

## Self-Study Syllabus

### Week 1: Introduction and Practical Advice for New Campus Counsel

- Welcome and brief overview of NACUA resources
- Brief overview of legal issues unique to higher education
- Practical advice on transitioning to the practice of higher education law

#### **Suggested Reading:**

1. Larry White, "Larry White's 20 Aphorisms for New College & University Lawyers" (revised May 2018)(p. 3 of linked .pdf).
2. Derek Langhauser, "Twenty-One Lessons Learned Over Twenty-One Years" (Lawyers New to Higher Education Workshop 2014) (pps. 4-7 of linked .pdf).

### Welcome to NACUA: Staff and Resources

- Meet the NACUA Staff
- Learn about NACUA Member Benefits and Resources
- Learn staff members' favorite timesaving tips and tricks for accessing resources on NACUA's website

**Suggested Reading:** NACUA, "NACUA's Top 10 Timesaving Tips to Assist you with Daily Practice" (2018)(p.2 of linked .pdf).

### Week 2: Meet the Faculty

- Faculty tenure
- Faculty performance management and discipline
- Academic Freedom/ First Amendment: *Garcetti v. Ceballos*
- Practical issues/concerns

**Suggested Reading:** Shelley Sanders Kehl and Barbara A. Lee, "Faculty Concerns: Academic Tenure" (2020).

### Week 3: Fun with FERPA

- An overview of the FERPA framework and its key definitions
- The principal disclosure exceptions
- The often forgotten "inspect and review" and "seek amendment" rights
- Saving the best for last: FERPA's enforcement mechanism

**Suggested Reading:** Melissa J. Holloway and Stephen J. McDonald, "The Fundamentals of Fundamental FERPA" (Sept. 15, 2020).

**Week 4: Application of Federal Antidiscrimination Law to Colleges and Universities**

- Racial discrimination and harassment (Title VI)
- Free speech, diversity, and inclusion
- Sex discrimination and transgender legal issues (Title IX)
- Religious freedom
- Disability discrimination

**Suggested Reading:** Adaptation of Original Manuscript by Beverly Ledbetter and William Thro, "[Application of Federal Antidiscrimination Law to Colleges & Universities](#)" (updated Fall 2020).

**Week 5: College Athletics**

- NCAA structure and enforcement
- Athletics contracts
- Title IX and intercollegiate athletics
- Trending topics

**Suggested Reading:**

1. Bharath Parthasarathy, "[Contract Issues in College Athletics](#)" (Lawyers New to Higher Education Online Course 2020)(pgs. 4-25 of .pdf).
2. Janet Judge, "[NCAA Guidelines: Sports Medicine, a General Overview](#)" (Lawyers New to Higher Education Workshop 2019)(pgs. 26-29 of .pdf).
3. Bill Thro, "[The Title IX Implications of Eliminating an Intercollegiate Sports Team](#)" (NACUANOTE , June 22, 2010)(pgs. 30-38 of .pdf).
4. [Table of Contents with Additional Resources](#) (compiled Fall 2020) (pps. 2-3 of .pdf)(resources on concussion litigation, division manuals, NCAA guidance, and more).

**Week 6: Introduction to Sexual Misconduct Issues: Title IX, Title VII, and the Courts**

- Title IX Regulations: Status and Implications for Practice
- The Intersection of the Clery Regulations, VAWA, Title IX, and Title VII
- Title IX in the Courts: Deliberate Indifference, Erroneous Outcome, and Selective Enforcement
- Practical advice for campus counsel in adopting, revising, and administering sexual misconduct policies on campus

**Suggested Reading:**

1. [Title IX Final Regulation](#) (Effective Aug. 14, 2020)(regulations only at pps. 2008-2033, not preamble).
2. NACUA, [Title IX Regulations Grid with Preamble](#) (May 17, 2020).

