. Remain flexible regarding meeting and understand that cultivating relationships takes time. Also, while you have an interest in your bill, they are juggling dozens of bills and budget items, each with lobbyists and the interested public wanting attention and time to express their support or opposition.

With respect to meetings, always be on time to show respect for others, always be honest – don't pretend to know an answer when you don't – in response say you don't know, offer to follow up, and then follow up in a timely manner.

This is professional work, performed with respect and a signature friendliness. Acknowledge other's successes and accomplishments in the process always and thank people generously for anything and everything they may do to advance your causes. Be gracious in victory and defeat, for in politics both may be short lived...

Pay attention early and often as bill drafts are posted. If needed, get your substitutes and amendments in early (e.g., avoid sending an amendment request at 11:00pm the night before an 8:00am committee meeting when that bill draft has been posted for weeks).

Develop a public testimony strategy with respect to your bill. Legislative work/lobbying is mostly be done outside of public meetings but given the changing landscape and decreased deference to higher education institutions, your institution might have to get more comfortable with providing public statements in subcommittee/committee meetings. Typically, public testimony is a good strategy when offered in support of a bill that is not controversial. Opposition and comments on a bill mired in controversy are best expressed in private, if at all.

D. Know the Issues –

Become familiar with issues that are arising on your campus, in your system, in your state, and around the country with respect to higher education and other legal/policy issues that affect your institution.

Learn how to read and interpret language in bills, and how to discern potential traps and unintended consequences lurking deep inside. This is a good excuse to take pending bills to colleagues in relevant areas of campus, whether student affairs, academic affairs, advancement, athletics or wherever, and consult resident subject matter experts for their perspectives. They may identify problems you would never have identified, or they may discount language that you thought to be toxic. Most important, they can provide you with anecdotes and specific examples demonstrating why certain language may be very good or very bad for their area. Be reminded, your colleagues in other divisions and departments know things about campus operations that you will never know unless and until you seek their assistance.

E. Know your Role in the Task

Does your role (job description) require you to register as a lobbyist pursuant to your State's laws and regulations?

Are you an attorney providing non-legal services to your institution when you lobby, or are you a lawyer-lobbyist providing non-legal services that are not distinct from legal services provided to your institution? Your answer here may have an impact on issues of privilege/confidentiality and work product protection, depending on applicable laws.

For attorneys who also serve as institutional lobbyist, the relationship with the president is key, as the president must afford the lobbyist significant independent authority. In the final hours of session funding and other decisions are often made very quickly, and legislators ask for immediate decisions on funding priorities or bill language preferences of the institution, with virtually no time for consultation back home. The lobbyist must have the authority to make informed, on-the-spot decisions. Therefore, the lobbyist must have intimate knowledge of the institution to be most effective, especially in time critical circumstances.

During session, Boards will want information and your President will want to give it to them. An important governance responsibility of counsel is to (i) stay on top of the issues so that you can explain it to them and (ii) assure Board that you will have a compliance plan for whatever laws pass.

F. Organize Yourself before Session

Subscribe to a legislative bill tracking service – a must for calendaring, bill tracking, and keeping current on breaking news. This is a rich resource that will provide you with detailed background information on each legislator (personal information, contact information, committee assignments, staff, district information, honors and affiliations, prior public service, etc.), very helpful in enabling you to establish a rapport and interact in an informed way. The service usually also provides the ability to create bill reports that can be distributed to colleagues with an interest.

Off season visits to legislators, and invitations to them and their staff members to come to campus for tours, events, and campus – relationship building is critical.

You usually will support far fewer bills than those against which you will play defense – it is much easier to kill a bill than to pass a bill. Pay attention to bill language at the time of filing, and at all times thereafter in the process. Amendments can fly in unexpectedly, and bill language may pass (or die) at the end of session attached to a different bill than the bill in which it originally appeared. Constant communication with your entire relevant network is necessary as bills progress (or not) in the process.

III. How to Craft and Pass a Bill, from Scratch

A. Identify and Frame the Issue

1. As counsel, you are a registered lobbyist or you are supporting your government relations team and based on experience or observation, you identify an issue and say, "there ought to be a law" or "there ought to be a change in the law"...
2. Create a background document and craft a proposed solution by:
 - a. Researching the Issue, fleshing out the problem, honing in on a legislative solution;
 - b. Describing and documenting the gap/ambiguities in law and why this is a problem for your constituency and/or the State;
 - c. If available and helpful, support your arguments with relevant data, research, and evidence. Statistics, case studies, and expert testimony can strengthen your advocacy efforts.
 - d. Providing specific examples of problems created by the gap, any supporting data if appropriate, and how and why a new law, or an amendment of an existing law, will solve the problem for your institution and the State (and best yet, for constituents of the legislators);
 - e. Developing proposed statutory language and add to the documentation.

Advocacy Tip: Have clear objectives and know your issue – use your subject matter expertise to craft a compelling case, on solution focused terms.

B. Build an Advocacy Team

1. Obtain the Support of your constituency (ies).
 - a. Pitch your idea – explanation of problem and solution, collaborate with colleagues on development of proposed statutory language, and finalize first draft of background document and proposed language.
 - b. Think through the issue from a legislator’s perspective – why does this idea make sense as both a policy and political matter? Anticipate questions, objections, and counterarguments. Have thorough and persuasive responses ready to address concerns and misconceptions.
 - c. Get support of key colleagues within your institution, then perhaps colleagues at other institutions if you are in a system, then take idea to and through state authorities who may have a stake in your emerging bill – all for review, refinement, and approval.

