



Webinar

Sponsored by

Hogan
Lovells

How to Play the Game: Navigating the State Legislative Process

Karen Johnson Shaheed, *Executive Vice President, General Counsel, and
Chief of Staff*, Bowie State University

Derek Langhauser, *Of Counsel*, Maine Community College System

Bill Mallowney, *Vice President for Policy and General Counsel*,
Valencia College

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?

NACUA materials, PowerPoint slides and recordings available as part of this program are offered as educational materials for higher education lawyers and administrators. They are prepared by presenters and are not reviewed for legal content by NACUA. They express the legal opinions and interpretations of the authors.

Answers to legal questions often depend on specific facts, and state and local laws, as well as institutional policies and practices. The materials, PowerPoint slides and comments of the presenters should not be used as legal advice. Any hypothetical scenarios presented are based on fictional facts and persons. Legal questions should be directed to institutional legal counsel.

Those wishing to re-use the materials, PowerPoint slides or recordings should contact NACUA (nacua@nacua.org) prior to any re-use.