



COUNTY OF ERIE

MICHAEL A. SIRAGUSA
COUNTY ATTORNEY

MARK C. POLONCARZ
COUNTY EXECUTIVE

MICHELLE M. PARKER
FIRST ASSISTANT COUNTY ATTORNEY

DEPARTMENT OF LAW

JEREMY C. TOTH
SECOND ASSISTANT COUNTY ATTORNEY

March 11, 2016

Hon. John J. Mills, Chairman
Erie County Legislature
Old Erie County Hall
92 Franklin Street, 4th Floor
Buffalo, NY 14202

Re: Assistant County Attorney - Assigned to Erie Community College
Comm. 3E-17 (2016)

Dear Chairman Mills:

As you know, on February 3, 2016, via Comm. 3E-17, the Department of Law requested legislative authorization to create a new Assistant County Attorney position to provide legal services to and for Erie Community College ("ECC"), as the County Attorney's Office has resumed that legal responsibility. I have enclosed a copy of Comm. 3E-17 for your review.

It has come to my attention that a number of legislators have requested additional information on the types and amount of legal work that will be required of the County Attorney's Office in order to appropriately represent the interests of ECC. Accordingly, I have enclosed materials prepared by the former Vice President of Legal Affairs for ECC, Kristin Klein-Wheaton, setting forth the amounts and types of matters that need to be handled on behalf of ECC. In addition to the information provided by Ms. Wheaton, my office receives numerous e-mails and calls on a daily basis from ECC seeking legal counsel and guidance on a myriad of matters that they face, whether it be general liability issues and concerns, employment law issues, FOIL issues, contract issues, etc.

I hope that after reviewing this letter and the enclosed materials, this honorable body will approve a resolution authorizing the creation of an Assistant County Attorney position to enable my office to effectively handle ECC legal matters. Thank you for your consideration.

Very truly yours,

Michael A. Siragusa
Erie County Attorney

cc: Erie County Legislature

Comm. 6D-7

SUSPENSION



COUNTY OF ERIE

MARK C. POLONCARZ

COUNTY EXECUTIVE

February 3, 2016

The Honorable
Erie County Legislature
92 Franklin Street, Fourth Floor
Buffalo, New York 14202

IMMEDIATE CONSIDERATION REQUESTED

Re: Assistant County Attorney – Assigned to Erie Community College

Dear Honorable Members:

In order to provide legal services and counsel to Erie Community College, the Department of Law is requesting authorization to create a new Assistant County Attorney position.

If you have any questions regarding this request, please contact Erie County Attorney Michael Siragusa. Thank you.

Sincerely yours,

A handwritten signature in black ink that reads "Mark C. Poloncarz".

Mark C. Poloncarz, Esq.
Erie County Executive

MCP/ms

cc: Michael Siragusa, Esq., Erie County Attorney

SUSPENSION

MEMORANDUM

To: Honorable Members of the Erie County Legislature
From: Erie County Department of Law
Re: Assistant County Attorney – Assigned to Erie Community College
Date: February 3, 2016

SUMMARY

Legislative authorization is requested to create a new Assistant County Attorney position in the Department of Law and to make the necessary budgetary adjustments to fund said position. This position will be utilized to provide legal services to and for Erie Community College.

FISCAL IMPLICATIONS

The funding for this position will be provided via savings in, and a budgetary transfer from the Medicaid-MMIS account in the Department of Social Services. The total cost is \$106,502 and funding will be allocated from 2015 savings in the MMIS account and re-appropriation into 2016.

REASONS FOR RECOMMENDATION/BACKGROUND INFORMATION

Until 2011, the County provided legal counsel and services for Erie Community College ("ECC") through the Department of Law. In 2011, ECC created a new position of Executive Vice President for legal affairs. The incumbent in that position has resigned from ECC effective February 10, 2016. Under the law, the County is required to provide legal counsel for the college or to authorize a college employee who is an attorney to perform these functions.

