Education Practice Group

The Quinn Emanuel Education Practice Group is dedicated to representing universities and colleges nationwide, and our team members—including a former Dean of Stanford Law School as well as a former Princeton University Trustee—are passionate about the goals and missions of higher education.

Our lawyers have insiders' instincts and spent years in academia. We know the issues that can come up: the faculty statements, the un-vetted university communications, the sudden changes in law and policy that require schools to meet unexpected challenges on a dime. And we are here to help.

We have significant experience counseling universities in a wide variety of sensitive and controversial matters. A number of our partners have been primary counsel for major educational institutions and/or have served on university boards or in senior leadership roles. This broad exposure gives us a nuanced understanding of the higher education environment and allows us to be effective and informed advocates.

Indeed, what sets us apart is our deep understanding of the complexities of educational institutions, gained both from our firm's representations of multiple universities (including USC, Duke, Johns Hopkins, Boston University, Brandeis, University of Utah, Stanford, MIT, the University of Oklahoma, Tufts University, University of Rhode Island, Johnson & Wales and Caltech among many others), as well as the varied university leadership and board positions our lawyers have held (Cornell, Princeton, Stanford Law School, Harvard Law School, University of Florida Law Center, Oxford University). We recognize universities differ from corporations, appreciate considerations attendant to school governance, and are well versed in the reporting and other administrative requirements imposed on universities by state and federal legislatures and agencies.

For insights on legal issues regarding the COVID-19 pandemic, please see our client alert, "US Outlook: Top Questions for Higher Education Amid Novel Coronavirus Outbreak." In every case we have litigated (including two appellate decisions), we have achieved favorable outcomes for universities facing litigation, arising from the the global COVID-19 pandemic.

For insights on fostering diversity in higher education in the wake of the Supreme Court's watershed decision overturning affirmative action in university admissions, please see our client alert, "The Road Ahead: Fostering Diversity After the Supreme Court's Decision Overturning Affirmative Action in University Admissions."

CRISIS MANAGEMENT

A university's community of students, faculty, and alumni is its lifeblood. We are here to protect that crucial relationship, while navigating a wide range of disputes simultaneously.

Attorney Advertising. Prior results do not guarantee a similar outcome.

We appreciate the importance of striking the right tone while effectively communicating university positions. Through the governmental and media expertise our lawyers possess—including Senate-confirmed and White House positions and careers at *The New York Times*, MSNBC, Fox, *The Wall Street Journal*, Knight Ridder and other outlets—we have navigated clients through sensitive, and at times seemingly insurmountable, legal and public relations battles and emerged with favorable outcomes.

Our Crisis Law & Strategy Group specializes in navigating the court of public opinion—and understands the special sensitivities universities face. We know that for many schools—both public and private, big and small—public-facing outcomes can matter just as much or more than legal victories. Whether it's drafting FAQs, advising on hotline scripts, or carefully threading the needle on university communications, we are always vigilant to balance limiting exposure to liability with the equally critical task of effective messaging.

CLASS ACTION DEFENSE AND COMPLEX LITIGATION

We understand that class actions can pose a significant (sometimes existential) threat to higher education institutions. Universities and colleges are particularly vulnerable targets for class actions because of budgetary constraints and tremendous fixed costs. We would know: we've represented over a dozen universities in a multitude of litigations, including scores of class actions, covering a wide gamut of common law and statutory claims from negligence, to Title IX allegations, to refund demands in the COVID-19 era. For example, we have an undefeated record in tuition and fee refund class actions: we've obtained dismissals at the pleadings phase on behalf of two universities, summary judgment in four other cases, defeated class certification in two other cases, and two decisive, first-of-their-kind appellate wins in the First Circuit.

Class action defense is a core Quinn Emanuel practice area. Our Class Action Practice Group has successfully defended more than 1,000 class actions. At any given point we are likely involved in more than 100 active class actions. We frequently win by filing compelling, persuasive motions to dismiss or for summary judgment, or by favorable early settlement. In those cases that do survive to the certification stage, our team members have a record second to none in defeating class certification.

