Legal Issues for Faculty: How Not to Get Sued

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Ron Jenkins is best known for his popular “Two-Year Track” columns in The Chronicle of Higher Education, he has earned a national reputation as an advocate for community colleges and as an authority on two-year college issues. During his 26-year career—all spent at two-year schools—he has served as a part-time faculty member, a full-time faculty member, a department chair, an academic dean, and a program director. He is currently associate professor of English at Georgia Perimeter College, a large, multi-campus, urban/suburban community college in Atlanta.

Deborah Gonzalez, Esq., is the founder of Law2sm, LLC, a new legal consulting firm focusing on helping its clients navigate the legal issues relating to the new digital and social media world.
Don’t Get Sued
Questions for Further Discussion

1. Does your institution have policies regarding:
   a. Grading
   b. Assignments
   c. IRB
   d. FERPA
   e. Harassment
   f. Anti-Discrimination
   g. ADA
   h. Defamation in Publication
   i. Technology in the Classroom

2. If yes, are they easily accessible? Does the institution offer training on the policies? Are there other organizations that may offer training on these subjects?

3. Does your institution have a faculty council to bring up questions regarding these issues?

4. Does your institution have a faculty learning community or group to talk about these issues and share resources and knowledge on best practices?

5. Does your institution have resources available for faculty to use regarding these issues?

6. How comfortable do you feel about these issues and that you are protected against being sued?

7. Are there books and other groups, organizations, etc., where you can seek more information, guidance and/or training?
Don't Get Sued
Do’s and Don’ts

Do read through any manuals and/or guidelines issued by your institution regarding grades.
Do have a system for calculating grades.
Do lay out your system on your syllabus and discuss with the students.
Do be objective when grading.
Do review your grades more than once before submitting.
Don’t deviate from the grading system.
Do ask for guidance if you are in doubt.

Do read through any manuals and/or guidelines issued by your institution regarding assignments.
Do ensure that your assignments are relevant to the material being covered in class.
Do ensure that your assignments are doable by all members of the class.
Do become familiar with your institution’s IRB policies and rules and how they relate to assignments.
Do not use assignments that may violate laws or social mores.
Do ask for guidance if you are in doubt.

Do read your institution’s FERPA policy, guidelines and rules.
Do take a FERPA class if offered by your institution.
Do not assume you know what FERPA means if and when you change institutions.

Do review your institution’s harassment and anti-discrimination policies.
Do be conscious of the type of language you use around your students and how it may be perceived.
Do not use language full of sexual innuendo and/or suggestive, especially while around students of the opposite sex.
Do be aware of your power and influence over students.
Do not abuse that power and/or influence to bully or make a student do or not do something.
Do keep personal opinions regarding personal decisions (such as sexual orientation) to yourself and out of the classroom UNLESS it is a topic of the course as listed on your syllabus.

Do become familiar with your institution’s ADA policies and their resource center if they have one.
Do review and understand what “reasonable accommodations” mean in your institution.

Do review any of your written materials, especially those submitted for publication, for any statement regarding another person to ensure it would not be subject to a defamation claim.
Do consult with your institution’s attorney or your own if you have any doubts as to how it will be construed.
Do lay out in your syllabus your policy regarding technology in the classroom.
Do review your institution’s policy regarding technology in the classroom if they have one.
Do ensure your policy and the institution’s policy are consistent.
Don’t Get Sued
Additional Resources


http://www.ehow.com/print/how_2057770_avoid-being-sued-as-teacher.html

http://legal.osu.edu/faculty.php

http://www.the-scientist.com/?articles.view/articleNo/10941/title/University-Sues-Its-Own-Professor-In-Patent-Dispute/

http://leiterlawschool.typepad.com/leiter/2013/01/asu-prof-zach-kramer-sued-over-law-review-article.html

http://www.collegelegal.com/images/FacultyDec.pdf

http://copyright.lib.utexas.edu/unilia.html

http://www.westga.edu/~vpaa/handrev/214.html

http://www.brockport.edu/acadaff/facguide/wpp/F.html

http://lawhighereducation.com/49-educational-malpractice.html

http://www.registrar.iastate.edu/info/ferpa.pdf

http://www.cmu.edu/hr/eos/disability/faculty-staff/faculty-ada.html

http://ada.osu.edu/resources/fastfacts/

http://uwf.edu/oidr/handbk.pdf

http://www.fas.harvard.edu/home/content/sexual-harassment-and-unprofessional-conduct-guidelines

http://hrpp.umich.edu/initiative/classactivities.html

http://archive.dailycal.org/article/111890/ruling_relocates_lawsuit_against_professor_to_app