Once the incumbent resigns, the college will have no legal counsel available and authorized by the County to conduct legal matters for ECC, thus compelling the time urgency to create the new position and fill it as soon as possible in order for ECC legal, contractual and other related work to continue. After consulting with the ECC President, the county executive has determined that rather than authorizing an ECC employee to conduct this work, the County prefers to conduct the legal work using the Department of Law.

Due to this resignation and vacancy, and in the context of a Office of State Comptroller audit of ECC and related issues and concerns, the County desires to resume providing legal services for ECC, thus necessitating the creation of a new Assistant County Attorney position in the Department of Law.

Due to the complexity of the issues involving ECC, an Assistant County attorney at job group 17 is deemed necessary. Even at this job group, the pay for the person in this title will be substantially lower (by nearly \$40,000) than the base salary for the college's existing position of executive vice president-legal.

CONSEQUENCES OF NEGATIVE ACTION

Legal and related services for ECC will not be provided, creating significant issues for the college and County, including with litigation and contracts.

SUSPENSION

STEPS FOLLOWING APPROVAL

The Department of Law will work with the Division of Budget and Management to effectuate the budget transfers and the Department of Personnel to create the position and provide legal services for ECC.

SUSPENSION

A RESOLUTION SUBMITTED BY:
DEPARTMENT OF LAW

Re: Assistant County Attorney – Assigned to Erie Community College

WHEREAS, until 2011, the County provided legal counsel and services for Erie Community College ("ECC") through the Department of Law; and

WHEREAS, in 2011, ECC created a new position of Executive Vice President for legal affairs in which capacity the college handled its legal affairs and matters; and

WHEREAS, the incumbent in that position has resigned from ECC effective February 10, 2016; and

WHEREAS, due to this resignation and vacancy, and in the context of a recent Office of State Comptroller audit of ECC, the County desires to resume providing legal services for ECC; and

WHEREAS, this therefore necessitates the creation of a new Assistant County Attorney position in the Department of Law.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature does hereby authorize the creation of one new position of Assistant County Attorney, Job Group 17, Step 0 (annualized salary \$76,496) in the Department of Law effective February 13, 2016; and be it further

RESOLVED, that the following budgetary adjustments are authorized to facilitate this request and authorization is provided to re-appropriate 2015 funding for the Erie County Department of Law into the 2016 Budget in the amount of \$106,502:

**Fund 110 – 2016 Budget
Department of Law, Fund Center 16010**

Expense	Increase/Decrease
Account 500000 – Full Time Salaries	\$67,996
Account 502000 – Fringe Benefits	<u>\$38,506</u>
	\$106,502

**Fund 110 – 2015 Budget
Department of Social Services, Fund Center 120**

Expense	Increase/Decrease
Account 5525000 – Medicaid-MMIS	<u>(\$106,502)</u>
	\$106,502

; and be it further

RESOLVED, that certified copies of this resolution be furnished to the Office of the County Executive, the Department of Law, Department of Personnel, the Office of the Comptroller, and the Division of Budget and Management.

ECC

Backup data re: Legal Affairs
As of 12/31/15

Statistical Overview

NEW FILES:

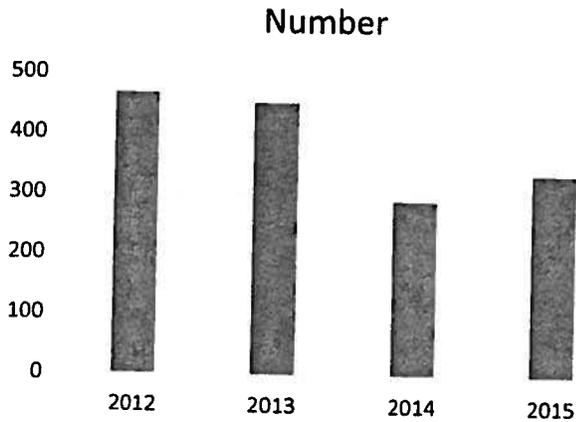
From 1/1/15-12/31/5, we opened 335 files.

