

The Legal and Regulatory Environment: Overview of Resources



**DEVELOPING LEADERSHIP AND
ADMINISTRATIVE EXCELLENCE: A
WORKSHOP FOR NEW ACADEMIC
ADMINISTRATORS
AUGUST 6, 2019**

Office of the General Counsel (slide 1 of 3)

2

- What we do:
 - Litigation;
 - Employment Matters;
 - Student Matters;
 - Compliance – Research, Athletics, Privacy, Clery;
 - Intellectual Property, copyright;
 - FOIA;
 - Leases and Property Purchases;
 - Contracts;
- OGC contacts outside counsel as needed:
 - All bills to the University to pay attorneys are reviewed and approved by OGC.

Office of the General Counsel (slide 2 of 3)

3

- There are other J.D's on campus. They are not the University's attorneys & are not authorized to give you legal advice.
- Ethical duty is to the University, not the individual.
- Attorney-client privilege is on behalf of the University.

Office of the General Counsel (slide 3 of 3)

4

When to Call:

- Immediately if outside agency or authority shows up.
- Any time contacted by a lawyer or receive legal papers.
- Early in the process for anything that will need legal review or input.
- Any time unsure.

Agenda: Common “Headaches”

5

- Difficult Faculty Personnel Issues;
- Personnel Files;
- Contracts;
- Threat assessment;
- FOIA.



Faculty Case Study (slide 1 of 2)

6

You receive notification from MSU's Office of Institutional Equity (OIE) containing the following information about Professor Smith, who has been a faculty member in your department for 15 years:

- A female graduate student in the department complained that she recently ended a consensual amorous relationship with her advisor, Professor Smith.
- Since she ended the relationship, she claims that Professor Smith is following her and making inappropriate sexual advances to her in class and in the lab.
- OIE is reviewing the matter to determine whether there is sufficient information to move forward with an investigation.
- OIE recommends that you consult with AHR to discuss whether interim employment actions are warranted, or whether other action is needed.

Who should you call?

What do you do?

Faculty Case Study (slide 2 of 2)

7

OIE has completed its investigation, and has found that Professor Smith violated the RVSMP by stalking the graduate student. OIE also determined that Professor Smith's sexual advances did not meet the threshold for sexual harassment.

Who should you call?

What do you do?

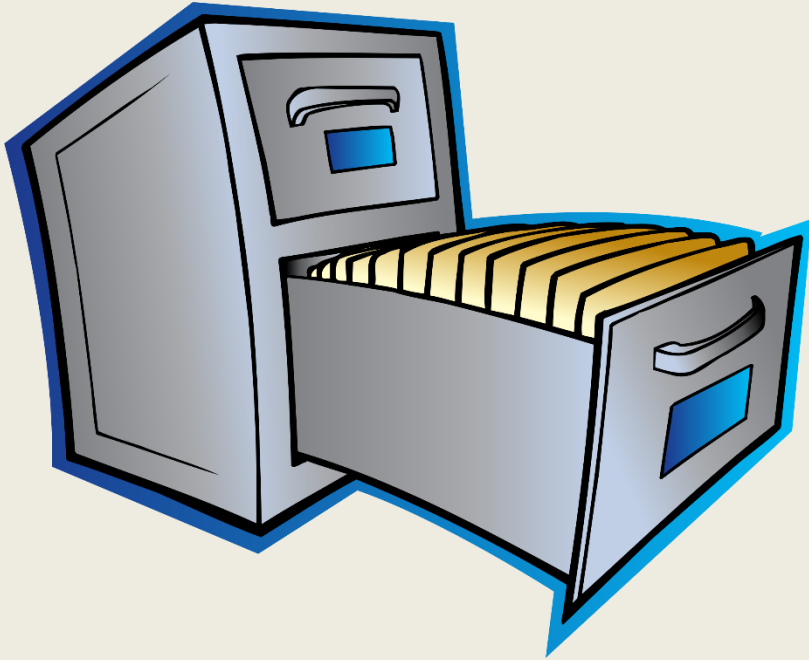
Faculty Case Study: Policy Framework

8

- Consensual Amorous or Sexual Relationships with Students.
- Relationship Violence and Sexual Misconduct Policy (RVSMP).
- Protocol for the Coordination of Reported Violations of the RVSMP and ADP between OIE, AHR, OER and Unit Leadership.
- Discipline and Dismissal of Tenured Faculty for Cause.
- Post Tenure Review.
- Faculty Reviews.

Personnel Files

9



Personnel Files (slide 1 of 2)

10

- Michigan law defines a "personnel record" to include any "record kept by the employer that identifies the employee, to the extent that the record is used or has been used, or may affect or be used relative to that employee's qualifications for employment, promotion, transfer, additional compensation, or disciplinary action."

Personnel Files (slide 2 of 2)

11

- In other words, any document (including emails) that may affect or be used in connection with a prospective personnel action should be included in the employee's personnel file.
- Loose notes that a supervisor keeps for possible future reference need not be included. However, notes that are used as a basis for a personnel action or a supervisor's memo that is shared with others or that may affect an employment decision must be included.

Personnel Files: What to Include?

12

- Employee medical information.
- Grievance materials.
- Annual evaluations/performance documents.
- Discipline.
- Student complaints.
- Complaints from colleagues/staff.
- Email correspondence.
- Harassment/discrimination investigations.



Myth-Busting

13



Contracts

14

**WHAT ARE THEY?
WHO REVIEWS THEM?
WHY DO I CARE?**

What is a contract?

15

- Assume everything is:
 - Regardless of what it is called (MOU, Letter of Agreement, etc.);
 - Especially if the work has started.

- “Meeting of the Minds”

Why get contracts reviewed?

16

- To get the deal you think you have made.
- To minimize risk.
- To be able to get your agreement properly signed (signature authority).

How do I get my contract reviewed?

17

- **Purchasing:**
 - Goods and Services.
- **Office of Sponsored Programs or Business Connect:**
 - Research.
- **Office of the General Counsel or Business Connect:**
 - Service/Testing Agreements –includes consulting.

What do I have to do with a Contract?

18

Business Terms v. Legal Terms

People involved must also review the contract to make sure it actually describes the deal that they think they are making.

Behavioral Threat Assessment Team (BTAT)

19



Threat Assessment

20

- How many of you know who to call if a student or employee:
 - Acts delusional or strange.
 - Bullies and intimidates.
 - Threatens.
 - Pursues options that don't exist.
 - Exhibits sudden change in demeanor, grooming habits, etc.
 - Becomes fixated on a person, idea, or grievance.
- Who would you tell?



BTAT: Functions

21

- A multidisciplinary campus team.
- Meets to assess referrals.
- Identifies potential risks.
- Identifies actions that can be taken to potentially mitigate the risk.
- Recommends appropriate intervention strategies.

BTAT: Process

22

- All discussions take place within appropriate confidentiality parameters.
- Intervention strategies & unit responses are governed by existing University policies.

BTAT: Contact Information

23

- Case Manager: Dawn Mazur
- Phone: (517) 432-0104
- Email: mazurd@police.msu.edu
- Online Referral Form: <http://btat.msu.edu>

Contact Information

24

- Theresa Kelley
- Email: kelleyt@msu.edu
- Phone: 353-3530
- Office: 494 Administration Building