

# Basic Legal Guidelines for Classroom Policies and Practices



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# Overview of Higher Education Law

- **FERPA (Family Educational Rights and Privacy Act)**
- **ADA (Americans with Disabilities Act)**
- **Civil Rights**
  - Sexual Harassment
- **Public Records Laws**
- **Constitutional Law**
  - Establishment Clause and Religious Freedom
  - Freedom of Speech
  - Due Process (Academic Integrity and Code of Student Responsibility)
- **Classroom Control**
- **Suggested Syllabus Policies**



# Family Educational Rights & Privacy Act (FERPA)

- **FERPA protects the confidentiality of student records. Addressed in University Policy 402.**
- **It provides 5 rights to students:**
  1. The right to inspect their own education records;
  2. The right to prevent disclosure of their own education records;
  3. The right to seek amendment to their own records if they are inaccurate or misleading, and in certain cases append a statement to their records;
  4. The right to be notified of their privacy rights under FERPA; and
  5. The right to file a complaint with the U.S. Department of Education to report an alleged failure by the University to comply with FERPA.



# FERPA

- **What is a student education record?**

## Information

- Personal information (other than Directory Information, defined later)
- Grades
- Schedules
- Disability status
- Academic standing
- Social Security Number

## Format

- A paper document in the Registrar's office
- A computer printout in your office
- A class list on your desktop
- A computer display screen
- An email message
- A photograph\*
- Written notes you have taken while meeting with a student



# Basic FERPA Rules

- Written consent
- Possession of them.
- Some student information, "is requirements.
- Access only for legitimate use on a "need to know" basis.
- In doubt? Contact the Registrar's Office.
- [FERPA Tutorial](#)

**Directory Information** at UNC Charlotte means: the student's name, local and permanent address, email address, telephone number, date and place of birth, class, major field of study, dates of attendance, enrollment status, degrees and awards (including scholarships) received, participation in officially recognized activities and sports, weight and height of members of athletic teams, and the most recent previous educational agency or institution attended.



# Examples

- Honor Society writes dean and asks for names and addresses of all students in college majoring in XXX and who have achieved 3.0 average.
- Woman says, “I am X’s wife and he asked me to pick up his transcript.”
  - What if she has a written note from the husband/student authorizing delivery to his wife?
- FBI agent presents badge and says that he is investigating a crime and it is of the utmost urgency that he see student’s records immediately.
- Disclosure to parents/3rd parties when student is present?
- Disclosures of observations not obtained from education records?
- You have a valid written consent from a student to release her information, but in your judgment, you don’t think it’s in the student’s best interest to make the release.
- Leaving student information on desk or computer screen.



# Discrimination

- **You may not discriminate on the basis of:**
  - ✓ Gender
  - ✓ Race
  - ✓ Color
  - ✓ National Origin
  - ✓ Religion/beliefs
  - ✓ Age
  - ✓ Disability
  - ✓ Military Service
  - ✓ Sexual Orientation (by University Policy)
- **Classroom policies likely to involve illegal discrimination against a protected class:**
  - attendance/absence/tardiness (religion, disability)
  - participation (disability)
  - papers, projects, and tests/exams (race, gender, sexual orientation, national origin, religion, disability)
  - appropriate dress (religion)



# Americans with Disabilities Act (ADA)

- **Nondiscrimination on the Basis of Disability (University Policy 501)**
- **Coordinate with the Office of Disability Services:**
  - Assistive Technology
  - Emergency Evacuation Procedures
  - Student Eligibility
  - Attendance
  - Note Taker Program
  - Students' Rights and Responsibilities
  - Your Rights and Responsibilities
  - Testing Accommodations



# Americans with Disabilities Act (ADA)

## Pop Quiz

**Are the following classroom policies enforceable?**

- 1. This class begins promptly at 9 a.m. Students arriving after 9 a.m. will not be admitted and will be counted absent.**
- 2. All written essays must be submitted in hard copy. No electronic copies will be accepted.**
- 3. Every student must attend a conference at the professor's office. Missing the conference is an absence.**



# ADA – Pop Quiz Cont.

4. **Class participation means that students must give an oral report to the class. Those who do not speak will have the class participation grade reduced.**
5. **Students who need special assistance or accommodations must raise their hand and identify themselves on the first day of class. If a student does not do so, then no accommodation will be provided.**
6. **Students who need an accommodation must provide medical documentation to the Office of Disability Services and coordinate all accommodations through that office.**
7. **Students may be asked to move to another part of the classroom or to take notes in order to provide accommodations to another student.**



