Higher Education

Understanding the range of legal matters faced by colleges and universities, Flaster Greenberg's higher education attorneys have decades of experience in the educational sector, having served as outside counsel to a variety of higher education institutions and affiliated organizations. A fullservice law firm, Flaster Greenberg attorneys are responsive to issues faced by higher education institutions, and through the years have developed a wealth of experience in assisting organizations and companies in the education industry, including thirdparty vendors.

Our attorneys represent public and private colleges and universities, including twoyear and fouryear institutions, independent and faithbased schools, teaching hospitals, medical research organizations, and other organizations focused on or relating to education. We work with a variety of constituencies, including boards, presidents, provosts, administrative vice presidents, general counsel, trustees, senior administrators, deans, department heads and faculty.

We stay on top of current legal trends impacting the education sector to provide the right response at the right time. We are involved with issues such as governance, corporate structure, tax, estates and trusts, contracts, financing, labor and employment, human resources, real estate and environmental, healthcare, joint ventures, intellectual property, risk management, athletics, bankruptcy, dispute resolution, and litigation.

Our attorneys work with general counsel and institutional leaders to help to identify, analyze, resolve, and thwart a broad range of legal issues unique to educational institutions, when possible before a legal issue arises, and in a manner that's both collegial and recognizes the business and educational realities of modern colleges and universities. If an issue cannot be mediated before it becomes serious, we participate in formal dispute resolution, including litigation, arbitration, grievances, administrative hearings, and other adversarial proceedings.

Attorneys at Flaster Greenberg embrace and are committed to the values and goals of higher education institutions, and mirror those in our own work. Our focus with clients in the higher educational sector includes:

Attorneys

Thomas J. Durling
Adam E. Gersh
Stephen M. Greenberg
Marty M. Judge
J. Philip Kirchner
Jordan A. LaVine
Steven S. Poulathas
Frank H. Wisniewski
Alan H. Zuckerman

Business Transactions and Governance

Flaster Greenberg attorneys find cost-effective, timely solutions to their education clients' needs in financing, procurement and contracting, tax planning, program development and corporate governance. Whether guiding a board through its fiduciary duties, documenting a joint venture, or closing a major credit facility, we understand the challenges facing administrators and trustees, and the need to complete tasks on time and within budget. As leaders among corporate finance and taxation lawyers, we bring cuttingedge knowledge of the commercial markets to the service of educational institutions, while simultaneously addressing the special needs of the academic sector.

Employee Benefits and Compensation

Our attorneys regularly advise higher education clients as to their employee benefit plans and keeping them in compliance with regulatory requirements and best practices in the field. Specific areas of expertise include retirement, health and welfare plans, and compensation arrangements for faculty, administration, adjuncts and independent contractors. Our strong roots as a tax boutique ensure that we provide seasoned advice on tax and estate issues that can impact employee benefits and pay.

Environmental

Flaster Greenberg's attorneys possess the full range of experience in environmental issues that are confronted by university counsel and facilities personnel in today's complex world. Growing out of our significant real estate practice, we handle all environmental facets of property acquisition and development, including due diligence, land use permitting, drafting and negotiating environmental terms and conditions, and Brownfields redevelopment. We are sensitive to the circumstances that may arise when higher education clients are asked to accept donated property that is or may be environmentally impaired. We also can assist with the design and implementation of environmental reviews, including providing advice to clients and interfacing with regulatory agencies on their behalf when inspections may reveal problems that must be reported. And our alternative energy experience allows us to provide sound advice and representation on sustainability issues that may be important to a higher education institution's mission and goals.

Government Contract and Policy Compliance

Federal and state funding comes with a tangle of regulations which require compliance. From contracting to intercollegiate athletics, our attorneys are used to addressing the challenges flowing from these regulations and assisting schools to structure contracts and operations to meet federal and state compliance obligations. This compliance regularly spills into more general operations, for example, working with our higher education clients on "export" restrictions that apply to foreign nationals in certain computer, scientific and/or engineering fields.