Being involved in the most significant class action disputes also means we regularly serve as lead counsel in MDL proceedings, including numerous current matters. Just recently we obtained a rare pleading-stage dismissal of an antitrust class action in a MDL that consolidated more than 30 class actions against several auto manufacturers. We also recently negotiated settlements of separate billion-dollar exposure MDLs involving claims alleging that consumers did not receive all promised benefits of certain products/services. In those cases, as in many others, we obtained very favorable results for our clients, including *no payment or other compensation* to large consumer classes.

TITLE IX AND SEXUAL HARASSMENT AND MISCONDUCT

The current cultural environment has given rise to a wave of litigation against colleges and universities stemming from allegations of sexual harassment and related misconduct. We have represented multiple universities in this space—including a novel and unprecedented class action settlement in the *Tyndall* matter, which significantly capped exposure for the University of Southern California for sexual assault claims by a class of nearly 18,000 women over the alleged misconduct of a university former gynecologist. In fact, this settlement—which was obtained before ever filing a responsive pleading or providing formal discovery—was two orders of magnitude more favorable to USC than what the university obtained in a parallel litigation regarding the same subject matter where it was represented by different counsel. Our clients

retain us because of our expertise in such matters—including a cohesive and sensitive communications and public relations strategy—often on a confidential basis.

REGULATORY COMPLIANCE, LITIGATION, AND LEGISLATIVE ADVISING

We have a deep bench of litigators with government (including legislative) experience. Our Government and Regulatory Litigation Practice takes special pride in being a leader in government and regulatory litigation in the United States.

We put that expertise to work for our university clients, advising on compliance issues (including as to foreign funding requirements and visa issues of central concern to higher education) and litigating when it best serves the interests of the school. Just recently, we successfully represented a major university in a lawsuit filed against the Department of Homeland Security (DHS) and US Immigration and Customs Enforcement (ICE), seeking emergency injunctive relief against a Directive which would have threatened to strip thousands of its international students of their F-1 visa status. After our suit was filed, the government capitulated, agreeing to rescind the Directive.

We also understand the power of legislative advising. In addition to our litigation prowess, we know how to help university clients change the rules of the game to obtain a more just and equitable result. We have counseled our university clients on a range of legislative issues, providing crucial input where needed to help get favorable legislation enacted.

INTERNAL INVESTIGATIONS

Universities frequently call upon us to conduct internal investigations—over sexual misconduct and other issues—often confidentially. Whether the impetus is a government investigation, or the threat of lawsuits by civil litigants, we have a wealth of experience conducting internal investigations in the higher education environment. Our elite Investigations Practice is well versed in navigating the intricacies of university bureaucracy, and lends crucial credibility to investigative efforts with the goal of bringing closure to higher education clients and their communities.

INTELLECTUAL PROPERTY LITIGATION

Intellectual Property Litigation is our firm's biggest practice area. Our university clients—including Caltech, Stanford, USC, the Broad Institute, and others—have leveraged our expertise to good effect, including a *ten-figure* verdict for patent infringement, nine-figure settlement victories, multiple favorable consent judgments, and patent defense victories at trial, in federal Circuit courts of appeals, and PTAB.

EMPLOYMENT OF FACULTY AND STAFF

Employment disputes are one of the legal issues that universities face most frequently. We have successfully represented institutions of higher learning in all manner of employment disputes, from discrimination claims, to allegations of wrongful termination, to disputes regarding universities' findings of research misconduct. More broadly, our Employment Practice enjoys a wealth of experience: we have represented employers in more than eight hundred sexual harassment, race discrimination, and retaliation cases. This defense-side experience gives us unique advantages and the ability to craft an effective strategy.

INSURANCE COVERAGE FOR HIGHER EDUCATION INSTITUTIONS

Of course, budgetary constraints, including insurance coverage, are always top of mind for colleges and universities facing legal proceedings. We are very familiar with the sensitivities surrounding university insurers and the natural need for our clients to secure such approval. Indeed, our university representations frequently entail insurance coverage, and we have represented multiple universities with the approval of insurers, having been appointed counsel by universities' coverage carriers. Based on this experience, we have reason to believe that should an insured entity wish to retain us, we will likely be approved.