Total number of new files:

2012 – 467

2013 – 452

2014 – 290



CONTRACTS/DOCUMENT TRACKING:

Total number of contracts:

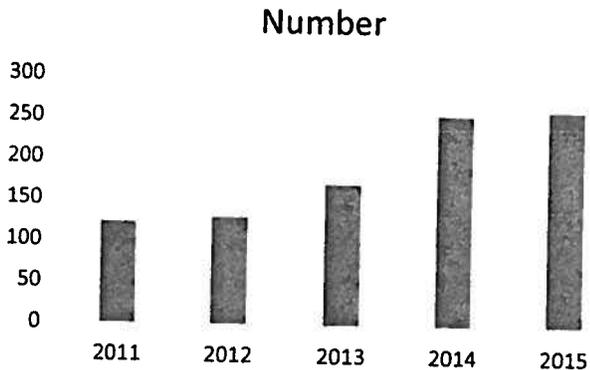
2011 – 122

2012 – 129

2013 – 170

2014 – 254

2015 – 260



INSURANCE CERTIFICATES:

For Purchasing, Facility Usage, SGA events, career fairs, and transfer fairs, for the period of 1/1/15 – 12/31/15 we approved a total of 226 insurance certificates.

For 2014 we approved 196.

For 2013 we approved 168.

GRIEVANCES:

	2009	2010	2011	2012	2013	2014	2015
CSEA	9	8	4	9	0	0	7 (3 settled)

	2009	2010	2011	2012	2013	2014	2015
ASCME	17	22	33	51	63 (10 dismissed/withdrawn; 2 settled)	8 (5 dismissed/ withdrawn)	9 (1 withdrawn)

	2009	2010	2011	2012	2013	2014	2015
AAECC	4	9	15	9	17 (6 dismissed/ withdrawn; 6 settled)	5 (2 dismissed/ withdrawn;1 settled)	4 (1 dismissed/ withdrawn)

	2009	2010	2011	2012	2013	2014	2015
FFECC	29	9	9	7	7 (2 dismissed/ withdrawn; 5 settled)	5 (1 dismissed/ withdrawn;1 settled; 1 arbitration scheduled)	11 (1 withdrawn; 1 settled)

LAWSUITS:

Year	Total No.	Type	Complainant/Plaintiff	Disposition/Status
2009	5	3 DHR/EEOC 2 Civil Suit	Howard, Piero, Crepsio Howard, Hatrick	No probable cause Settled
2010	3	2 DHR 1 Civil Suit	Kao, Andrisani Singh*	No probable cause Dismissed
2011	3	1 Civil Suit 1 EEOC 1 Negligence	Kao* Nigro Gilcrest*	Pending Dismissed Pending
2012	11	2 Negligence 9 DHR/EEOC	Savo*, McGennis* Moore* Mullen Adams Napierala* Neubecker*	Settled No probable cause No probable cause No probable cause No probable cause DOJ will not pursue

			Sullivan# Napierala* Pawarski Marzello	No probable cause Pending Dismissed Dismissed
2013	8	1 Negligence 7 DHR/EEOC	Beaver* Moore* Mercer Golbiewski Lorenz Napierala* Pompeo Barnes	Settled No probable cause Settled No probable cause Dismissed Pending No probable cause No probable cause
2014	12	2 Civil Action 1 Negligence 4 DHR 4 NYS Dept of Ed/ OCR 1 NYS Atty Gen. Complaint	Lorenz* Giambra* Gardner* Taylor Stepney Moore* Neubecker* Herman (student) Unknown (Title IX Complaint) Piatz (student) Unknown student Williams (student)	Pending Pending Pending Settled No probable cause No probable cause No probable cause No further action taken Pending Dismissed No further action taken Settled
2015	12	3 Civil Action 3 Negligence 3 DHR 3 EEOC	Flaherty* Shkilnyj* Neubecker * Rybicki* Hanley* Wright* Radoani, Neubecker * Jackson Harris Jones Tolliver	Settled Pending Pending Pending Settled Pending Pending Pending Settled Settled Dismissed Pending