Healthcare

We assist higher education institutions in a wide range of issues relating to the operation of medical schools, and assist them with the operation of their affiliated healthcare operations with extensive work on technological implementation in the healthcare sector. Our work includes developing affiliations and joint ventures with medical groups and physician practices, research, licensing and regulatory compliance. We also provide counseling and guidance on:

- Medicare, Medicaid and commercial reimbursement disputes
- Privacy and security laws and regulations, including HIPAA
- Contract negotiations for the purchase of software, technology hardware and electronic health records systems
- Responses to subpoenas and government inquiries

Insurance

Our insurance coverage lawyers have recovered hundreds of millions of dollars on behalf of individuals, corporations and educational institutions. They have successfully resolved a wide array of insurance coverage disputes arising out of environmental, asbestos, products, intellectual, professional and other liabilities as well as first party property and business interruption losses arising from natural disasters, employee dishonesty and commercial crime. They appreciate the special insurance needs of educational institutions and are prepared to lend tailored advice and counseling.

Intellectual Property

Our higher education clients turn to Flaster Greenberg to address a wide breadth of intellectual property matters, including the development of copyright policies, protecting the institutions' brands and logos, and patent prosecution and technology transfer, all of which help our client institutions capitalize on their inventions and innovations. While universities use many of the same intellectual property services utilized by our corporate clients, we are experienced in the fine balance between revenue maximization and academic freedom and open communications. We also represent academic publishers, including inhouse imprints.

Labor and Employment

Our attorneys have advised top regional colleges and universities on complex labor and employment issues, including tenure battles, revising employee and faculty handbooks, dealing with questionable studentfaculty relationships and challenging terminations. We devote our efforts to helping our clients reach their goals, including avoidance of litigation where possible. We are at the forefront of rapidly developing labor, civil rights and employment issues in academia, including equal opportunity challenges under Title IX and Title VII of the Civil Rights Act of 1964, confronting harassment claims by employees and students, collective bargaining and union issues in the college setting, First Amendment rights, and wage and hour compliance. We keep up to date on the web of regulations and compliance issues that can trap an unwary college or university and apply our legal knowledge in unique ways tailored to the nuanced needs of educational institutions.

Litigation

Our lawyers have represented higher education clients in a variety of litigation, including insurance coverage issues, Title IX claims, thirdparty litigation, alcohol and liquor law appeals relating to underage use and abuse of alcohol on campus, and challenges to academic decisions, such as tenure denial and student discipline. We are knowledgeable in key areas that can spark litigation, and regularly advise our clients on compliance and best practices to avoid litigation or government investigation on those issues.

Real Estate

Flaster Greenberg's real estate attorneys have a wealth of experience representing owners, developers, lenders and other parties in property acquisitions, leasing, construction and environmental remediation. Our experience with universities and other institutions includes publicprivate partnerships, tax exempt financing, condemnation and urban renewal entities, health and safety regulations, construction documents, land use and permitting approvals, and real estate litigation for universities and colleges. Our experience with projects of all types—educational, nonprofit, and for profit—keeps developers returning again and again to Flaster Greenberg to see their mustsucceed projects through to completion.

Taxation

Flaster Greenberg's tax attorneys have significant experience with the particular federal, state and local tax issues that affect nonprofit organizations, including real estate and sales tax exemption. We provide advice on structuring merger and acquisition transactions, financing arrangements, real estate development and joint ventures, tax credit and easement deals, as well as tax planning on routine contracting issues involving royalties, licensing and employment. Our attorney are well versed to spot and deal with potential UBTI issues and can assist to avoid the trappings of excess benefit transactions, private inurement and/or private benefit, and routinely counsel on issues involving exempt organization qualification with affiliated and controlled enterprises (both nonprofit and for profit). We also have considerable experience in counseling on leadership succession from the perspective of the institution and that of the executive, including such matters as current and deferred compensation planning.

Trusts & Estates

Our attorneys have advised and structured various inter vivos and testamentary charitable contributions of funds, investments and various forms of tangible and real property to educational institutions, nonprofits and charities. Our lawyers have experience setting up and utilizing various charitable giving mechanisms, including charitable remainder unitrusts and annuity trusts, gift annuities, private and operating foundations and other vehicles to facilitate higher education fundraising and endowment goals. Our attorneys assist the institutions in presenting various giving methods to potential donors as part of organized capital campaigns. Finally, our attorneys represent educational institutions, nonprofits and charities as beneficiaries of trusts and estates in both uncontested and contested estate and trust administrations and will contests.