# Sexual Harassment

- **Quid Pro Quo**
- **Hostile or Abusive Environment**
- **University Policy 502**



# Sexual Harassment

- **Rules to live by:**
  - You are in a position of power – don't abuse it
  - You are the teacher, not the friend, buddy, etc.
  - Do not do anything that would even appear questionable
    - Closed-door meetings
    - "Consensual" relationships
    - Risqué jokes
  - Do not promise anonymity



# Sexual Harassment

- **Report harassing behavior to:**
  - Dean of Students – Christine Reed Davis
  - Employee Relations in Human Resources – Jeanne Madorin
  - Chair of Program
  - Dean of College
  - Confidential Discussion – Counseling Center
- **Consider confronting harasser**
- **Report and keep reporting until you get help**



# North Carolina Public Records Act

- **What is covered:**

- All documents of any type produced in the course of business of any public agency are subject to the public records law with the exceptions of:

- Student education records (FERPA)
- Personnel records (the disclosure of which is a criminal offense)
- A few other narrow exceptions

- **RULE TO LIVE BY:**

- IF YOU DON'T WANT TO READ IT IN THE FRONT PAGE OF THE NEWSPAPER, DON'T WRITE IT OR EMAIL IT



# The First Amendment

- **Free Speech INCLUDES:**
  - Clothes
  - Art
  - Actions/Demonstrations
- **Free Speech DOES NOT INCLUDE:**
  - Classroom disruption
  - Fighting Words
  - Obscenity



# The First Amendment

- **Freedom of Religion**

- Establishment Clause – State may not establish a religion, prefer one religion over another, support religion with no identifiable secular purpose.
- Students have a right to practice religion
  - Reasonable accommodations
  - True tenets and beliefs
- Most common areas of accommodation
  - Absence policies (University Policy 409)
  - Teaching materials
  - Clothing



# Due Process – 14<sup>th</sup> Amendment

- **Substantive Due Process**
  - Must use processes established in:
    - Code of Academic Integrity
    - Code of Student Responsibility
    - Other university policies
  - Process does not have to be extravagant, but must provide notice, an opportunity to respond, and to have decision made by fair and impartial body
  - The more serious the consequence, the more stringent the due process requirements



# Classroom Control

- **Legal Standard of Review for Classroom Policies - Rational Basis Test**
- **Enforceable? “Yes, if...” or “No, unless” the policy:**
  - allows different treatment for a particular student as a reasonable accommodation of a disability or religious belief
  - is "rationally related" to an educational purpose
    - is not "arbitrary and capricious," in other words, it is imposed consistently by the instructor
    - is not imposed maliciously
    - is not created, or applied, on the basis of a protected class



# Classroom Control Examples

- **Students come to class unprepared. Teacher dismisses the whole class and counts each student absent.**
- **A student wears a t-shirt with the words "f--- racism" on the front. The instructor tells the student that she must wear the t-shirt inside out or leave the classroom.**
- **Students leave the class after waiting 15 minutes for the professor. The professor arrives five minutes after the students leave and counts all students absent for the day.**
- **A student says aloud in class: "This test was bulls---." The instructor demands an apology and that the student leave the class. The student refuses. The teacher tells the student to officially drop the class.**



# Suggested Syllabus Policies

- **Is a syllabus a contract?**
  - Maybe...but it doesn't matter
- **Things to include:**
  - Classroom Expectations/Conduct Issues
    - Behaviors
    - Cell phone/computer use
    - Recording lectures
  - Notice of ability to revise syllabus
  - Coursework/Grading
  - Tardiness/Absences
  - Turnitin.com
  - <http://legal.uncc.edu/legal-topics/standard-syllabus-policies>



# Resources

1. [Faculty Policy Guidance and Quick Reference Chart](#)
2. [Policies and Regulations](#)
3. [Suggested Standard Syllabus Policies](#)
4. [Civility in the Classroom – practical guidance](#)
5. [Planning Field Trips](#)
6. [Public Records Act](#)
7. [Office of Disability Services – FAQs](#)
8. [FERPA Tutorial](#)



# Questions?