- d. Throughout the vetting process, be open to constructive suggestions for revisions to original proposal – to get buy-in and ownership of others, some adjustments may be necessary. Be prepared to adapt your strategies based on changing circumstances, feedback, or new information. Flexibility and agility are essential traits for successful advocacy.

2. Identify and Obtain Support from Other Constituencies

- a. Pitch Idea again, as appropriate, to other groups, associations, entities that would benefit from or have their interests supported by passage of this language.
- b. Again, collaborate and agree with them on language, to ensure that they will actively support (or at least not oppose) efforts to pass the bill. Again, be open to constructive suggestions for revisions to the emerging proposal, without gutting the idea/solution. If no agreement, best case is that you work with them not to oppose. Indeed, politics often makes strange bedfellows.
- c. Make appropriate changes to background document and proposed language and finalize draft.
- d. Recognize support and thank people along the way.

Advocacy Tip: Build support and assemble the advocacy team. Keep growing it. Passing a bill is a study in cooperation, collaboration, and patience.

C. Identify Bill Sponsors in House and Senate and Get Bill Drafted and Filed

1. Working with allies and other involved education sectors (and business/industry, local governments, etc.), speak with substantive committee staff in House and Senate about your bill and share your documents. This gives them an early look at a bill that may be in front of them later in the process and gives you a chance to work out any kinks before getting too far down the road. Also, they may deem it appropriate for a Committee Bill, which can be very beneficial.
2. Identify members who have a combination of interest and knowledge of the subject matter and credibility in the process, whether by leadership role, committee assignment or known preferences. Cultivate relationships with key decision-makers and their staff. Establishing trust and rapport can enhance your credibility and influence.
3. Meet with the legislative aides of these members. Share your prepared documentation with them. Even more helpful, have other leaders (heads of allied constituencies) approach these legislators and aides to request sponsorship as well, to assure them their legislative efforts will be well supported. Nobody wants to sponsor a losing cause that has little support. After getting aides on board, meet the legislators and get their agreement to sponsor.

4. Follow up with aides to ensure that the proper bill sponsorship forms are filed, and sponsorship is established before the members run out of available bill slots.
5. Assist aide in filing the proposed language with the House/Senate bill drafting offices.
 - a. Once filed in bill drafting on both sides, develop a relationship with and work continuously with each bill drafting staff to ensure that their edits to your submitted draft do not make substantive or other negative changes to the bill. It is helpful to be able to view and amend drafts before they are finalized – otherwise you are faced with making immediate amendments to your own bill to correct bill drafting errors. Help them understand the concepts behind the language as well as the desired language and answer their questions promptly. Also, it is helpful if the initial bill language is identical (or very close) in each chamber’s bill. This is a key step in the process.
 - b. Make note of the bill number that is assigned to your bill on each side (In Florida, House – odd, Senate – even), and create a one pager that distills the information in your background paper and clearly identifies chamber, bill number, sponsor, key components of the bill, and specific request for support. Also, prepare your elevator speech on the bill – you must be able to explain it quickly and concisely in those fleeting moments when you have the momentary attention of an important player.
 - c. Recognize support and thank people along the way.

Advocacy Tip: The qualities of a successful advocate – always be professional, genuine, transparent, honest, trustworthy, accurate, fair, reasonable, and always build and nurture relationships.

D. Ensure that Bill is Referred to Appropriate Committees for Approval

1. Meet with House Speaker/ Senate President and/or their respective staffs and each chamber's Rules Committee Chair (or staff) and make the pitch again, using the newly created one pager, describe the alliance of support that has been built, and identify the bill sponsors. Try to get understanding and support, and to take care that the bill is referenced to relevant committees and not too many committees (this bogs down the process and complicates passage). Once the committee references are made, work to get the bill calendared at the first committee of reference in both the House and the Senate.

E. Give the Governor's Policy Staff a Preview of the Bill

1. Given that the Governor has veto power over all legislation, it helps to meet sooner rather than later with the Governor's policy and/or budget staff to acquaint

them with the bill and work out any concerns they might have so that if the bill ends up on their desk later in the process, you don't have to frantically bring them up to speed on the bill.

Advocacy Tip: When speaking with members and staff, be well prepared and efficient in your comments – always be respectful of their time pressures by being concise and to the point. In fact, after meetings or interactions with decision-makers, follow up with thank-you notes, additional information, or requests for further action. Maintaining communication helps sustain relationships and reinforces your message.

