Basic Legal Guidelines for Classroom Policies and Practices

TA Training
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Jesh Humphrey, Deputy General Counsel (x78617)
Overview of Higher Education Law

- FERPA (Family Educational Rights and Privacy Act)
- ADA (Americans with Disabilities Act)
- Common First Amendment Issues
  - Religion
  - Speech
- Sexual Harassment
- Public Records Laws
- 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 required for release.
- Possession of records = responsibility for protecting them.
- Some student information, referred to as "Directory Information," is exempt from FERPA confidentiality requirements.
- Access within UNC Charlotte 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, major field of study, dates of attendance, enrollment status, and degrees and awards (including scholarships) received. Photographs, videos, or other media containing a student’s image or likeness and University-issued student electronic mail addresses are designated by UNC Charlotte as “limited use directory information” and generally are only available for official University use.
Discrimination

- You may not discriminate on the basis of:
  - Sex (including pregnancy and parenting)
  - Gender Identity (actual or perceived)
  - Race
  - Color
  - National Origin
  - Religion/Beliefs
  - Age
  - Disability
  - Military Service
  - Sexual Orientation
  - Political Affiliation
  - Genetic Information

- 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 501.1)
- 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.
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. Student with a visible disability requests what appears to be an appropriate accommodation, but has no accommodation letter from Disability Services.
The First Amendment

• Freedom of Religion
  ➢ 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
The First Amendment

• **Free Speech INCLUDES:**
  - Clothes
  - Art
  - Actions/Demonstrations

• **Free Speech DOES NOT INCLUDE:**
  - Classroom disruption
  - Fighting Words
  - Obscenity
Sexual Harassment

- Quid Pro Quo
- Hostile or Abusive Environment
- 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
    - Touching (this is also called “assault” when unwanted)
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
Due Process – 14th Amendment

- Must use processes established in:
  - Code of Academic Integrity (UP 407)
  - Code of Student Responsibility (UP 406)
  - Other university policies

- Notice and a hearing

- 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 of enforceable classroom policy subject matter:
  ➢ Technology-based restrictions
    ▪ Cell phones
    ▪ Text messaging
    ▪ Use of laptop computers/tablets
    ▪ Use of recording devices
  ➢ Food and drink
  ➢ Noise/conversations
  ➢ Late arrivals/early departures
Disruptive Behaviors

- Disruptive behaviors should be addressed as they occur:
  - Consider first cautioning the entire class rather than warning a particular student.
  - If the behavior is irritating, but not disruptive, try speaking with the student after class.
  - In rare circumstances when necessary to speak to a student during class, do so in a firm, friendly manner, and say that further discussion can occur after class.
  - If necessary, remind the student that continued disruption may result in removal from the class.
Disruptive Behaviors

- A student who persists in disrupting a class may be asked to leave the classroom for the remainder of the class period.
  - Tell the student the reason(s) for such action;
  - Give the student an opportunity to discuss the matter ASAP;
  - Document the incident promptly consult with the department chair;
  - Suspension for more than one class period requires appropriate disciplinary action through the DOS office. ([incidentreport.uncc.edu](incidentreport.uncc.edu))
  - Contact Police and Public Safety if the student does not leave the class promptly or there is a safety issue involved
    - If necessary, dismiss the entire class.
Classroom Control Examples

- Student refuses to engage in a course assignment on religious grounds (e.g. dissection, reading curse words from a script).
- Students come to class unprepared. Teacher dismisses the whole class and counts each student absent.
- Student wears a t-shirt with the words "f--- racism" on the front. 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. Instructor 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---." Instructor demands an apology and student refuses. Instructor directs student to officially drop the class.
Suggested Syllabus Policies

• 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](http://legal.uncc.edu/legal-topics/standard-syllabus-policies)
Resources

1. Faculty Policy Guidance and Quick Reference Chart
2. Policies and Regulations
4. Civility in the Classroom – practical guidance
5. Planning Field Trips
6. Public Records Act
7. Office of Disability Services – Faculty/Staff Handbook
8. FERPA Tutorial
Questions?