* Outside counsel assigned. Outside Counsel total fees: Goldberg Segalla (*Lorenz*) \$27,665.95; Hodgson Russ (*Taylor, Moore, Neubecker, Napierala*) \$69,666.74; Barclay Damon (*Flaherty*) \$13,771.00

ANALYSIS:

Type of Matter	Total Number	Outside Counsel
DHR/EEOC's	32	8
Civil Actions (mandatory outside counsel)	9	9
Negligence (mandatory outside counsel)	8	8
US Dept. of Ed/OCR, Atty Gen.	4	
Other	1	
Total:	54	25

PERBS:

2009	2010	2011	2012	2013	2014	2015
CSEA - 2 AAECC - 1 AFSCME - 0 FFECC - 2	CSEA - 5 AAECC - 2 AFSCME - 0 FFECC - 1	CSEA - 0 AAECC - 1 AFSCME - 1 FFECC - 1	CSEA - 0 AAECC - 0 AFSCME - 0 FFECC - 0	CSEA - 0 AAECC - 0 AFSCME - 3 FFECC - 0	CSEA - 0 AAECC - 0 AFSCME - 3 FFECC - 1	CSEA - 0 AAECC - 0 AFSCME - 1 FFECC - 0
Status: 3 Settled 2 withdrawn	Status: 2 Settled 5 withdrawn 1 dismissed	Status: 1 Settled 2 withdrawn	Status:	Status: 2 - Neubecker, Washington - withdrawn 1 -Stepney - dismissed	Status: 1 - Bowers settled 2 - Batcho, Moore - deficient 1 - FFECC -pending	Status: 1 - Moore - pending

TIME BREAKDOWN:

For the time period 1/1/15-12/31/15:

- Regarding Labor Matters: there have been **33** Labor Management or Step 2 meetings
- There have been **39** sessions for negotiations or prep for negotiations.
- There were have been **24** SES meetings
- **27** Meetings for software updating and planning, etc.
- There was considerable time spent regarding the NYS Audits (3), Worker's Comp matters, Unemployment issues, BOT Bylaws and preparation for PERB hearings and Arbitrations and Appeal Motions, (10) hearings/Court appearances. Noteworthy 1/23/15 - Hines; 1/18/15 - Giambra; 3/31/15 & 4/22/15 - AAECC/PERB; 5/12/15 - FECC mediation; 5/13/15 & 6/5/15 & 9/16/15 - Napierala; 6/3/15 - Moore PERB; 9/2/15 - Flaherty.
- Also, the 10 months of Senate and IPA meetings and periodic Wellness meetings.

Siragusa, Michael

From: Klein Wheaton, Kristin <kleinwheaton@ecc.edu>
Sent: Friday, February 12, 2016 11:20 AM
To: Quinn, Jack; Siragusa, Michael
Cc: Pietkiewicz, Michael; Stachowski, Pamela
Subject: 021216 mem to siragusa re open matters.pdf
Attachments: 021216 mem to siragusa re open matters.pdf

Jack/Mike:

Attached is my final memo on open matters. Please contact me with any questions or concerns, although I will be turning in my computer today. My personal email is kristin.klein.wheaton@outlook.com if you need to email me something. When I start at Goldberg on February 22nd, I'll send my new contact information. My cell is the same: 7169134332.

Also, as noted in the memo, I will be in Florida through next Friday.

Thank you and best of luck! Kristin

Kristin Klein Wheaton, Esq.
Executive Vice President for Legal Affairs
Erie Community College
4041 Southwestern Boulevard, Room 1101
Orchard Park, New York 14127
Telephone: 716-270-4432
Fax: 716-851-1213
kleinwheaton@ecc.edu

CONFIDENTIALITY NOTICE

This e-mail and any files transmitted with it are confidential and intended solely for the use of the individual or entity they are addressed to. This email and its contents may be subject to the Family Educational Rights and Privacy Act ("FERPA"). It is intended only for the use of the individual(s) named above and privileges attached to the email, if any, are not waived by virtue of this having been sent by electronic transmission. If the person actually receiving this e-mail or any other reader of this e-mail is not the named recipient or the employee or agent responsible to deliver it to the named recipient, any use, dissemination, distribution, forwarding or copying of any part of the message or its attachments is strictly prohibited. If you have received this message in error, please notify the sender immediately by return e-mail and delete it from your system. Unauthorized use of this material is strictly prohibited and may be unlawful.