F. Work Committee Staff, Committee Members in both Chambers

1. Normally, bills will be referred to about three committees in each chamber. These committees of reference consider the bill, take testimony, ask questions, debate, and vote on the bill. To reach the chamber floor, the bill must pass out of all committees of reference. Some states have concurrent chamber consideration, others may have consecutive chamber consideration.
2. First, work with committee staff to get the bill placed on the committee's agenda at the first meeting possible. Again, using the one pager, you must start all over again advocating for your bill, trying to get understanding and support (or least, no opposition...)
3. Once the bill is calendared for consideration in front of a committee, work committee staff and all members of the committee on the bill, advocating, answering questions and gathering understanding and support. Activate your advocacy team to do the same. Very helpful to have support from the legislator's own district.
4. Committee staff prepare a detailed bill analysis for each bill presented to the Committee – you want to make sure that you have spent sufficient time with staff on the bill to ensure an accurate (and favorable) bill analysis. It helpful to have a close working relationship with staff so that they will share drafts of the emerging analysis with you to allow you to correct errors and suggest language.
5. This process continues as the bill works its way from committee to committee, in the House and in the Senate. During this time, you must attend all committee meetings in which your bill is considered, testify in support of the bill, and get other leaders to attend and testify as well. During this time, you may seek to amend your own bill to modify language in response to stated concerns or otherwise as deemed necessary to pass the bill. Very important: be sure to supply your bill sponsors (and staff) with a well written one-pager to which they can refer while presenting the bill to the committee.
6. *Big Challenge:* dealing with (and fending off as necessary) proposed amendments and keeping the advocacy alliance together if the bill is amended along the way...

7. Advocacy is often a long-term process. Don't be discouraged by setbacks or initial resistance. Maintain momentum and continue advocating for your cause.
8. Recognize support and thank people along the way.

Advocacy Tips: Learn the legislative process and rules. Practice the art of reasonable compromise and be adaptable. Focus on the key principles at stake and don't ever "burn bridges," because your opponent today may be your partner tomorrow. Be available and be responsive. Never ever lie or make up an answer with respect to your bill – if you lose credibility among legislators and staff, you are finished.

G. Once the Bill Has Cleared All Committees of Reference – To the Chamber Floors!

1. Bill must be passed by all committees of reference (or withdrawn from committee and brought directly to the floor) and then calendared again to be considered on the respective chamber floors of the House and the Senate. Then, each bill must typically be read three times on each side before a vote is taken on final passage. Often you must concurrently work both chambers to move the bill along. Usually, the bill passes on one side first, and then you work with the other side to get it properly calendared, trying to keep the versions identical.
2. You must work with the Speaker/President and respective Rules Committee chairs to ensure the bill is calendared for first reading, second reading, and third reading in a timely manner. If you can't get it on the calendar, it will not be heard and it will not pass.
3. You must carefully monitor any amendments that are filed on your bill. This is the time when opponents who have been unsuccessful in killing your bill to date will attempt to impair it with hostile amendments. Also, if your bill is moving through the process quickly, others may see your bill as a good vehicle to attach their own related bill language which has not progressed through committee. These amendatory efforts can kill a bill very quickly. Key: Keep your bill clean of hostile and other amendments if possible. If the bill is amended on one side, it must be conformed to that exact language on the other side and passed or the bill will die. Identical versions of the bill must be approved after third reading by both the House and the Senate – passage in one chamber only means the bill is dead, as does the passage of different versions without reconciliation. And recognize support and thank people along the way.

Advocacy Tip: Communicate early and often. Watch and listen carefully, because the game you are watching often is not actually the game being played.

H. So, The House and Senate Both Passed the Bill...Now What?

1. Your bill will now be enrolled and sent to the Governor for approval with signature, approval without signature, or veto.

2. Remember that conversation you had long ago with the Governor's policy staff? This is where that prior conversation comes in handy...you now must advocate for your bill one final time with the Governor and his team... Hopefully you were effective in your first conversation, and they recall the matter and restate their approval. In any event, you do not want this to be your very first conversation with them seeking understanding and support.

I. Finally, your bill is approved by the Governor and becomes law!!

1. Now that your bill has become law, and you are an expert on the impact and details of implementation of this new law, you are in a good position to participate in promoting awareness of, compliance, and training with respect to the implementation of the law by your institution.
2. Regardless of whether the bill passed, you also may have noticed that it is important that you take the time to personally thank all the people who helped along the way. Despite what you may have heard, most successful lobbyists are ever gracious and thoughtful professionals. Only a very few bills are passed the first year they are introduced, and the ratio in any session of bills passed versus bills filed is usually quite large. If the bill passed, recognize the accomplishment and contributions of others and generously express your gratitude – courtesy and collegiality go a long way in this process. Likewise, even if the bill failed this time, there is always next year, and the year after (some ideas take several years to gain understanding and receive widespread support), so be sure to show your sincere appreciation and keep the interest stoked until your bill becomes law.

Advocacy Tip: Ok, so you passed a bill. Now, get back to work – your institution still needs you... Next issue, anyone?

Attachments

1. **Example of “One-Pager” Used to Explain a Bill and Request Support**
2. **Example of a Whimsical Depiction of “How a Bill Becomes a Law”**

SB 2426 / SB 2374 **STUDENT EDUCATION RECORDS**

Florida law severely conflicts with controlling federal law with regard to access and disclosure of education records of students in public educational institutions. Florida law must be amended to conform to federal law.

Background

▶ The federal Family Educational Rights & Privacy Act of 1974, 20 U.S.C. § 1232g, popularly known as “FERPA” or the “Buckley Amendment,” and its extensive implementing regulations, found at 34 C.F.R. Part 99, apply to all public and private institutions of higher education that receive funds made available under programs administered by the Department of Education, including federal grant monies, Pell grants, guaranteed student loan programs.

