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## OGC News & Notes

Associate Counsel [Jessica Baker](#) was appointed vice chair of the American Health Lawyers Association (AHLA) Physician [In-House Counsel Affinity Group](#) for 2013.

The NYS Bar Association [Municipal Law Reporter](#) published two articles by Associate Counsel [Karen Richards](#), "Beware the Pitfalls: Contracting with a Municipality" and "Water, Water Everywhere: Is a Municipality Liable for Damages Caused by a Leak in Its Water Supply System," in [volume 26, number 3 of the Summer 2012 Municipal Lawyer](#). Reprinted by permission of the New York State Bar Association's Municipal Law Section.

The Office of General Counsel welcomes Albany Law School students Brendan Venter, a third year student who is returning for an advanced internship, and Sarah Harvey, a second year student and U.S. Army First Lieutenant who spent the fall on active duty at Fort Jackson, South Carolina.

## Message from [Bill Howard](#), General Counsel

The new year brings new challenges, and an opportunity to reflect on the year ahead. A perennial challenge for SUNY is navigating the complex legislative and regulatory setting.



Senior Counsel [Mike Morgan](#) works with system and campus clients and attorneys, as well as external agencies and private entities, to prepare legislation for consideration. From authorization to lease property to tuition and budgetary matters to student affairs and safety issues, the Office of General Counsel works closely with Government Relations and other offices, and is involved in the technical aspects of ensuring that proposed legislation advances SUNY's interests in a careful way.

Best wishes for a Happy and Healthy New Year!



## Topics Newly Added to [Compliance Site](#):

- Learn [What's New](#) on the Compliance Website, including these topics:
- [Project Sunlight](#)
  - [Workplace Violence Checklist](#)
  - [Select Agent Regulations](#)
  - [NCAA Athletics Compliance](#)
  - [Non-Discrimination in Employment](#)

## Food Allergies and the A.D.A.

By [Seth Gilbertson](#), Associate Counsel

That food allergies may constitute a disability under the A.D.A. is nothing new, but a [recent settlement agreement between the Department of Justice \(DOJ\) and Lesley University](#) sets forth a hefty list of accommodation steps. It is unlikely that DOJ considers all of the changes that Lesley agreed to as necessary for compliance, but the list gives us a clearer picture of what DOJ likes to see. [Please click here for a few points campuses should consider to comply.](#)

## A.D.A. Hearing Impaired Provisions

By [Will Versfelt](#), Attorney Fellow

The [September 2010 A.D.A. revisions](#) specify new standards for building and design access. [Please click here for a summary of these standards focusing on access for hearing-impaired persons.](#) It describes assistive listening systems, lays out the A.D.A. standards, and addresses different ways to comply.

On November 15, 2012, Associate Counsel [Joseph Storch](#) and intern Brendan Venter published a NACUA Note on "[Holiday and Religious Displays On Campus: Threading the First Amendment Needle.](#)"

National Association of College & University Attorneys, Vol. 11, No. 1.

The Office of General Counsel congratulates Attorney Fellow [William Versfelt](#), who was sworn in to the New York State Bar this month, and wishes best of luck to former intern Jeffrey Koegel, who has enrolled in an Intellectual Property LLM at Washington University.

[Victoria Hazan](#), a paralegal in the Stony Brook Office, was recognized for her role in assisting the SBU Hospital's Command Center during Hurricane Sandy. Her dedication included sleeping in her office area to ensure continuous coverage. Senior Counsel in Charge Susan Blum said, "We are pleased and proud of her service on behalf of those affected by this horrible storm."

Additionally, [Seth Gilbertson](#), [Andrea Stagg](#) and [Nedra Abbruzzese-Werling](#) were recognized for their extended shifts at the State Emergency Management Bunker during Hurricane Sandy.

## Stony Brook Successful in Defending Hotel

By [Susan Blum](#), Senior Counsel in Charge

The Appellate Division issued its anticipated decision in the Stony Brook hotel case dismissing the appeal by the Stony Brook Environmental Conservancy and affirming the dismissal of the case by a Suffolk County trial court. Plaintiffs originally initiated the action against SUNY under the State Finance Law seeking a judgment that the Stony Brook Foundation Realty's sublease to a private developer to build the hotel was an unlawful disposition of State property. The lower court dismissed the complaint for lack of standing.

On appeal, the Appellate Division, 2<sup>nd</sup> Department distinguished between the presentation of a legitimate challenge to the disposition of State property and an argument that used a disposition of property as a pretext to challenge a governmental decision. [The Court held](#) that the plaintiffs here were not really challenging the unlawful disposition of State property but the manner in which SUNY chose to construct and operate the hotel.

Since the lease complied with the original legislation, plaintiffs did not have standing to maintain an action under the Finance Law. The Court went the extra mile in explaining its rationale, making the case a very difficult one in which to mount a successful appeal.

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## Renewable Energy on SUNY Campuses

By [Geraldine Gauthier](#)  
Associate Counsel

Campuses have seen increased activity on energy projects, particularly solar photovoltaics. This is due to an expansion and modification of the Customer-Sited Tier of the Public Service Commission's Renewable Portfolio Standard and the "NY-Sun Initiative" being funded through 2013 by NYSEEDA. Please consult [campus counsel](#) on all such solicitations. Attorneys [Kingsley Osei](#) and [Geraldine Gauthier](#) are working with Capital Facilities to prepare a guidance document on this specialty form of contracting.

## OGC Sidebar:

[Kingsley Osei](#) is an Associate Counsel and Chair of the OGC Contracts Practice Group. Prior to joining SUNY, he was an attorney at [H.E.S.C.](#) and practiced in Ghana.

### Favorite part of the job?

Meeting and helping system and campus clients. Working on new and unexplored legal issues that require you to think outside of the box.

### Most interesting recent project?

Working with the New York State Independent System Operator (which monitors the reliability of the power system and coordinates the daily distribution of electricity) to resolve a complicated transactional matter resulting in significant savings for the University.

### How does practicing law in New York compare to Ghana?

Even though both are common law jurisdictions with an adversarial judicial process, pretrial discovery in litigation is given less prominence in Ghana than in New York.

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General Counsel Update is issued quarterly by the SUNY Office of General Counsel and is sent to a broad array of SUNY System and Campus leadership and professionals who work with the Office of General Counsel. If you would like to be added to the distribution list, or have any other questions about General Counsel Update, please contact Associate Counsel Joseph Storch at [joseph.storch@suny.edu](mailto:joseph.storch@suny.edu). Learn more about our office at <http://www.suny.edu/counsel/index.cfm>.

The Office of General Counsel provides comprehensive legal services to support the State University of New York, the largest comprehensive university system in the United States, educating approximately 468,000 students in more than 7,500 degree and certificate programs on 64 campuses with nearly 3 million alumni around the globe. We protect and defend the University's legal interests, providing legal advice to the [Board of Trustees](#), [System Administration](#), the [State University's campuses](#), and other components of SUNY. We track legal developments, issue legal guidance to campus professionals and provide training on understanding and complying with legal requirements.

The articles above and related links are for informational purposes only and do not represent legal advice. The SUNY Office of General Counsel **cannot** provide legal advice to students or employees of the State University of New York on personal matters.