ERIE COMMUNITY COLLEGE
STATE UNIVERSITY of NEW YORK

KRISTIN KLEIN WHEATON, ESQ.
EXECUTIVE VICE PRESIDENT FOR LEGAL AFFAIRS

MEMORANDUM

To: Jack Quinn, President of Erie Community College
Michael Siragusa, Erie County Attorney

From: Kristin Klein Wheaton, Executive Vice President of Legal Affairs

Date: February 12, 2016

Re: Responsibilities and Open Matters

Jack/Mike:

To facilitate transition of legal matters and to assist Mike's office in representing the College in the short term until the College's legal representation is finalized, below is a summary of open matters and responsibilities that I now fulfill as counsel to the College that will need further handling and representation:

Counsel that needs to be assigned (Litigation Matters):

Litigation:

There are currently 10 open litigation files for which outside counsel has been assigned either under the liability policies or employment practices and liability policies that are purchased by the College. I have a current litigation briefing matrix, with status on all of the outstanding litigation matters that I present to Steve Boyd every month. Pam has this matrix and can answer any questions you may have. There are 2 threatened personal injury cases that are being handled by outside counsel. The matters below are matters I was handling in house that are not covered by insurance and will require the assignment of counsel or a temporary shift of responsibility to another attorney. Also, because the College deductible is \$100,000 per case and because my office's total contractor/outside counsel budget for each year is \$100,000, I handle Division of Human Rights and EEOC Charges that are filed against ECC, in-house, to save money. You may need to obtain clearance from the insurance company to continue this practice. I had to present my resume to them to demonstrate my qualifications.

- 1) **Ronnie Moore v. Erie County, ECMCC and ECC – Case U – 34082** - This is an improper practice charge before PERB. Petitioner and ECC employee Ronnie Moore is represented by Frank LoTempio, III, Esq. The County is represented by labor relations, the hospital by Kathleen O’Hara, I was representing ECC and Jeff Mis, Esq. is representing AFSCME. The charge alleges collusion between the union and the employers against Mr. Moore who is currently employed at ECC and was formerly President of AFSCME. The original hearing was scheduled for January 2016 but was adjourned because Frank LoTempio had to produce an audio recording that he thinks supports his case. I have listened to the recording and in my opinion there is nothing of significance. We are waiting for a settlement conference/hearing date to be scheduled in the near future. The file is in my office. An attorney will need to be assigned to represent the College, although there is [REDACTED], as Mr. Moore’s employer has more direct involvement in the case. County Labor relations has a copy of all of the documents in the case.
- 2) **Trisha Grimes and Katherine Richardson** – This is a threatened claim against ECC arising out of the dismissal of two nursing students for HIPAA violations. They are represented by Ned Perlman, Esq. I have reached a settlement agreement with Mr. Perlman in principal and am waiting for a signed agreement to be returned. An attorney will need to sign this assuming it comes in after I leave. The carrier was notified of this case and an update will need to be provided assuming the settlement agreement is finalized.
- 3) **US Department of Education – Office of Civil Rights – Case No. 02-14-2223-** This was an unknown complainant who alleges that there are Title IX violations in equity and athletics programs with respect to women. This was filed well over two years ago. We filed a position statement and submitted information. It was discussed that ECC could likely enter into a settlement agreement with respect to reporting and other improvements however, I never received a draft from the OCR. Although I have followed up, I haven’t received anything further from the OCR. The last correspondence on this file was on December 4, 2015 when the investigator wrote to let me know she was retiring and that the case was being assigned to another investigator. She also indicated the matter is “still under review.”
- 4) **NY Department of Labor – PESH- Case No. 2258526 – Ronnie Moore-** This was filed in 2014 and ECC has submitted a response and participated in interviews with the investigator. The last activity was in August 2015 in which additional interviews were conducted. We are waiting for a decision on this.
- 5) **Arbitration of Grievance 14-5 – FFECC Storm Closing-** This is a grievance filed by the FFECC who complain that during the Winter Storm Knife that they should have not been required to come to work the second week of the storm when classes were canceled the first three days. The FFECC argues that campus was essentially closed and that they should have been required to report or utilize leave time for failing to report. The campuses were open and all employees in all of the other unions reported to work. The Arbitrator is Paul Caffera and the LRS for the FFECC is Elizabeth Vignaux. We are waiting for a reschedule date of this matter, but it will need to be handled by an attorney.

