



Legal Issues Affecting Graduate School Administrators

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Legal Issues Affecting Graduate School Administrators

- International Programs
- Academic Freedom
- Troubled Students
- Achieving Diversity
- Smorgasbord

International Programs

- “Informal” Programs

Approvals needed?

- > University
- > State authorities
- > Accreditors

Documentation?

- > MOU
- > MOA
- > Contract
- > Letter of intent

International Programs (cont.)

- Student Issues
 - > U.S. students abroad
 - > Foreign students in U.S.
- Safety Issues
 - > Medical
 - > Facilities

International Programs (cont.)

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



Academic Freedom

- Origins
 - > Constitution?
 - > Supreme Court
 - > AAUP
- Rights/Responsibilities

Academic Freedom (cont.)

- Institution
- Faculty
- Students

Academic Freedom (cont.)

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

Troubled Students

- Americans with Disabilities Act (ADA) passed in 1990
 - › Follows on Section 504 of Rehabilitation Act passed in 1973
 - › Amended effective January 1, 2009
- No discrimination – disabled or perceived as disabled
- Unique aspect of accommodations

Troubled Students (cont.)

- Documented disability
- Individualized interactive process
- No fundamental alterations to program
- Undue burden

Troubled Students (cont.)

- Student discipline
 - > Published policies and procedures
 - > “Due Process”
- Student grievance

Troubled Students (cont.)

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

Achieving Diversity

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

Achieving Diversity (cont.)

- Admissions – individualized
- Financial Aid
 - › Restricted scholarships
 - › Institutional
 - › Outside organizations
- STEM fields

Achieving Diversity (cont.)

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



Smorgasbord

Other issues? Questions?

- Collective Bargaining
- Federal Regulations
- Lobbying/Political Activity
- FERPA

Collective Bargaining

- Public Universities
 - › State law governs
- Private Universities
 - › Federal law governs
- New York University
- Brown University

Federal Regulations

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

Lobbying/Political Activity

- Honest Leadership and Open Government Act 2008
- Lobbying reporting
- Campaign activity

FERPA

- 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

FERPA (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

FERPA (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

FERPA (cont.)

Special provisions related to

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

FERPA (cont.)

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

Mantra

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