▶ In very general terms, FERPA gives college students and the parents or legal guardians of primary and secondary students the rights to:

1. Control the disclosure of their (or child’s) “education records” to others;
2. Inspect and review their own (or child’s) “education records;” and
3. Seek amendment of their (or child’s) “education records.”

Discussion

▶ Due to years of inattention, Florida’s state analogy to FERPA, codified in Florida Statutes as s. 1002.22 and applicable to Florida’s public educational institutions, is now cumbersome and obsolete as compared with the more detailed and responsive federal law.

▶ Dozens of discrepancies between s. 1002.22 and FERPA now exist, without the support of any coherent state policy. These inexcusable inconsistencies and omissions force our public educational institutions regularly to risk running afoul of both state and federal laws in their good faith attempts to implement these laws, creating an unacceptably high risk of liability to public educational institutions and unjustified confusion for parents and students statewide.

▶ Federal law provides for the withholding of federal funds for institutions that have a policy or practice of violating FERPA. Florida law provides for a private right to sue and attorney fees for the successful litigant in the case of a violation of s. 1002.22. Inaction by the legislature increases the risk of Florida’s loss of millions of federal education dollars and substantial litigation expenses due to an unsound and deficient Florida law.

SB 2426/SB 2374

▶ Conforms Florida law to federal law, provides rulemaking authority to State Board of Education for K-12 system (rulemaking authority for colleges and universities already exists).

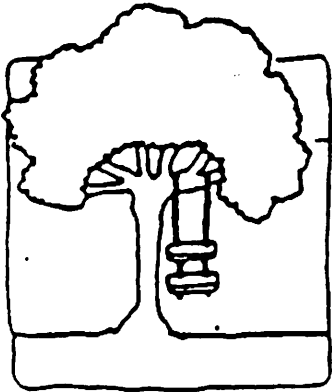
▶ Restates the longstanding public records exemption for education records for all public education sectors, now using established FERPA definition of “records that are directly related to a student and that are maintained by an educational institution,” with FERPA exceptions.

▶ Provides for disclosure of education records as permitted by FERPA.

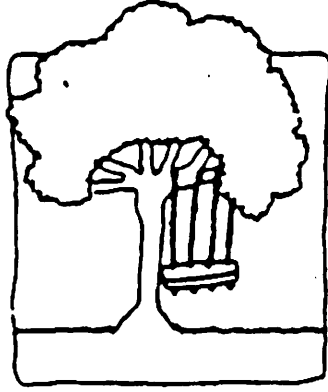
▶ Provides for public records exemption for applicant records for public postsecondary institutions. Applicant records of students who do not enroll are not education records under FERPA, but may contain many of the same records (academic transcripts, disciplinary reports, disability, etc.) maintained for enrolled students, which are confidential and exempt.

Please support Florida’s System of Public Education and join the Board of Governors, the State University System, the Florida College System, and the Florida Department of Education (K-12) in supporting these important bills.

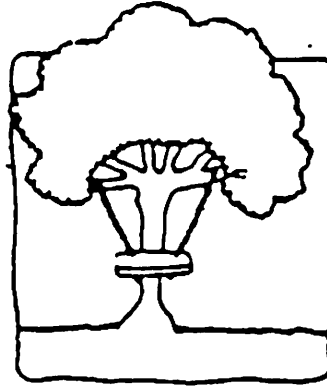
How A Bill Becomes Law



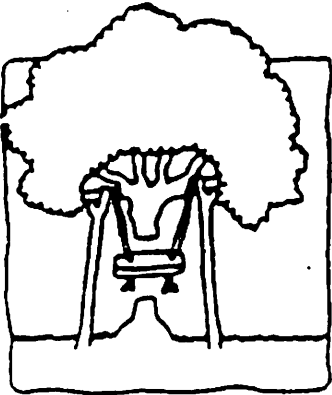
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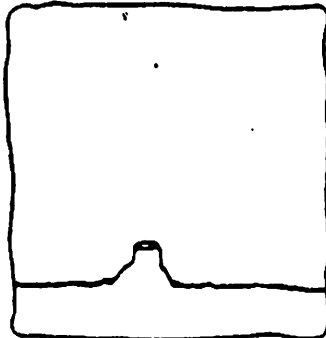
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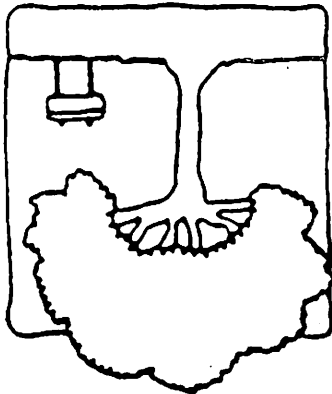
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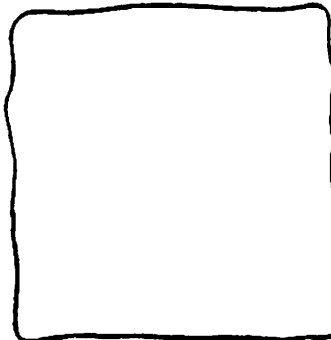
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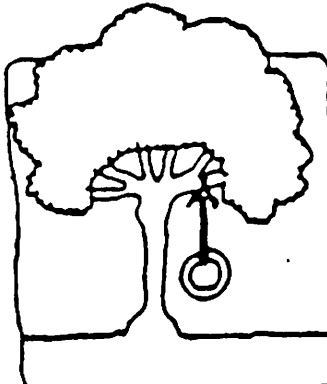
AS IMPLEMENTED BY
THE STATE AGENCY



AS REPORTED BY THE
MEDIA



AS UNDERSTOOD BY
THE PUBLIC



WHAT WAS ACTUALLY
NEEDED

Reprinted from Trial Talk.