Contracts: I revised the Contracts approval process when I started at ECC and changed the process to incorporate legal changes before the Board of Trustees approves the agreement. Previously, the County Attorney's Office would receive the document after Board approval with signatures affixed which caused issues when changes might have to be made to the agreements due to legal concerns. As the ECC Board of Trustees meets once a month, I frequently have to review and organize items for submission for the Board Agenda, as well as reviewing contracts that will be placed upon the Board Agenda. If time doesn't permit review before they go before the board, I always review them before the Board meeting so that I am prepared to answer any questions the Board may have and to alert departments to changes that will have to be made to the agreement post Board approval. After the Board meeting, my office is the first stop for routing the agreements for signatures. There is a log and system in place that involves other offices. Pam will be able to manage the routing. I also review and approve as to form agreements pertaining to student SGA activities, athletics contracts, standard purchasing agreements, RFPs or service agreements, and on occasion facility use agreements (ECC often enters into contracts for the use of facilities). There are form agreements that I created for each of these activities, so the review of them is typically not too time consuming. In 2015, I reviewed and approved 260 contracts. My office issues document numbers similar to the system utilized by your office. In 2014, I reviewed and approved 254 contracts.

The following items below are open contracts currently that will need attorney attention sooner rather than later:

- 1) Blackrock MOU – This is a Start UP NY Lease between Blackrock, the Amherst IDA and ECC. It is nearly finalized, but will be going before our Board of Trustee for approval for the February meeting and will need to be finally approved as to form after the meeting. I sent a separate email to you and Marty on this document Wednesday (2/10/16). The most critical aspect of that is that Blackrock wants to review any executive summary and documentation that will be sent out to the Board BEFORE it goes out. Pat Talbot or Mike P. can take care of that.
- 2) CSEA MOA on Fragmentation – I would recommend counsel be assigned to represent the College to finalize this MOU.
- 3) Plasterer's Union MOU and Contract –I have drafted a draft contract. Pam sent it to Bill Reuter and Tony Nesci. The agreement is that ECC supplies materials and Paul Brown of the Building Trades will supply laborers to perform the work. I understand that AFSCME has no objection to this and I drafted a MOU with AFSCME that will also need to be signed. This process was navigated by me last year. There is both a draft contract and draft MOU. If this needs to go on for February, someone will need to take the lead in handling that.
- 4) MOU with STAR Swimming: This is up for negotiation and renewal. This is a significant contract with the College. Joe Braccio from Hodgson Russ represents STAR. He called me this week after he heard I was leaving and asked who he could speak to get this rolling. He indicated that STAR might be willing to make some capital improvements to the Pool in exchange for some credit in rental that they pay the College as a part of the agreement. Pam can pull the old contract and expiration date to assist, but someone will need to finish this up.