We have also counseled university clients with respect to their insurance coverage. Our top-notch Insurance and Reinsurance Litigation Group is uniformly recognized as one of the premier practice groups in the country by several leading publications. As noted in Chambers USA Guide (2017) the Group is "renowned for providing high-caliber services" in high-value coverage and transactional disputes and receives consistently high praise from its clients and peers: "They are absolutely first-class; the intellect and attention to detail is outstanding, and they are extremely successful in the advice that they give." According to Legal 500, which surveyed clients and practitioners in the industry: "Quinn Emanuel Urquhart & Sullivan, LLP's insurance group fields 'top-quality litigators' who are 'the best in litigation strategy and execution', and the team is recommended for 'the highest value/risk litigation.'"

RECENT REPRESENTATIONS

- We represented **TAL Education**, the NYSE-listed Chinese after-school tutoring leader, in a potentially billion-dollar securities class action in the Southern District of New York, and obtained dismissal of the third amended complaint in its entirety. The suit followed China's 2021 Double Reduction Policy, which effectively outlawed for-profit tutoring and erased about $50 billion of TAL's market value within months. Plaintiff argued that TAL saw the policy coming and had prompted harsher regulation through minor infractions of other Chinese rules. Our team across New York, Beijing, and Shanghai laid out the tutoring market and the evolution of Chinese policy so clearly that the court granted all three of our motions to dismiss. Plaintiff subsequently opted not to amend the complaint for a fourth time.

- We represented **Boston University** in a putative class action brought by students demanding refunds of tuition and fees as a result of URI's transition to remote instruction in response to the global COVID-19 pandemic and related government directives. After obtaining a *Daubert* order excluding the plaintiffs' damages expert, who (before then) had survived every *Daubert* challenge ever filed against him, and prevailing at summary judgment in the district court, we obtained affirmance based on the enactment of a new state statute conferring immunity on all universities and colleges for such claims. In prevailing on this ground, we obtained a precedential opinion rejecting the plaintiffs' constitutional challenges to the retroactive application of this statute. This decision conclusively resolved all pending tuition refund suits in the First Circuit.

- We represented the **University of Rhode Island** in a putative class action brought by students demanding refunds of tuition and fees as a result of URI's transition to remote instruction in response to the global COVID-19 pandemic and related government directives. After obtaining the dismissal of plaintiffs' claims with respect to tuition, we then successfully dispatched with their remaining claims for student fee refunds on summary judgment. In a complete victory for our client, the Court has entered judgment for URI. We then represented URI on appeal, and obtained a complete affirmance from the First Circuit on a novel impossibility and restitution defense. This was the first appellate court in the country

Attorney Advertising. Prior results do not guarantee a similar outcome.

to affirm the dismissal of an implied contract action seeking a tuition and fee refund arising from the COVID-19 pandemic.

- We represented **Brandeis University** in a putative class action brought by students demanding refunds of tuition and fees as a result of the university's transition to remote instruction in response to the global COVID-19 pandemic and related government directives. After obtaining a denial of plaintiffs' motion to certify a class, we obtained an order granting Brandeis summary judgment in full.

- We represented **Suffolk University** in a putative class action brought by students demanding refunds of tuition and fees as a result of the university's transition to remote instruction in response to the global COVID-19 pandemic and related government directives. After obtaining a denial of plaintiffs' motion to certify a class, we then successfully obtained a denial of plaintiffs' petition before the First Circuit to appeal the denial of certification. Significantly, the district court reasoned that, in light of the Rule 23(b)(3) superiority requirement, "this Court simply cannot conclude that class action treatment is either 'superior' or more just than the available alternatives." This provides a crucial precedent for other universities facing similar tuition and refund putative class actions, hundreds of which have been filed nationwide.

- Members of our firm served as counsel for an amicus brief filed in the Harvard and UNC affirmative action cases that were decided by the Supreme Court in June 2023. The brief analyzed issues related to Title VI of the Civil Rights Act of 1964 and the Equal Protection Clause of the 14th Amendment. It was filed on behalf of 57 Catholic universities, including **Georgetown University**, **Boston College**, and **University of Notre Dame**.

