

Western Washington University
LEGAL DUTIES OF ACADEMIC DEPARTMENT CHAIRS

Wendy Bohlke, Senior Counsel, Office of Attorney General

(360) 650-2040

December 14, 2008

This memorandum contains information concerning the legal and contractual roles and responsibilities of academic department chairs and concludes with cautions and advice.

(1) Management of Faculty, Staff, and Student Personnel

General:

- (a) Have comprehensive knowledge of the faculty collective bargaining agreement posted to the Web at <http://www.acadweb.wvu.edu/hr/laborrelations/Contracts/UFWW2008-2011.pdf>
- (b) Have comprehensive knowledge of the Faculty Handbook.
- (c) Have comprehensive knowledge of the Code of Faculty Ethics, Appendix F, of the Faculty Handbook:
 - i. comply with that code;
 - ii. assist faculty in the department to comply by ensuring faculty members are oriented to the code;
 - iii. urge department faculty to comply with the code; and
 - iv. alert the college dean when a faculty member violates the code, despite the chair's efforts to urge compliance.
- (d) Follow University fair employment practices, policy on Equal Opportunity and Non-Discrimination, applicable federal and state laws and regulations regarding illegal discrimination, seeking guidance from the Equal Opportunity Office when situations occur that may give rise to claims of sexual harassment, disparate treatment, or other forms of unfair treatment.
- (e) Be familiar with other federal employment regulations such as the Family Medical Leave Act and Fair Labor Standards Act, in an effort to avoid violation and to comply with procedures for compliance through the Human Resources Division.

Hiring and Orientation:

- (f) Prior to instituting hiring processes, ensure that negotiation parameters and available University resources are established, approved by the college dean, and communicated to search committee members.
- (g) During faculty hiring processes, avoid commitment to resources or contract terms that you lack authority to commit, and ensure that other faculty in search process understand the limits of authority/negotiation as well.

- (h) Be familiar with University policies and procedures on equal opportunity and illegal discrimination, ensure that faculty and staff on search committees have been properly oriented to fair hiring practices, and model compliance for your department, faculty, and staff.
- (i) Ensure new probationary and non-tenure-track faculty are given timely orientation to their responsibilities, including notice of deadlines for critical submissions.

Personnel Evaluation:

- (j) Have comprehensive knowledge of the academic unit/department evaluation plan, including its standards and the deadlines set out in Paragraphs 7.5 and 7.6 in the collective bargaining agreement between WWU and the United Faculty of WWU (Agreement).
- (k) Administer the department evaluation plan as required of chairs in the Agreement.
- (l) Follow process and timely complete reviews and transmittals for review and tenure review of probationary faculty in your department as is required in Paragraph 7.7 of the Agreement.
- (m) Follow process and timely complete reviews and transmittals for post-tenure reviews of tenured faculty as required in Paragraph 7.8 of the Agreement.
- (n) Follow process and timely complete reviews and transmittals for review of non-tenure track faculty in your department as is required in Paragraph 8.3 of the Agreement.
- (o) Follow guidance and directives from the Human Resources Division in conducting timely personnel evaluations of classified or professional staff who report to you as the chair of the department.
- (p) Properly and securely maintain faculty and staff evaluation materials and transmit materials to the college dean for placement in faculty personnel files as required in the Agreement.

(2) Administration of Departmental Business

- (a) Be familiar with and comply with the Washington State Ethics Law and Rules, ensuring that faculty and staff are adequately oriented to avoid violations from occurring. Familiarize yourself with the Ethics Manual and complete the Ethics Quiz and WWU HR ethics training at the links below:

http://ethics.wa.gov/TRAINING/Online_Ethics_Quiz.htm

<http://ethics.wa.gov/TRAINING/Training.htm>

<http://www.acadweb.wwu.edu/hr/training/course-class/Ethics101.shtml>

- (b) Review contracts that the department is subject to and ensure compliance with any recordkeeping requirements, avoid violation of software license limitations, establish parameters for use of particular equipment subject to all applicable restrictions, and

- ensure that only those with budget authority are ordering or otherwise committing state or grant-funded resources.
- (c) Be familiar with state regulations and University policies and procedures that pertain to cash handling, leave reporting, travel authorizations, honorarium approvals, vehicle usage, field trip planning, contracts, and records management, including those at the University policy Web site: <http://www.wwu.edu/policies/>
 - (d) Be familiar with your building's and the University's safety and emergency plans and features; make those designations for emergency management as may be required, including compliance with fire, health, and safety rules. Ensure that new faculty and staff are appropriately oriented to those plans, procedures, and rules.
 - (e) Be familiar with the University's policies and guidelines regarding appropriate use of University resources, including computer use, and purchasing rules.
 - (f) Designate a records coordinator for the department and ensure that the department's records are being properly and securely managed.
<http://www.wwu.edu/depts/recmgmt/definition.shtml#7>