- 5) MOU on VA Health Care – This is something that has been sitting but will require just a little work to finalize. Pam has the file. The attorney is Shiela Weimer from the VA.
- 6) Prometric Agreement for Workforce Development – ECC contact is John Slisz. This requires review by an attorney.
- 7) Luxottica – this is a placement agreement that also has been outstanding for a while. I had a conversation with Luxottica’s counsel some time ago. Changes will need to be implemented to the draft. The new attorney assigned will likely have to re-engage the counsel to discuss possible changes that I think would be required on the agreement.
- 8) Form RFP for purchasing – I was working on a form RFP agreement that all departments could use for RFPs. It was a fillable PDF. I had a UB intern assist on this and it requires legal review by an attorney and then implementation. It would shore up some inconsistencies in the RFP process. Also, it is my recommendation that the Purchasing Department take a much more active role in the RFP process from a compliance, tracking and record retention standpoint. It is currently de-centralized and that leads to inconsistencies.
- 9) Cell tower leases: There are three outstanding cell tower leases. I apologize as they have been sitting a bit and I was unable to get to them. I have asked Pam to prepare separate memos on each of those. Bill Reuter and Tony Nesci will be the contacts on the business terms of the leases.
- 10) Strong Memorial Affiliation Agreement – I gave preliminary comments to the department, but this will be on the Board and will need to be approved.
- 11) Monthly, I review, suggest revisions where applicable and approve about 8-10 contracts that appear on the Board agenda. I start reviewing these when the agenda goes out a week ahead of time

General Legal Advice

Human Resources:

There is a newly admitted attorney, Chris Maugans who works in Human Resources as an Assistant to the Director of Human Resources. He has been practicing a year. I was mentoring him on labor and employment issues in HR. I was providing legal oversight, review and approval of FOIL requests (of which we receive many), FMLA leave, requests for reasonable accommodations, civil service questions, union contract interpretation, review and approval of disciplinary actions, terminations, settlement agreements (both in lieu of terminations and as grievance settlements). He had several matters/questions a week to ask.

I also was handling Step 2 of the grievance processes for all Unions. HR usually handles the Step 1 responses. Having a fresh set of eyes at Step 2 I have found to be helpful. An attorney will need to be assigned to handle the Step 2 responses in the short term.

Equity and Diversity:

I review draft harassment investigation reports for legal sufficiency, when they are sent to me. An attorney should be reviewing these reports to ensure they are timely and that the appropriate staff were interviewed and legal standards met.

Other Significant Matters/Projects that require Legal Attention:

1. Affordable Care Act – Filing with IRS – We have hired an outside accounting firm (Tronconi & Associates) to help us with facilitating the sending out of these forms to our employees and filing with the IRS, but counsel needs to review our coding. I spot reviewed it and found some errors, but George DeRosa in payroll, who was taking the lead did not provide me with the draft final report before my last day. I would strongly recommend that an attorney review the coding on this report to make sure it is correct. It is the first year that such forms and returns are required to the IRS. These forms are due to employees March 31, 2016.
2. Negotiations – We are in active negotiations with AFSCME and soon to start with CSEA for its part timers. Counsel to represent the College should be assigned for these negotiations.
3. Middle States –Our Periodic Review Report (“PRR”) is due to Middle States in June 2017. One of the requirements is a written compliance report for compliance under the Higher Education Opportunity Act. I planned on taking the lead on that to review the requirements, institution processes (this summer) so that all would be in place at the time we are to submit our report next year. The Middle States Website has publications that outline the requirements of the compliance report and there is some shoring up that needs to be led and completed. Also, there are about 300 compliance points under the HEA that will need to be checked and reviewed with departments before next June. I conducted the last review back in 2011 or 2012.
4. BOT Policies Manual – Trustee Masiello has been heading up a subcommittee with me and Mike Pietkiewicz for a complete revamp of the BOT policies and procedures manual which is outdated. The Bylaws were revamped in 2015 and the policies and procedures manual needs updating. As legal counsel for the College, I took the lead in facilitating the SharePoint site with policies, researching policies at other colleges and drafting and suggesting language for revised policies in accordance with the Board’s direction. Someone will need to pick this up. The next meeting is February 23 at 5:15 pm.
5. FFECC Contract – As you know, this contract was negotiated in the fall. Elizabeth Vignaux and I planned to spend several hours redrafting the contract to eliminate unnecessary provisions and to incorporate the new provisions. We were not able to start this before my department. An attorney will need to be assigned to pick up this project to ensure that the College is protected with the insertion of new language.
6. AAEECC Contract – I am farther along with this contract. I have met with Ed McGowan from the UAW for several hours and we have a preliminary redline draft that I have sent to HR and Bill Reuter. This will need to be finalized as there were a couple of questions and outstanding issues that required client input. An attorney will be needed to wrap this up as well.
7. Annual Ethics Disclosure to the County – Usually the Ethics Board sends these over to my office for distribution to all of the policymakers. I would craft letters and get them out. This will need to be coordinated by someone else.

