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?
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