(3) Oversight of Department's Interactions with Students

Follow University policies and procedures in regard to:

- (a) appeals from students regarding acts of academic dishonesty in the Academic Honesty Policy and Procedures (Appendix D, Paragraph 3.d in the 2008-09 Bulletin);
- (b) student grievances regarding assigned academic grades, meeting deadlines, and chair responsibilities in the Academic Grievance Policy and Procedures (Appendix F, Paragraph 3.A in the 2008-09 University Bulletin);
- (c) student access to reasonable accommodations in the educational environment, by referring students and faculty with questions to the Office of Disability Resources for students, which constitutes compliance with Section 504 of the Section 504 of the 1973 Rehabilitation Act and the Americans with Disabilities Act;
- (d) compliance with the Family Education Records Privacy Act and WWU policy on student records, which includes:
 - i. designation of a departmental records custodian as per WAC 516-26-020(7); and
 - ii. ensuring the records custodian properly maintains student education records in the department, including orientation of faculty and staff to requirements that student education records be maintained confidentially; and
- (e) Compliance with policy on Equal Opportunity and Non-Discrimination and discrimination complaint procedure ensuring that students are aware of their right to file a complaint with the Equal Opportunity Office if they feel they have been discriminated against based on a protected category.

(4) Cautions and Advice

(a) Risks in failure to do the above:

- i. negatively impacts the ability of new faculty to meet required deadlines to the detriment of the faculty in timely proceeding through tenure process, making improvements after evaluations;
- ii. results in the detriment of students, whose academic careers can be stunted or delayed if faculty cannot timely schedule courses or events to ensure progress towards graduation;
- iii. creation of an unauthorized contractual expectation in new faculty, such as a stated guarantee to early tenure review, a staff or monetary commitment, exposing University to breach of contract claims;
- iv. creation of conflict with individual faculty who have contractual rights to timely evaluation and review, which may result in grievances against the University if the chair does not timely complete work and required transmittals; and
- v. exposure of the University to liability for failure to maintain a workplace free of illegal discrimination or an educational setting free of illegal discrimination.

(b) Advice:

- i. Be a font of knowledge for your department regarding laws, University resources, policies and procedures. Seek assistance from your college dean, the Equal Opportunity Office, Human Resources, the Provost's Office, Disability Resources, the Office of Attorney General, the Public Records Custodian, Student Affairs, Risk Management, or the Public Safety Office.
- ii. Exercise discretion when faculty, students, or staff come to you with concerns about illegal discrimination, abusive treatment, harassment, theft, or misuse of University property, or other criminal acts. Only share those concerns with those who need to know based on their responsibilities. Avoid claims of defamation or violation of privacy by maintaining professional discretion.
- iii. By the same token, do not promise confidentiality to someone who brings you a complaint. As a representative of the University, there may be a need to share the information with the appropriate office, such as the Equal Opportunity Office or the University Public Safety Office. You should explain your responsibility at the beginning of any conversation related to discrimination, harassment, misuse of property, and the like.
- iv. When you sense that a decision, action, or non-decision/action might result in legal claims against you as chair or against the University, contact your college dean, the Assistant Attorney General, the Risk Manager, or the Public Safety Office as you feel appropriate. Those offices aim to support you in your academic leadership endeavor. If a claim is made against you by a disgruntled individual, you will be provided defense and indemnification by the State of

Washington if you were acting in good faith, within the scope of your employment. This is provided for in law.

<http://apps.leg.wa.gov/RCW/default.aspx?cite=28B.10.842>

- v. Set a professional tone for your department; help new faculty and staff understand the difference between being friendly and trying to be everyone's friend, which can lead down the road to claims of differential treatment. If you witness rude, lewd, or biased statements or comments, put a stop to it. Take the department member aside and inform him or her of what your expectations are in the context of the academic workplace; be prepared to refer to the Code of Faculty Ethics, the state Ethics Law, the professional standards of your academic discipline, or other applicable policies.
- vi. Avoid claims of illegal discrimination or retaliation when tough decisions have to be made. Retaliation against those persons who have voiced discrimination complaints or concerns is prohibited by law. You have the responsibility to ensure that no retaliatory action is taken against those individuals. There is a law which provides immunity from claims for those who serve on panels or committees to evaluate others at the University. Here is the link to that law:
<http://apps.leg.wa.gov/RCW/default.aspx?cite=28B.10.648>