HOW TO PLAY THE GAME: NAVIGATING THE STATE LEGISLATIVE PROCESS

March 5, 2024

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Bowie State University

Post Session Compliance

I. After The State Legislature Adjourns *Sine Die*, Organize and Analyze

Compliance is often a separate function at colleges and universities. Some institutions have compliance officers or risk management offices that oversee implementation of new laws. The compliance officer may or may not report to the Office of the General Counsel; at a minimum, the compliance officer is a key partner.

Once the legislative session ends, General Counsel will need to take a deep breath and a deeper dive into bills that the legislature passed, and the Governor will sign (or veto)¹. Whether you have played a direct role in the legislative process or worked with the government relations team, General Counsel have the important task of ensuring that their institutions comply with new mandates. The sheer number of bills heard during a state legislative session can be quite overwhelming and breadth of issues covered is equally daunting²: procurement; personnel; student aid; campus safety; IT security; mental health; discrimination; economic and workforce development; facilities; and environmental regulation, among others. And in the waning days of a fast-paced legislative session, bills you may have been tracking could have been amended such that what may have started as an innocuous measure turned out to be something less than desirable, or worse, something problematic for your campus. Good or bad, the university must still comply with these new laws.

General Counsel will need to get organized quickly and begin analyzing the enacted bills. Campus stakeholders need to be aware of new laws and also understand how these laws will affect the institution's operations and workplans. For example, a law requiring an institution to adopt, disseminate and post a new policy by a certain date can require a lot of time for drafts,

¹ In the unfortunate situation where efforts to kill or amend a bad bill during the legislative session have failed, universities will need to re-assess the impact of the bill on campus operations and determine (a) whether the institution can live with it, (b) whether to devise a strategy for the next legislative session to minimize the impact, or (c) whether to seek to have the Governor veto the bill. This option can have political implications that will need to be carefully weighed.

² As of March 1, 2024, more than 2,500 bills have been introduced in the Maryland General Assembly. The state legislative session runs for 90 days.

discussion, and debate through the campus shared governance process. General Counsel will have to work with the campus subject matter experts to ensure any new policy mandates are met. New laws requiring institutions to create positions for a specific function will also require lead time for the search and hiring processes. Some new laws can have fiscal implications that may affect the institution's ability to comply. The sooner stakeholders know what's coming, the better they can plan for compliance.

II. Communicate and Educate

The Office of the General can play a role in conjunction with government affairs staff in alerting the campus community, including governing boards, about new laws. This communication can take several forms. Post session newsletters or memoranda to the campus or to specific campus leaders can be an effective way to build awareness. Although these communications can build general awareness, awareness alone does not ensure compliance. There must be a sense of ownership and accountability. The General Counsel will want to know who is responsible for implementing specific measures on the campus and provide support for those efforts.

Building awareness involves educating campus clients about the requirements of new laws. Depending upon the complexity of the new laws, the General Counsel may need to provide training to campus leaders to ensure there is general understanding of what is required by whom and when. These "training" sessions can sometimes reveal nuances in the laws or challenges to compliance that may not have been apparent during the legislative process. Such challenges should be documented for possible future legislative action.

III. Track and Assess

After building awareness and educating campus constituents on the requirements of newly enacted laws, the General Counsel will want to track the university's compliance with these laws, even if the institution has a compliance officer. A sample compliance chart is attached.

It is not always easy to fully understand how a measure will affect your campus before it is enacted, especially if last-minute amendments were tacked on before passage. In addition to tracking the institution's compliance, General Counsel will want to confer with campus stakeholders who are leading implementation of these new laws to assess how the institution is complying. Was the timeline for compliance too short? Did efforts to comply require more resources than were appropriated (assuming the law was not an unfunded mandate)? Were reporting requirements unclear or overly cumbersome? This analysis can help inform conversations with well-meaning legislators about unintended consequences of bills that were enacted and help in planning a strategy for "correcting" well-intended but problematic laws.

IV. Lay the Groundwork for Next Session

As noted above, once implementation of new laws begins, you often discover unintended consequences that may be problematic for your campus. General Counsel (or government relations staff) will want to keep track of serious concerns about the implementation of new laws. It is not uncommon for legislators to introduce corrective measures, clarifying legislation, legislation to extend deadlines or repeal laws entirely. If your campus is seeking relief from a problematic law, you will need to lay the groundwork for future action by communicating early and often with legislative staff.