8. Article 129-A certification – This is an annual certification that is required to SUNY that my office manages. This is due annually, on July 1st. I usually check the statutory requirements, verify with the departments that they are in compliance and then approve for Jack's signature.
9. Child Abuse Protection Policy – This policy needs to be enacted within the next two months. ECC will have a report due to SUNY on July 1, 2016 regarding its progress on this matter. There is a form SUNY policy that includes proposed insurance requirements and contracts with third party vendors that should be implemented. I headed up a committee and internal departments had feedback and reservations about what was being requested (essentially background checks for every individual who may come into contact with a minor). This is broad at the College. This needs to be finished, drafted, approved by the Board and rolled out by administration so that the departments are all being checked and trained in accordance with the requirements.
10. FLSA Audit – There are impending changes with the FLSA regulations with respect to salary tests for exempt and non-exempt titles. ECC is in need of an audit of all of its titles to verify and classify, if appropriate, employees as exempt or non-exempt. There is nobody on staff with the time or expertise to conduct this review so it will need to be handled by an outside counsel. Depending on the results, changes may be need to some policies and contractual provisions on overtime and compensatory time.
11. Fire Code Issue – I have been involved in a Fire Code violation relating to the ability of ECC to pump water onto its campus. This has been ongoing. The Fire Marshall contends that the flow of water on ECC's campus is much lower than it should be. It appears that the problem will require significant capital improvements and we last met with the Fire Marshall in January, 2016. The next step was to fully brief County DPW to see if it can assist. The problem might well lie off campus and possibly in pipes under the Bill's parking lots. I thought the County owns those lots and leases them to the Bills, but that point was unclear. That was one issue that was supposed to be followed up with DPW, along with the underlying problem. The Fire Marshalls are expecting a meeting scheduled within the next month to discuss how ECC and the County plan to rectify the problem.
12. Implementation of Taleo – We are implementing an online application and onboarding system. There are questions regarding the legality of questions and forms that I was answering that will need to be answered as they come up until the implementation is complete. A labor attorney will need to be involved in this.
13. Title IX – There are broad training and program requirements for Title IX. ECC instituted a training in the fall and I have not received a report from our Title IX Officer (Darley Willis) that all employees have completed the training. Someone will need to follow up with her and verify that all employees have completed the training and if not, she will need to follow up and get everyone trained. This is an annual requirement so she will need to proactively institute and track this annually. HR might be able to assist with its new WeComply training software. There are also legal requirements that still need to be implemented relating to: notation of sexual offenses on the transcript and our judicial hearing board and procedures. Heather Cruz has temporarily set up our Board as defined in our College Catalog, but this needs to be updated and individuals

need to be trained to reflect the modern legal requirements of Title IX. Jim Jarvis, from SUNY is a potential resource to assist counsel in what the current requirements are.

14. Harassment and Discrimination – Annual training (online and verified) needs to be completed. The E & D Office has not been keeping up with this. This is something that will need to be followed up upon. Also, the EEO Investigator position in that office is vacant and should be filled so that ECC.

These are the largest items of note that I can think of. There are a number of smaller items that were coming in that Pam will send over to the County Attorney's Office with the transmittal sheet.

I will be out of town today through next Friday (2/19) late. I start my new position on 2/22 and can be reached at my cell phone if you have any questions or if anything comes up. All of my work was saved on the network drive in fairly organized files, so Pam can assist anyone who may need help finding something.

Thank you.

cc: Michael J. Pietkiewicz, Sr. VP of Operations
Pamela Stachowski, Assistant to the EVP of Legal Affairs