**Week 7: Wheels Up! – Navigating University International Programs**

- Review frameworks for addressing international initiatives
- Discuss select U.S. and foreign law compliance issues, while highlighting recent trends and hot topics – e.g., crisis response plans related to worldwide health and safety concerns, foreign influence and disclosure requirements, student recruitment, immigration and visas, online programs and remote learning.
- Share unique contract terms, tips, and strategies for negotiating cross-border contracts

**Suggested Reading:**

*It is suggested that you read a sampling of these resources, at your discretion:*

1. Pietrina Scaraglino and Marta Thompson, [“Documenting the Deal: Critical Contract Terms for Agreements with Non-U.S. Parties”](#) (NACUANOTE, March 9, 2020).
2. William Ferreira, William P. Nicholson, Sandra Holmes, and Peter F. May, [“Building Partnerships and Developing Agreements with Foreign Institutions”](#) (NACUA Annual Conference 2019).
3. Robert F. Roach, Neson G. Dong, Donald Fischer, and Katherine A. Rojo del Busto, [“Global Compliance in Uncertain Times: Keeping Up with Foreign Export Controls, Economic Sanctions, and the Foreign Corrupt Practices Act”](#) (NACUA Annual Conference 2019).
4. William Ferreira, Chris Bauer and Elizabeth Whiston, [“Domestic and International Partnerships to Expand Student Offerings”](#) (NACUA Annual Conference 2018).
5. Lisa Rae and Julie Penry, [“International Contracts”](#) (NACUA Annual Conference 2018).
6. Xinning Shirley Liu, [“We Have a Program Where?! Compliance Considerations for Global Partnerships”](#) (NACUA Compliance Workshop 2017).
7. William Ferreira, John Gloster, and Lisa Rae, [“The Art and Romance of Deploying and Employees Abroad”](#) (NACUA Annual Conference 2017).
8. Mike Pfahl, [“Boots Off the Ground: Opening an Office in a Foreign Country”](#) (NACUANOTES, Aug. 1, 2012).

**Week 8: Contract Administration**

- Unique issues related to contract administration on college and university campuses
- The role of counsel in contract administration
- Who is entering into contracts at your university? Signature authority and policies related to contract administration
- Key contractual provisions
- Practical take-aways related to contract review

**Suggested Reading:** Chris Melcher, ["Contract Administration"](#) (Oct. 8, 2020).

**Week 9: An Introduction to Student Affairs and Student Disciplinary Issues: Preventing and Litigating Legal Challenges to the Discipline and Grading of Students**

- Key foundational concepts and legal obligations: due process and contractual obligations, public versus private colleges and universities
- Academic versus conduct problems, graduate and professional programs, disability and Title IX cases
- Litigation lessons for policy development and practice
- The many changing dynamics on campus and student life trends - what these mean for campus lawyers

**Suggested Reading:** Madelyn F. Wessel, ["An Introduction to Student Affairs and Student Disciplinary Issues: Preventing and Litigating legal Challenges to the Discipline and Grading of Students"](#) (Oct. 20, 2020)

**Week 10: Research Compliance, Intellectual Property, and Technology Transfer**

- Federally sponsored university research: the regulatory regime
- Compliance: common financial, administrative, and scientific/bioethics compliance issues in research
- Intellectual property: ownership and use of employee, student and third party IP
- Tech transfer: considerations for innovation and commercialization

**Suggested Reading:**

1. Ann Adams, Mary Jo Dively, and Emily Schriver, ["Research Compliance, Intellectual Property, and Technology Transfer"](#) (Updated Oct. 13, 2020)(pps. 2-19 of the .pdf).
2. Elizabeth Brooks, ["Fundamentals of Intellectual Property and Technology Transfer in Higher Education"](#) (2019)(pps. 20 – 30 of the .pdf).
3. William Ferreira and Mary Schmiedel, ["New OMB Uniform Guidance: What Counsel Needs to Know"](#) (2019)(pps. 31-47 of the .pdf).



**Week 11: An Introduction to Higher Education Counsel's Office: Ethical Issues**

- General principles of ethics for college and university attorneys
- Representing an institutional client – ethical issues and practical strategies
- Attorney-client privilege – elements, exceptions, and waivers
- Special challenges taking on non-legal roles

**Suggested Reading:** Christopher Holmes and Dickens “Deke” Mathieu, “An Introduction to Higher Education Counsel’s Office: Ethical Issues” (LNTHE Workshop 2020).