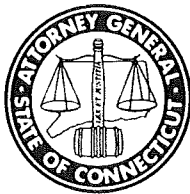


GEORGE C. JEPSEN
ATTORNEY GENERAL



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Office of The Attorney General
State of Connecticut

September 11, 2012

Susan Herbst
President
University of Connecticut
Gulley Hall
352 Mansfield Road, Unit 2048
Storrs, CT 06269-2048

Dear President Herbst:

You have asked for this Office's opinion concerning the State of Connecticut's responsibility for lease payments by the University of Connecticut Health Center (the "Health Center") under a proposed lease ("the Lease") between the Health Center as tenant and a special purpose entity, as landlord, for an Ambulatory Care Center, as contemplated by Conn. Gen. Stat. §10a-109e(f), as amended by section 4 of Public Act No. 11-75 (the "ACC"). The special purpose entity ("SPE") will be a subsidiary corporation established by the University of Connecticut Health Center Finance Corporation pursuant to Conn. Gen. Stat. §10a-254(13).

You subsequently advised that this SPE's limited role, following construction of the ACC, will be to serve as owner of the ACC's physical plant and collect and remit the Health Center's Lease payments to the lender (the "Lender") financing the ACC's \$203M construction cost (the "Loan"). As security for the Loan, the SPE will pledge and assign the Health Center's required Lease payments to the Lender, until the Loan is satisfied.

Specifically, you have asked this Office to confirm that: (i) the financial obligations of the Health Center under the Lease are not subject to appropriation risk; and (ii) in the extraordinary unlikely event that the Health Center were to default on its Lease obligations, these obligations would become general, unrestricted legal obligations of the State of Connecticut and unrelated to any appropriation to the Health Center. Your July 25, 2012 request further states: "While potential lenders generally understand that the Health Center is an agency of the state of Connecticut, they want some form of written assurance that their loan of \$203 million is secure."

As more particularly described below, we conclude that (1) although in the normal course required payments under the Lease will be made from available Health Center funds, the Lease payment obligations of the Health Center create legal obligations to the State of Connecticut; and (2) as a legal obligation of the State of Connecticut, required payments under the Lease are not subject to the risk of legislative non-appropriation for the Lease payments.. Rather, like any claim against the State, a claim against the Health Center could proceed as provided by law.

The Health Center is a state agency. Indeed, the University of Connecticut is a constitutionally and statutorily created state university. Conn. Const., Art. VIII. §2; Conn. Gen. Stat. §10a-102. As noted in §10a-109v of the University of Connecticut 2000 Act, the University is defined as having “perpetual succession as a body politic and corporate and an instrumentality and agency of the state.” Conn. Gen. Stat. §10a-109v (emphasis added).

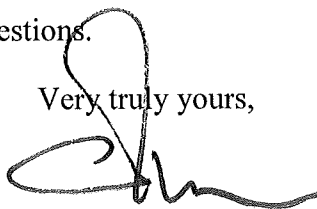
The University of Connecticut Board of Trustees has, in turn, created a “board of directors for the governance of The University of Connecticut Health Center” pursuant to Conn. Gen. Stat. §10a-104(c), and established operating funds pursuant to Conn. Gen. Stat. §10a-105, with ensuing provisions for what comprises the fund including, generally, “appropriations from general revenues of the state.” Conn. Gen. Stat. §§10-105(b), (c). These statutory provisions make clear that the University of Connecticut, including all of its constituent units, is a state agency.

As your staff has described to us, the ACC financing transaction requires, as security for the Loan, an assignment to the Lender of the Health Center’s Lease payments. As such, claims against the Health Center are subject to the same framework as any other claim against the State. *See* Conn. Gen. Stat. Ch. 53.

Thus, assuming the Health Center lacks a valid defense to any such action brought against it for a default under the Lease, as a state agency, the Health Center’s obligation to make payments under the Lease can be enforced through the comprehensive process afforded by law that protects parties aggrieved by the state when it has acted in a wrongful manner and money damages are appropriately awarded. If authorized, a suit may be brought directly against the state, with the state’s rights and liability being coextensive with and equaling the same rights and liability of a private entity that has failed to honor its Lease obligations in parallel circumstances; and judgment entered against the state may be satisfied in accordance with applicable law. *See* Conn. Gen. Stat. § 4-160(i).

We trust that the foregoing has answered your questions.

Very truly yours,



George Jepsen
Attorney General