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OGC News & Notes

An article by Associate Counsel [Kingsley Osei](#), “[Pouring New Wine into Old Wineskins: Why “On Premise” Software Source Code Escrow Arrangements are Ill-Suited for Remotely Hosted “Off Premise” Software as a Service License Agreements](#)” was published by the Journal of College and University Law. Volume 39, No. 2, p. 384.

The Office of General Counsel welcomes new Associate Counsel [John Wiggins](#), to the Upstate Medical Office in Syracuse.

The Office of General Counsel welcomes Legal Administrative Assistant [Cynthia Gonatas](#) to the Stony Brook Office.

Associate Counsel Andrea Stagg’s article “[Freedom of Speech Lives On](#)” was published by *Inside Higher Ed* on June 13, 2013. The article analyzes recent claims that the Office for Civil Rights Agreement with University of Montana quashes speech.

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

I am pleased to present you, our clients, with our second [Annual Report for the Office of General Counsel](#).



Prepared primarily by Lisa Campo and Nedra Abbruzzese-Werling, the Report highlights some of what we do for you, for SUNY, and for the higher education

Community throughout the year. The Office of General Counsel deals with an incredibly diverse range of legal issues on a daily basis—everything from student affairs, to the risks from dangerous animals to the impact of FCC regulations to construction and zoning questions is fair game. The team at the Office of General Counsel must be both specialists and generalists. I am proud and humbled each time I am approached by a client to tell me of the great service they receive from the Office. The Annual Report is one way to see a summary of many of the projects, programs, and client guidance in one place. We are grateful to our clients, without whom none of this work could be possible, and look forward to another successful year.



Fair Use Survives for Internationally Acquired Works

By [Joseph Storch](#), and Ruchira Podali

The Supreme Court has ruled on an international copyright case of import to colleges and universities. [We have summarized the case as well as the First Sale doctrine, and discuss its impact on SUNY.](#)

Clery Act & Title IX Training

SUNY OGC will host [three full-day training seminars on Title IX and the Clery Act](#). These training sessions, co-sponsored by University Police and the Office of University Life and Enrollment, will take place in locations around the State.

- August 19 –The College at Brockport
- August 23 –Empire State College
- August 27 - College of Optometry

The trainings by Associate Counsel [Andrea Stagg](#) and [Joseph Storch](#) will run from 9 a.m. to 4 p.m.

All SUNY staff welcome. **Registration deadline is Friday, August 16th.** [Click to register.](#)

In June, [Nedra Abbruzzese-Werling](#) became a ‘Certified Compliance and Ethics Professional,’ a certification of the Society of Compliance and Ethics Professionals’ Compliance Certification Board. The SCCE is the Nation’s most prestigious member-based organization for compliance professionals.

In June, [Associate Counsel Seth Gilbertson](#) presented on E-Discovery in a panel entitled “E-Discovery Pitfalls, Strategies and Cost Containment Mechanisms” at the Annual Conference of the [National Association of College and University Attorneys](#) (NACUA).

The NYS Bar Association [Municipal Law Reporter](#) published Karen Richards’ article, “[When Does a Plaintiff’s Conduct Relieve a Municipality From Liability for Injuries Occurring at Municipally Owned or Operated Water Sites?](#)” in volume 27, number 1 (reprinted by permission).

Counsel’s Office sends best wishes for a happy retirement to Executive Deputy General Counsel Marti Anne Ellermann and Senior System Counsel Michael Morgan.

Counsel’s Office thanks interns Ruchira Podali and Ilijana Kaledzic for excellent work this past summer.

Accommodating Pregnant Students on SUNY Campuses

By [Seth Gilbertson](#)

That pregnant students should not be excluded from educational programs and activities is self-evident to most higher education professionals. But surprisingly little attention is often paid to what that means, both in practice and under the law. Many would presume that pregnancy is akin to a “disability” to be accommodated. In practice this approach is not wholly inaccurate—pregnant students should be accommodated to the extent such accommodations are necessary to ensure that their opportunities are equal to other students. Legally, however, a healthy pregnancy is not a matter of disability, but rather of gender equality, and this does lead to some important differences in how student pregnancies should be handled. [Please see our memo on the topic for more detailed information.](#)

Supreme Court Cases Make Waves for Higher Ed

In case you missed it, the Office of General Counsel issued a [special edition GC Update](#) that analyzed three Supreme Court cases, [Fisher v. University of Texas](#), [Vance v. Ball State University](#), and [University of Texas Southwestern Medical Center v. Nassar](#). Each case is important to higher education for a different reason. The analysis was prepared by a team of attorneys and interns in the Office of General Counsel, and issued less than 24 hours after the opinions were distributed.



OGC Sidebar:

[Associate Counsel Dona Bulluck](#) represents *Potsdam and System Administration*, and advises the 30 Community Colleges on legal issues.

Favorite part of the job?

Meeting and interacting with various individuals on my campuses and the constituent groups that I work with. They come from diverse backgrounds and are so interesting.

Most interesting recent project?

The FIT chargeback situation that resulted in litigation. A lower court decision interpreted the Education Law in a manner that had an adverse impact on the upper division students attending the Fashion Institute of Technology. Understandably, that decision created quite an uproar. Ultimately, an appeals court reversed the decision and the world was made right again.

Community colleges are confronted with similar issues as state-operated campuses, yet due to their structure, resolving their issues can require a different path.

Office of General Counsel Legal ListSers: [Join the Clery Act, Title IX, or FOIL ListSers](#) or [Compliance ListServ](#)

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 Counsel’s Office. 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. Learn more about our office at <http://www.suny.edu/counsel/index.cfm>.

The Office of General Counsel provides comprehensive legal services to support one of the United States’ leading state systems for higher education. 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.