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OGC News & Notes

Counsel's Office welcomes new attorney [Jim Jarvis](#) to the [Buffalo Office](#). He started on May 9, 2011.

Counsel's Office welcomes new administrative assistant [Bernadine Macy](#) to the [Buffalo Office](#). She started July 11, 2011.

The Board of Trustees recently named General Counsel [Bill Howard](#) as Senior Vice Chancellor, and he is also serving as Acting Secretary of the University.

Associate Contract Counsel [Kingsley Osei's](#) article, "The Best of Both Worlds: Reciprocal Preference and Punitive Retaliation in Public Contracts" was published in the Public Contract Law Journal, Vol. 40, No. 3 (Spring 2011) (attached in PDF).

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

Some members of the public assume that with students away, our workload slows. We in higher education administration know that, to the contrary, the summer brings plenty of interesting challenges, on campus and here at Counsel's Office, and many busy agendas, such as cleaning up things that were not finished in the last year, planning for things to accomplish in the next academic year, and all of the disputes and transactions that know no time of year. On the transaction side, I want to recognize the good work of many of my colleagues who worked tirelessly to guide our Medical Centers as they acquire new hospital partners. As always, feel free to contact me with any questions or comments. Enjoy the summer!



Upstate Medical Acquires C.G.H.

On July 7, 2011 SUNY Upstate Medical Center in Syracuse completed a deal to acquire substantially all of the assets of Community General Hospital. OGC attorneys providing legal advice were [Regina McGraw](#), Senior Counsel; [Karen Richards](#), Associate Counsel; [Win Thurlow](#), Associate Counsel; [Lisa Alexander](#), Associate Counsel; and [Michael Morgan](#), Senior System Counsel.

Downstate Medical Acquires L.I.C.H.

On May 29, 2011, SUNY Downstate Medical Center in Brooklyn completed a deal to directly and indirectly acquire substantially all of the assets of Long Island College Hospital. OGC attorneys providing legal advice to the deal were [Kevin O'Mara](#), Associate Counsel, [Jason Weiss](#), Assistant Counsel; and [Michael Morgan](#), Senior System Counsel.

In May, Associate Counsel [Seth Gilbertson](#) and former Counsel's Office Intern Stefan Eilts published a Note on "Internship and Externship Standards Under the Fair Labor Standards Act." National Association of College & University Attorneys, Vol. 9, No. 11 (attached in PDF).

In June, Associate Counsel [Joseph Storch](#) published a Note on "The 2011 Clergy Handbook: New Developments and Important Changes." National Association of College & University Attorneys, Vol. 9, No. 12 (attached in PDF).

The General Counsel's Office congratulates former interns Jessica Vigers, who obtained a clerkship with the New York State Appellate Division, 3rd Department; and Ricardo Garza, who is serving as the Student Academic Advisor in the Honors Program at Southern Methodist University.

For more information, visit Counsel's Office online at: <http://www.suny.edu/counsel>.

State Authorization Update

By [Andrea Stagg](#), Assistant Counsel

The U.S. District Court for the District of Columbia struck down the Department of Education's October 2010 regulation that ties Title IV eligibility to distance education providers' compliance with state authorization rules. The ED rule has been criticized as a financial and time burden that is duplicative of home-state and accreditator standards, as well as a disservice to students demanding access to education through new technology. This ruling did not include injunctive relief, so the rule is still in effect. Further, the state laws and processes still stand. SUNY will continue to seek exemption as a System where possible and will share information about the approval process with campuses through the Provost's web site: http://www.suny.edu/provost/dlo/dl_outofstate.cfm

Stony Brook Beats Back Challenge to Hotel

By [Susan Blum](#), Senior Counsel

Twenty five years following the enactment of special legislation that authorized construction of a hotel and conference center at Stony Brook, a Suffolk County Supreme Court dismissed the second legal challenge aimed at halting the project. The Stony Brook Environmental Conservancy and two individuals brought a taxpayer lawsuit under State Finance Law challenging, among other things, the viability of a 1989 ground lease to construct or cause to be constructed a hotel and conference center. The Court ruled that the plaintiffs lacked standing to sue for a permanent injunction because: (1) the Conservancy was not a "citizen-taxpayer" as required by the statute; and (2) the individuals lacked standing because they did not suffer injury different from the general public. The Court also noted that plaintiffs brought the case "over a decade after the enabling legislation was passed and the lease signed." The Court did not rule on all of SUNY's other grounds for dismissal, because the lack of standing issue was dispositive of the entire case. A notice of appeal was filed. Along with Assistant Attorney General Susan Connolly, OGC attorney [Susan Blum](#) and former OGC attorney Lynette Phillips worked on this matter.

Title IX Compliance Review Update & Listserv

By [Andrea Stagg](#), Assistant Counsel

The Office for Civil Rights is continuing their SUNY compliance review with four campus interviews this summer. OCR staff has suggested that the review will be completed and recommendations issued for changes to campus policies and procedures in early 2012. OGC is administering a new Title IX listserv. Whether you oversee or receive Title IX complaints, implement policies related to sex discrimination (including sexual harassment, sexual assault, or sexual violence), or are just interested in Title IX, you can join the new Title IX listserv by contacting andrea.stagg@suny.edu.



Counsel's Office Legal ListSers: [Join the Clergy Act ListServ](#) [Join the FOIL 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.

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