

OFFICE OF GENERAL COUNSEL



University of North Texas



*University of North Texas
Health Science Center at Fort Worth*



*University of North Texas
at Dallas*



*University of North Texas Dallas
College of Law*





UNIVERSITY OF NORTH TEXAS NEW FACULTY ORIENTATION 2009

DISCOVER THE POWER OF TEXAS: OPEN RECORDS ACT & MORE

Renaldo L. Stowers
Senior Associate General Counsel
UNT System Office of General Counsel



Protection from Liability

- Legal representation by State of Texas Office of the Attorney General at no cost.
- Faculty sued for decisions made and actions taken if fulfilling faculty responsibilities have immunity from suit and liability.
- State of Texas and UNT indemnifies faculty and staff for liability resulting from decisions made and actions taken in fulfilling job responsibilities.
- State of Texas limits liability for *state law* claims (e.g. defamation) at \$100,000. This cap on liability does not extend to *federal law* claims (e.g. denial of due process, civil rights violations)



Contracting Authority

- Only the President or her designee(s) are authorized to sign contracts and agreements on behalf of the university.
- Designation must be in writing before an individual other than the President may bind the university.
- Currently, no faculty member has been delegated authority to sign contracts or agreements of any type on behalf of UNT.
- A faculty member who signs a contract on behalf of UNT w/o written authority may be personally responsible for honoring the terms of the agreement.



Ethics

- In Texas, violation of ethics laws can result in criminal charges. UNT Policy 1.2.9 (Ethics).
- Accepting or soliciting gift, favor or service that:
 - might reasonably tend to influence decisions made in the discharge of official duties.
 - know or should know is being offered with the intent to influence your official conduct.
- Use State credit cards for personal expenses.
- Solicit, accept, or agree to accept an honorarium in consideration for services you would not have been asked to provide but for your official position or duties.
- Entrust State property to anyone to be used for other than State purposes



Standards of Conduct

- Employees are responsible for avoiding conflicts of interests and conflicts of commitment.
- Outside employment, interests and activities, including external development and marketing of intellectual property must not interfere or conflict with the employee's position with the University.
- Faculty members must formally request permission to engage in outside employment.
- A form to request authorization to engage in outside employment or activity can be found in UNT Policy 1.2.2 (Dual Employment and Other Activities)



Expert Witness Reporting Requirement

- State law requires all public universities to report specific information related to employees who serve as consulting or testifying expert witnesses in litigation where the State of Texas is a party.
- Information is collected late August and reported September 31st of each year.
- Employees must provide the name of case, hours worked on case, outcome, etc.
- All reports are submitted and reported anonymously.



Religious Accommodation

- A student must be excused from attending classes or other required activities, including examinations, for the observance of a religious holy day, including travel for that purpose.
- A student whose absence is excused may not be penalized for that absence and shall be allowed to take an examination or complete an assignment within a reasonable time after the absence. Requiring a student who will miss class in observance of a holy day to take an exam before other students is not advised.
- The religious accommodation law does not allow a student to avoid or fail to complete an assignment or examination.



Family Educational Rights & Privacy Act

- The Family Educational Rights and Privacy Act protects personally identifiable information in student educational records (e.g. name, student ID, grades, term papers, etc).
- Do not discuss grades in presence of other students (e.g. after-class discussion).
- Return assignments and post grades (if you use this practice) with an eye toward privacy.
- Do not scan papers that contain a student's names or other personally identifiable information (e.g. SSN or student ID number) into Internet-based plagiarism-detection service w/o student's consent.



