Legal Issues Affecting Graduate School Administrators

Council of Graduate Schools
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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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