Sample Legislative Session Summary and Compliance Tracking

Bill Number	Name and Synopsis	Action(s) Required	Effective / Due Date	Responsible Unit(s)
SB 1/HB 1	<p>Settles 2006 lawsuit <i>Coalition for Equity & Excellence in Maryland Higher Education vs. State of MD</i>. Provides \$577 million to HBCUs over 10 years: FY 23-FY32. BSU’s allocation in FY 23: \$16,790,700 (less share of attorney’s fees); minimum of \$9 million each year after FY 23*.</p> <p>Funds to be used for scholarships and support services, faculty recruitment and development, expanding/improving existing academic programs, development and implementation of new academic programs, including online programs, academic support and marketing</p>	<p>Annual report to General Assembly on costs of new academic programs developed.</p> <p>Work with USM/MHEC to evaluate and improve academic program review policies – report due 12/1/21</p> <p>HBCUs encouraged to hire consultant to assist with program development – report due 12/1/21</p>	<p>Reports due 12/1/21</p> <p>Annual Report beginning 12/1/23</p>	<p>Academic Affairs</p> <p>Administration & Finance</p> <p>Enrollment Management</p> <p>URM</p>
SB 9	<p><i>Collective Bargaining – Applicability, Bargaining Processes and MOUs</i></p> <p>Centralizes all campus bargaining at USM</p>	N/A	6/1/21	HR
SB 717/ HB 904	<p><i>Collective Bargaining – Exclusive Representative Access to New Employees</i></p> <p>Provides union access within first full pay period or at new employee orientation; expands to 30 minutes time for union to address new employees</p>	Encourage employee participation	7/1/21	HR
SB 40/ HB 1124	<p><i>Richard Collins III Leadership with Honor Scholarship</i></p> <p>Allows BSU students to receive more than 25% of the HBCU scholarship pool from MHEC</p>	N/A	7/1/21	Enrollment Management
HB 183	<p><i>Public Information – Equitable Access to Records Act</i></p> <p>Expands disclosure requirements for requests under the Maryland Public Information Act</p>	Create policy of “proactive disclosure” of public records available for inspection (may include publication of records on	7/1/22	General Counsel

	Expands jurisdiction of the Public Information Act Compliance Board	website or publication of prior responses to requests)		
HB 940	<i>Gaming – Regulation of Fantasy Gaming Competitions and Implementation of Sports Wagering</i> Senate amendments provide \$1.5 million to MSU and BSU to create Center for the Study of Data Analytics and Sports Gaming	Develop academic programs/create center	6/1/21	Academic Affairs
SB 220/ HB 128	<i>Hate Crime – Protected Groups and Penalties</i> Adds gender identity to list of protected classes under existing hate crime statutes.	Requires USM to coordinate development of anti-bias education program for offenders, as may be ordered by the court	10/1/21	General Counsel Equity Compliance
HB 216	<i>Higher Education – Tuition Exemption for Foster Care Recipients and Homeless Youth</i> Expands definition of “homeless youth” eligible to receive tuition waivers by removing requirement that the youth be “unaccompanied” and independent Gives homeless youth priority status for on-campus housing Clarifies that waiver applies to fall, winter, spring & summer terms	Designate staff liaison with expertise in financial aid; Liaison must assist with application for financial aid Must notify current and prospective students about the liaison Annual report Inform current and prospective students about availability of application for tuition exemption. Establish process for applicant to appeal a denial of tuition exemption application.	7/1/21	Enrollment Management
SB 405/ HB 466	<i>Student ID Cards – Required Information</i> Requires campuses to add telephone numbers for 24-hour crisis hotline or crisis center to student ID cards	Bulldog Card redesign	7/1/21	Auxiliary Services Student Affairs
SB 127	<i>Use of Criminal History in Admissions</i> Prohibits campuses from disqualifying applicants for undergraduate admission based on criminal history obtained from 3 rd party admissions application Prohibits campuses from inquiring about student’s criminal history or denying admission to an academic program	Institution of Higher Education may use third party admissions application if institution does not use application to disqualify an applicant based on criminal history and posts a notice on its website stating that criminal history does not disqualify an applicant from admission.	7/1/21	Enrollment Management Student Affairs

<p>SB 439/ HB 125</p>	<p><i>Jordan McNair Safe and Fair Play Act</i></p>	<p>Adopt guidelines on serious sports-related conditions, exercise and supervision guidelines for athletes with life-threatening health conditions; return-to-play protocols</p> <p>Name, Image & Likeness (Compensation) rules must be followed beginning July 1, 2023</p> <p>Annual reporting – Oct 1</p>	<p>7/1/21; 7/1/23</p>	<p>Athletics</p>
<p>SB 732</p>	<p><i>Maryland Innovation Initiative University Partnership Pilot Program</i></p> <p>Creates pilot program within Maryland Technology Development Corporation (TEDCO) to support technology validation, entrepreneurial development and industry engagement</p> <p>BSU and Frostburg to participate @ cost of \$50,000</p>	<p>FYI</p>	<p>7/1/21</p>	<p>Academic Affairs</p>
<p>SB 800/ HB 1337</p>	<p><i>Inmate Training and Job Act</i></p> <p>Establishes pilot program at HBCUs to provide educational and vocational training opportunities for inmates in the 12 months preceding release</p>	<p>Designate primary contact and mentors</p> <p>Annual reporting to MHEC beginning Dec 15, 2022</p>	<p>7/1/21</p>	<p>Academic Affairs (Dr. Julius Davis)</p>
<p>SB 283/ HB 156</p>	<p><i>Student and Military Voter Empowerment Act</i></p>	<p>Designate staff member to serve as student voting coordinator; develop student voting plan</p> <p>Simplify web links for ease of access by students</p>	<p>6/1/21</p>	<p>Student Affairs</p>
<p>SB 741/ HB 836</p>	<p><i>COVID-19 Testing, Contact Tracing and Vaccination Act</i></p>	<p>Create and post COVID-19 security plan (screening and testing) to ensure faculty, staff and student safety while on campus for face-to-face instruction for fall 2021</p>	<p>Upon enactment</p>	<p>COVID Task Force</p>
<p>SB 767/ HB 891</p>	<p><i>Hunger –Free Campus Grant Program</i></p> <p>Establishes MHEC program for designating campuses</p> <p>Requires campuses to provide matching funds</p>	<p>Optional</p>	<p>7/1/21</p>	<p>Student Affairs</p>