- We are advising the **University of Pennsylvania** on issues including academic freedom, free speech, and campus diversity in a sensitive internal investigation related to a tenured professor.

- We conducted an internal investigation for our client the **Michigan State University Board of Trustees** related to the departure of the dean of the university's business school amid concerns about his leadership, especially related to an alleged failure to follow university guidelines in reporting allegations of sexual assault and intimate partner violence. The board authorized the release of the final report at its February 2023 meeting.

- We successfully represented **The Broad Institute** in an action before the Patent Trial and Appeal Board ("PTAB"). The PTAB confirmed The Broad Institute's entitlement to foundational patents and found plaintiffs' claims to the same invention unpatentable.

- We successfully represented **The Broad Institute** in an action before the U.S. Court of Appeals for the First Circuit, which sought to reverse the district court's denial of a petition for discovery for use in opposition proceedings in the European Patent Office ("EPO"). On behalf of Intellia, George Schlich had sought revocation of four of the Broad Institute's European patents pertaining to CRISPR Cas9 DNA editing tools. CRISPR is a revolutionary genome-editing tool that holds great promise for curing genetic diseases and cancers. While opposition proceedings were pending in the EPO, Schlich filed a petition for discovery under Section 1782 in the District of Massachusetts. We defeated Schlich's petition in the district court by demonstrating that requested discovery was irrelevant to the EPO proceedings. In a decision published on June 20, 2018 that addressed the standard for relevancy under Section 1782, the First Circuit agreed that the discovery sought was irrelevant and affirmed the district court's decision in full.

- We successfully represented **Johns Hopkins University** in a lawsuit filed against the Department of Homeland Security (DHS) and US Immigration and Customs Enforcement (ICE) in the U.S. District Court for the District of Columbia, seeking emergency injunctive

relief against a Directive which would have threatened to strip thousands of its international students of their F-1 visa status. The July 6, 2020 Directive issued by ICE reversed prior March 2020 Guidance, which—in recognition of the COVID-19 emergency transitions to remote learning—permitted F-1 students to remain in the country even as all of their classes transitioned online. The July Directive would have nullified the March Guidance, despite the ongoing COVID-19 emergency, and would have forced F-1 students taking an entirely online course load to leave the country. The Directive would also have mandated that universities certify within barely a week whether they would transition entirely online for the fall term. We sought a motion for a temporary restraining order and permanent injunction. Multiple parallel suits were filed by other universities and over 17 states (joined by over 200 amici). Before our motions could be heard, the government capitulated, agreeing to rescind the July 6 Directive and reinstate the earlier guidance permitting international students at U.S. schools to continue remote learning.

- We have represented or currently represent **Duke University, Johns Hopkins University, Tufts University, Johnson & Wales University, Roger Williams University, Merrimack College,** the **Pratt Institute**, among other schools, in dozens of student tuition and fee refund class actions asserting a variety of claims in response to university and college transitions to remote learning as a result of the COVID-19 pandemic. We have obtained several decisive victories on behalf of these universities including at the motion to dismiss and summary judgment stage. In addition, several suits filed against our clients have been voluntarily dismissed; the remainder of these lawsuits are ongoing.

- We represented **Duke University** and **the University of Massachusetts** system in a series of intellectual property litigations stemming from allegations of copyright and trademark infringement, as well as trade secret misappropriation. Both litigations have been voluntarily dismissed.

- The firm secured a $1.1 billion verdict for **Caltech** against Apple and Broadcom for infringement of three patents relating to an error correction technology that was used in Apple and Broadcom's Wi-Fi devices. Quinn Emanuel handled the case from the very beginning and guided it through nearly four years of litigation before trial. The trial win was preceded by a number of significant wins on summary judgment, including the elimination of Apple and Broadcom's invalidity and inequitable conduct defenses. In a subsequent appeal, the Federal Circuit affirmed Caltech's infringement verdict and the validity of its patents.

- We orchestrated a novel and unprecedented class action settlement in the *Tyndall* matter, which significantly capped exposure for the **University of Southern California ("USC")** for sexual assault claims by a class of nearly 18,000 women over the alleged misconduct of a university former gynecologist. In fact, this settlement—which was obtained before ever filing a responsive pleading or providing formal discovery—was two orders of magnitude more favorable to USC than what the university obtained in a parallel litigation where it was represented by different counsel.