FERPA – Releasing Grades

- The answer is **NO!**
 - Can I legally post grades by student name, social security number or student ID number? **NO!**
 - Can I legally post grades by the last 7, 6, 5, 4....digits of a student's SSN or ID number? **NO! NO! NO! NO!**
- General Rule - **DO NOT** release information from student records w/o the student **written** and **signed** consent.
 - What about to a parent? **NO!**
 - What about to a spouse? **NO!**
 - What about to the best friend who is going to see the student over the weekend? **NO!**



Accommodating Student Disabilities

- Include department disability accommodation policy on syllabus.
- Syllabus should inform students they must go through Office of Disability Accommodation (ODA) by a specific class date.
- Refer student who says he/she has a disability to the ODA. ODA is responsible for verifying a student's disability.
- Accommodations are not retroactive.
- Recommendations made by ODA are advisory.
- Discuss with chair before denying an accommodation recommended by ODA.



Public Information

- Texas Public Information Act (PIA) is one of the broadest such laws in the country.
- Information is presumed to be open to the public.
- Information is considered public regardless of the format in which it is created or maintained, e.g. paper, sound recording; videotape; and photos.
- Only information that is confidential by law, can be withheld from disclosure. Sensitive does not equal confidential.



Examples of Public Information

- Personnel records, including performance evaluations, grievances, promotion and tenure files, and disciplinary actions
- Entertainment and travel records
- Personal notes (not lecture notes and presentation slides)
- Calendars and personal notations on the calendar
- Committee meeting minutes
- Email and other business correspondence
- Telephone and cell phone records from phones paid for by the university
- Drafts of correspondence that exist after the letter/memo was finalized



Public Information Exceptions

- The following information generally does not have to be disclosed to the public if requested under the PIA:
 - Student records (FERPA)
 - Scientific research with potential commercial value
 - Tests and answer keys
 - Information protected under copyright laws (including lecture notes and presentation slides).
- An employee's private telephone number and address and personal family information is confidential. But, the employee must request that the information be kept confidential, in writing, in the Human Resources office.



Anti-Discrimination Policy

“It is the policy of the University of North Texas not to discriminate on the basis of race, color, religion, sex, age, national origin, disability, disabled veteran status, or Veterans of the Vietnam Era status, in its educational programs, activities, admission, or employment policies. In addition to complying with federal and state equal opportunity laws and regulations, the University... declares harassment that is based on individual differences (including sexual orientation) to be inconsistent with its mission and educational goals.”



Anti-Harassment Policy

- “It is the policy of the University of North Texas that acts of sexual harassment... toward guests of and visitors to the campus or any member of the University community including faculty, staff, students and candidates for positions at the University (regardless of the individual's gender) will not be tolerated. All members of the administration, faculty, staff and students will be subject to disciplinary action for violation of this policy.”
- Sexual harassment is not funny. “That email you are thinking about sending – yes, that one - is not funny.”



Consensual Relationship Policy

- University policy prohibits consensual relationships between faculty and students. UNT Policy 1.3.23 (Consensual Relationships)
- Relationship does not have to result in sexual harassment complaint in order to violate policy.
- Faculty and staff can be sanctioned for engaging in prohibited consensual relationships.
- Policy applies to TAs and TFs.



Grade Appeals

- UNT policy allows students to talk to instructors about grades they receive.
- Students have 30 days from the start of the first long semester following the semester in which the grade was issued to appeal to the chair of the department.
- The UNT record retention policy requires faculty members who do not return grades and assignments to student to keep them for 1 year after the semester in which the grade was issued: <http://compliance.unt.edu/untrrs/319>
- Faculty members should always cooperate with the department appeals committee.



Grade Appeals & Academic Dishonesty

- The chair may follow any of four procedures in handling grade appeals:
 - Confer with the instructor
 - Request that the instructor submit a written reply to the student's complaint
 - Meet with the student and faculty member, or
 - Refer the case to the appropriate departmental committee
- UNT is adopting a new academic dishonesty policy. Look for details in the immediate future.



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Contact Us

- Go to the OGC webpage for more information about FERPA, public information laws, UNT System and UNT policies, contracts and more at: <http://untsystem.unt.edu/generalcounsel/>
- Visit the Denton office at: Gateway Center, 3rd Floor 340
- Call us at (940) 565-2717