SB 895	<i>USM-Student Fees Review and Spending</i> Requires student committee to review proposed fees	Already comply with shared governance process. Consider creating student fee committee	7/1/21	Administration & Finance Student Affairs
SB 778	<i>Regional Institution Strategic Enterprise (RISE) Zone Program</i> Promotes economic and community development around anchor institutions such as universities	Consider joint application with County to designate area (designation is good for 5 years)	6/1/21 7/1/21	Administration & Finance
SB 710/ HB 73	<i>State & Local Government and Public Institutions of Higher Education – Teleworking</i> Requires higher education institutions to adopt telework policy and guidelines, comply with statewide telework program	Review/revise current telework Annual reporting Dec 1	7/1/21	HR General Counsel
HB 670	<i>Police Reform and Accountability Act of 2021</i> Among several changes, repeals Law Enforcement Officers’ Bill of Rights (LEOBR); creates scholarship and loan repayment assistance programs for law enforcement officers	Assess impact on MCEA collective bargaining, police discipline	7/1/21 7/11/22 for repeal of LEOBR	Student Affairs Enrollment Management HR
HB 1444	<i>Income Tax Credit- Endowments of Maryland Historically Black Colleges – Extension.</i> Alters the termination date of a law that allows a credit against state income tax for a certain amount of donations to certain permanent endowments funds	FYI	July 1, 2022	Institutional Advancement
SB 696	<i>Maryland Loan Assistance Repayment for Nurses and Nursing Support Staff-</i> establishes fund to assist certain nurses and nursing workers with the repayment of certain education loans.	FYI	July 1, 2022	Academic Affairs- Dept. Nursing
HB 966	<i>Academic Credit for Prior Learning Examinations-</i> higher education institutions required to develop and implement policies and procedures for awarding academic credit for prior learning examinations and post the policies and procedures on website.	Review/revise current policy; update website	October 1, 2022	Academic Affairs/Enrollment Management

NACUA Webinar

HOW TO PLAY THE GAME: NAVIGATING THE STATE LEGISLATIVE PROCESS

March 5, 2024

Anna Moir

Senior Legal Resources Attorney
NACUA

Quick Tips for Engaging with the Legislative Process

- 1.) Regardless of your role, take the time to learn your state's legislative process.
 - a. What are the specific steps needed for a bill to go into law and for the budget to be approved?
 - i. How and when do bills get drafted and introduced?
 - ii. How many subcommittees and committees must they pass?
 - iii. Who chairs those committees?
 - iv. What body specifically drafts and edits the bills/budget (e.g., Legislative Services)? Does this same group serve as counsel to legislators? Identify the higher education attorneys/staff in that office.
 - v. Learn the key dates and decorum. How many days are in your session? When does crossover occur? When does session adjourn? When is the effective date of new laws?
- 2.) Who is already lobbying on your institution's and similarly situated institutions' behalf (state agency, independent association, etc.)?
 - a. Make sure someone in OGC pays attention to what that organization is doing.
 - b. Even if you have a government relations team, OGC should have some oversight of legislative activity. Implement and maintain a regular communications process with the government relations team.
- 3.) Learn which legislators are friendly to higher education (i.e., willing to patron bills for IHEs or introduce helpful substitutes or amendments to bills that are averse to higher education). Establish and maintain positive relations with the legislators for the district(s) where your institution is located.
- 4.) Pay attention early and often as bill drafts are posted. Learn how to use your legislative website (they are not known for being tech-friendly).
- 5.) Don't just nurture relationships with legislators. Be kind to their aides. Know the legislative attorneys and budget specialists; you can typically only work with these folks on legislation once you receive explicit permission from a legislator, but it helps when

they know who you are and enjoy working with you. Respect their expertise on how to draft bills that fit into your state's code or changes in the state budget, and they will respect your higher education legal expertise. Present yourself as a helpful resource and friendly face.

- 6.) Appreciate that legislative employees are often managing hundreds of bills and budget items across various subject matter areas. Be proactive but patient. Successful working relationships with them are key.
- 7.) Pay attention early and often as drafts are posted. Submit your substitutes and amendments early (e.g., avoid sending an amendment request at 11:00pm the night before an 8:00am meeting when that bill draft has been posted for weeks).
 - a. Keep in mind, your work is not finished just because a bill draft is published. Follow the legislative process closely for any needed substitutes or amendments or for if someone else introduces a substitute or amendment to bills.
- 8.) Develop a public testimony strategy. Even if your institution prefers to do business outside of committee meetings, how will you go about speaking if called upon in a meeting? How can you get your point across quickly and effectively when you need to speak publicly?
- 9.) Develop relations with other institutions so that you can present issues or introduce and oppose legislation together.
- 10.) Develop a comprehensive institutional plan to implement new laws after legislative sessions end.