- We represented **USC** against its former head football coach, Steve Sarkisian, in a suit filed by Sarkisian after he was terminated in October 2015. Sarkisian's firing came after a series of public incidents involving Sarkisian's apparent use of alcohol and resulting media speculation. After being terminated and completing inpatient rehabilitation treatment, Sarkisian—claiming he was improperly terminated due to his alcoholism—brought claims against USC for wrongful termination, disability discrimination, failure to engage in the interactive process, failure to accommodate, breach of contract, breach of the implied covenant of good faith and fair dealing, invasion of privacy, and negligence. Sarkisian sought over $50 million from USC. After a seven-day arbitration, the arbitrator denied each of Sarkisian's claims, resulting in a complete victory for USC.

- We secured a unanimous 7-0 victory in the California Supreme Court for **USC** in *Sargon*

Enterprises v. USC, a landmark decision holding that state trial courts have a duty to act as "gatekeepers" in excluding speculative and unreliable expert testimony. Upholding the firm's successful exclusion of a lost profits expert in the trial court, the California Supreme Court ruled that there was no reliable basis for an expert's opinion that a tiny start-up dental implant company would have achieved the same market share as global industry leaders and earned up to $1.2 billion in profits had USC timely completed a clinical study. The decision will have significant implications for business litigation in California because it gives state courts control over expert testimony similar to that of federal district courts, thus reducing incentives for forum-shopping in complex cases in which expert testimony plays an important role.

- We represented **USC** and a team of Alzheimer's disease researchers recruited from the University of California San Diego ("UCSD") in defense of an action brought by the Regents of the University of California. The case involved novel questions related to ownership of clinical research data and computer systems designed to manage such research. After more than four years of litigation, which saw the case removed to federal court early in the proceedings but then remanded to state court only months before it was set for trial, the parties reached a settlement.

- Our client, **USC**, purchased a church located on its campus. One of the church members, who was outvoted in approving the sale, alleged that the church violated a restrictive covenant in the deed as well as its own bylaws by selling to USC. After defeating the church member's attempts to secure a preliminary injunction and prevent the deal from closing, we obtained an early dismissal of the case through a demurrer and a motion for summary judgment. The church member appealed, but we prevailed on appeal as well.

- We represented **Stanford University** and Northrop Grumman in patent litigation, recovering settlements totaling more than $170 million from the world's major telecommunications companies, including seven consent judgments in favor of Northrop Grumman and their licensor, Stanford University.

- We conducted an internal investigation for a major university in advance of national media publication of allegations that approximately 50 former athletes had been molested by a coach in the 1980s. Facing the challenge of pending publication we were forced to work without the list of alleged victims whose stories would soon be public. We coordinated seamlessly with the university's board counsel and administration to manage a cohesive and sensitive communications and public relations strategy while our investigation spanned decades-old University records and documents, and involved interviews of former students, coaches, faculty, administrators now located all across the country.

- We represent the **University of Oklahoma** in a dispute over a $250 million mixed-use dorm for upperclassmen known as Cross Village ("Cross"). Provident agreed to develop, own, and operate Cross for over 50 years using a bond offering to raise the $250 million. After the dorm did not perform as expected, never reaching occupancy levels above 35%, Provident and the bondholders demanded that the University undertake a number of extra-contractual actions to support Cross, including renewing leases for the commercial and parking spaces at Cross that were not benefiting the University. After we successfully defeated the media and lobbying efforts of Provident and the bondholders to pressure the University, Provident filed a lawsuit asserting claims against the University seeking damages for the University's failure to renew the commercial and parking leases, the return of a $10 million lease payment to the University, damages for the University's refusal to allow freshmen to live at Cross, and rescission of the ground lease. The claims include breach of contract, promissory estoppel, unjust enrichment, constructive trust, and money had and received. The parties are briefing the University's motion to dismiss all claims.

