

Legal Issues Affecting Graduate School Administrators

**Council of Graduate Schools
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Legal Issues Affecting Graduate School Administrators

- Race Conscious Admissions
- Collective Bargaining
- Student Record Issues
- Program Integrity Regulations
- Smorgasbord

Race Conscious Admissions

- University of Michigan cases – 2003
- Bakke – 1978
- 25 years – 2028
- State referenda/statutes

Race Conscious Admissions (cont.)

- Fisher v. University of Texas – 2012
 - Hopwood (1996)
 - 10%
- October 10, 2012 – Argued
- Precedent?

Race Conscious Admissions (cont.)

- Michigan Constitution Case
- Race Neutral Alternatives
 - ED OCR/DOJ Guidance – December 2011
 - UC and Univ. of Nebraska Guidelines

Race Conscious Admissions (cont.)

When in doubt, consult designated official
and/or legal counsel.

Collective Bargaining

- New York University–NLRB 2000
- Brown University–NLRB 2004
- New York University–NLRB 2010
 - Union appeals dismissal

Collective Bargaining (cont.)

- Public Universities
- CBA – academic issues

Collective Bargaining (cont.)

- Faculty
- Yeshiva – Management – 1980
 - Point Park – 2003-2012
 - Adjunct Faculty

Collective Bargaining (cont.)

When in doubt, consult designated official
and/or legal counsel.

Student Record Issues

- Family Educational Rights and Privacy Act (FERPA) passed in 1974: 20 U.S.C. 1232 g
- Protects “education records” and information in the records
- Allows student access to records

Student Record Issues (cont.)

- University must have published policy
- Directory information is designated by the university e.g. name, address, telephone, DOB, major, dates of attendance, degrees and awards, most recent prior school

Student Record Issues (cont.)

- Does not cover personal observation, but....
 - Consent of student to disclose
 - Eleven other permitted disclosures include:
 - Emergency to protect health or safety
 - Subpoena
 - School officials with legitimate educational interests
 - Parents of dependent student

Student Record Issues (cont.)

Special provisions related to

- Letters of recommendation if waiver signed
- Disciplinary records
- Drug & alcohol violations if under 21
- Terrorism

Student Record Issues (cont.)

- Enforcement by withholding federal funds
- May provide defense to FOIA
- U.S. Supreme Court (2002) – no private right of action

Student Record Issues (cont.)

When in doubt, consult designated official
and/or legal counsel.

Program Integrity Regulations

- Published November 2010, Effective July 1, 2011
- Credit hour definition
- Misrepresentation
- State authorization
- Incentive pay
- Gainful employment

Program Integrity Regulations (cont.)

APSCU Sued ED

- USDCDC July 2011
 - State authorization – Distance Ed
 - Vacated – inadequate notice

- USCADC July 2012
 - Affirms state authorization ruling
 - ED-DCL/Reciprocity efforts

Program Integrity Regulations (cont.)

Gainful Employment

- Non-degree – at least 1 year program
 - or graduate or professional program
 - 200 clock, 8 semester or 12 quarter hours in 10 week minimum
 - Teacher certification exception

Program Integrity Regulations (cont.)

Disclosures for 2011-12 due Jan. 13, 2013

- Occupations
- On-time graduation rate
- Cost – includes books, room & board
- Placement rate
- Median loan debt

ED Motion to Amend Pending in Court

ED Template Not Issued

Program Integrity Regulations (cont.)

When in doubt, consult designated official
and/or legal counsel.

Smorgasbord

- Tuition remission, sick leave, taxes & grad students
- Immigration update
- Title IX
- Other issues? Questions?

Mantra

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