How to Play the Game: Navigating the State Legislative Process

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Agenda

- Introduction
- Influencing, Reacting to, and Supporting the State Legislative Process
- Post Legislative Session Compliance
- CLE Code #1 and Audience Q&A
- Maxims for General Counsel in Legislative Relations
- CLE Code #2 and Audience Q&A
- Closing Remarks



Influencing, Reacting to, and Supporting the State Legislative Process

The State Legislative Landscape

- In recent years, increased scrutiny and legislative/policy intervention in higher education
- Impacts on higher education institutional curriculum, programs, and operations
- Impacts on institutional governance
- Role of counsel in government affairs is changing, trending toward more involvement

Learn the Game: Getting Started – Lobbying 101 and Beyond

- Know Your Legislative Structures Implementing the Process
- Know the People in the Process
- Know the Process in Your State
- Know the Issues Important to Your State, Your Institution, Your System, and Higher Education Generally
- Know Your Role
- Get Organized and Equipped to Play the Game

How to Craft and Pass (or Kill) a Bill

- Identify and Frame the Issue
- Build an Advocacy Team
- Making a Bill Real – Sponsors, Drafting, Filing
- Committees, Chamber Floors, The Governor

Advocacy Tips

- Have clear objectives and know your issue – use your subject matter expertise and collaborative input to craft a compelling case, on solution focused terms.
- Build support and assemble the advocacy team. Keep growing it. Passing a bill is a study in cooperation, collaboration, and patience. Communicate early and often. Maintaining communication helps sustain relationships and reinforces your message.

Advocacy Tips

- The qualities of a successful advocate – always be professional, genuine, transparent, honest, trustworthy, accurate, fair, reasonable, and always build and nurture relationships.
- Never ever lie or make up an answer with respect to your bill – if you lose credibility among legislators and staff, you are finished.
- When speaking with members and staff, be well prepared and efficient in your comments – always be respectful of their time pressures by being concise and to the point. Express your appreciation for their time and efforts as often and generously as possible. A genuine and timely “thank you” is always helpful and appropriate.

Advocacy Tips

- Learn the legislative process and rules. Practice the art of reasonable compromise and be adaptable. Focus on the key principles at stake and don't ever "burn bridges," because your opponent today may be your partner tomorrow. Be available and be responsive.
- Watch and listen carefully, because the game you are watching often is not actually the game being played.



After the Session:

Post Legislative Compliance

Organize and Analyze

After the dust has settled...

- Deep dive into bills that have passed
- Beware of last-minute amendments
- Look for mandates, reporting requirements and deadlines

Communicate and Educate

- Identify and alert stakeholders (including governing boards)
- Communicate to campus about new laws
- Determine who's responsible for implementation
- "Training" sessions on specific requirements of new laws
- Look for feedback, nuances

Track and Assess

- Work with Compliance Officer or Risk Management office
- Assign ownership
- Track requirements and deadlines
- Support compliance efforts; e.g., drafting policies
- Confer with stakeholders on implementation effort, obstacles

Lay the Groundwork for Next Session

- Track unintended consequences in new laws
- Unfunded mandates, hardship
- Make the case for corrective measures or even repeal
- Draft potential legislation for next session
- Communicate with legislative staff – early and often



Questions?



Maxims for General Counsel in Legislative Relations

Maxims for Working with the Legislative Process

- Legislators Generally
- Relationships Generally
- Legislative Process
- Legislative Dynamics
- Conclusion

A. Legislators Generally

- Legislators Deal Primarily in Concepts, Not Content
- Legislators are More Likely to Represent than Lead
- When Preparing Legislators, Assume Nothing
- Legislators Hate Surprises (Unless, of Course, it's a Surprise Fundraiser)
- Distinguish Legislators' Public Roles from Their Private Words
- Distinguish Membership from Partisanship

B. Relationships Generally

- Make Friends Before You Need Them
- Don't Get Caught up in the Merits of Your Position
- Reward Your Friends Publicly
- Co-opt Possible Opponents Early
- Define Your Issues and Problems Before Your Opponents Do it for You
- Know When to Have Others Make Your Arguments for You

C. Legislative Process

- Know Where You Are in the Process
- Confirm All Information
- Learn, Respect, and Use Legislative Staff Members
- Know How and When to Compromise
- Always Remember Tomorrow
- It Ain't Over 'til it's Over

D. Legislative Dynamics

- Distinguish Power from Will
- Work for Comity But Play to Power
- Defense is Easier Than Offense
- While Novelty is Appealing, Known Approaches are Easier to Sell
- If You Can't Explain It in 60 Seconds You May Lose Your Audience
- Respect the Power of Symbols and the Appeal of Davey's Fight Against Goliath

E. Conclusion

Relationships, not given bills, are often
the most important part



Questions?

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March 5, 2024

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