- We represented **HotChalk**, a provider of administrative services for online educational

institutions in a consumer class action brought by two former students of an online university, both of whom received Masters Degrees in Education. Despite the fact that they had matriculated and obtained degrees, which they were using to advance their professional careers, plaintiffs claimed that they, and every member of their putative class, should be refunded their full tuition because HotChalk allegedly had cold-called them, and had failed to reveal its role in the online university. They alleged claims under the Arizona Consumer Protection Act and the Arizona Consumer Fraud Act. The Northern District of California granted our motion to dismiss, giving plaintiffs leave to amend. After plaintiffs filed their amended complaint, we filed a renewed motion to dismiss. Just days before the hearing, plaintiffs offered to settle the case and ultimately gave HotChalk a dismissal with prejudice in return for $35,000.

- We represented **Soka University of America** against Shogakukan, Inc. and Kazumoto Ohio on appeal to the Ninth Circuit, which unanimously upheld the district court's decision and the attorneys' fees award, adopting in full our arguments regarding the nature of the statements published by our client. Following this victory, the plaintiff agreed, without the necessity of motion practice, to pay nearly all of our attorneys' fees incurred defending the appeal, as well as dropping any further challenge to the ruling or the attorneys' fees award by the district court.el attorney Karl Stern was named to the Hall of Fame for energy litigation by The Legal 500 United States 2023.

- We won a patent inventorship trial for **Caltech**, for whom the DNA sequencer patents represent an important source of funds and prestigious accomplishment. At issue in the case was the validity of Caltech's patents for the DNA sequencer, which was used to decode the human genome and represents one of the most significant scientific inventions of the 20th century. The trial included the presentation through lay and expert testimony of technical scientific issues related to the development and function of the sequencer. At the conclusion of the trial, U.S. District Judge Mariana Pfaelzer ruled for the defense on all claims. Judge Pfaelzer, one of the most experienced and respected judges in the Central District of California, praised our lead trial attorney and the other lawyers for their skillful trial presentations. Specifically, she stated after the closing arguments that the case was "very interesting" and "it was wonderfully presented on both sides." She added that "Very rarely have I ever had a chance to see anything presented like this…so I thank you."

- We represented **Caltech** in patent infringement litigation against Hughes Communications and Dish Network involving error correction codes developed by inventors at Caltech and used in satellite broadband communication standards. Defendants moved for summary judgment alleging that the claims were not patent eligible. The Court denied Defendants' motion in a widely-cited decision relating to Section 101. The case settled after the completion of expert discovery.

- We represented **Caltech** against Suvir Venkataraman, where we obtained the dismissal of a mandamus action by the plaintiff seeking to overturn Caltech's decision involving alleged research misconduct.

- We represented **Caltech** involving an undergraduate student's mandamus action challenging Caltech's decision involving student misconduct, filed by Alexa Parker. The case settled, resulting in dismissal.

- One of our partners represented **Columbia University** in an employment discrimination case filed by an employee who claimed that she should have received a job in the newly reorganized office of the Dean of Undergraduate Admissions and obtained summary judgment in favor the University, which was affirmed by the Second Circuit.

- We represent the **University of Virginia** and the Office of the Attorney General of Virginia in an independent investigation arising out of the November 13, 2022 shooting of five UVA

students, and the death of three. The investigation focused on UVA's threat assessment program and UVA's interactions with the alleged shooter in the context of its threat assessment process.

- We represent the **University of Tennessee** in connection with an NCAA investigation.
- We represent the purported rightful President, Board of Directors, and certain other administrators of **Bethesda University**, who are defendants and cross-claimants in a dispute over university control. The litigation focuses on the validity of certain elections and actions taken by the Board of Directors of the school, and which of two competing slates of Board members constitute the rightful Board of the Directors of the University. Quinn Emanuel took over the litigation after our clients lost an evidentiary hearing under section 9418 of the California Corporations Code to determine the validity of the election of directors. We have since filed a pending motion for judgment on the pleadings on all of plaintiffs' claims in the Superior Court and argued a pending appeal of the ruling from the evidentiary hearing before the California Court of Appeal.

"The team is hard-working, dedicated, solutions-oriented, on top of every detail and super responsive."

Client Testimonial, ***Legal 500***