UPCOMING SEMINAR

Step by Step for Beginners: How to Walk Through the Contract Review Process

Wednesday, October 30, 2013 at 12:00 noon. Location TBD.

Contracts to be entered into on behalf of the University must be reviewed by the Office of the General Counsel (“OGC”). The OGC reviews approximately 3,205 of proposed agreements annually.

If you are new to the contracts review process at the University or would like a refresher, come to this step by step for Beginners, a seminar offered by the OGC on the University’s contract review process. You will learn about contract review, negotiation, and approval, and how your understanding of and involvement in the process can improve the efficiency of contracts management in your department.

Not sure what the definition of a contract is? Unaware of who can sign contracts on behalf of the University? Surprised to know that the OGC reviews over 3,205 contract proposals a year, and reviews and approves for signature the majority in less than 4 days? Unaware that there are a variety of template and master agreements available to help you with efficient processing? Don’t know what a template or master agreement is? This seminar is for you!

Please call x2157 to reserve a space or email Lisa Stoddart at: l.stoddart@neu.edu.
Other University Contract Facts and Figures!

1. Of the 3,205 contracts submitted to the OGC over this past year for review and approval for signature, 57% were on University templates. Use of the OGC’s templates is encouraged. Template agreements receive expedited legal review because they contain University approved terms and conditions. Often template agreements submitted to the OGC for review can be processed within a day.

2. However, non-template contracts may take longer to review and sometimes require negotiation, particularly if they contain terms which are incompatible with the University’s business needs or educational mission. The majority of non-template contracts are reviewed in less than 6 days, but some must take longer due to the complexity of the potential contractual language or business arrangements.

3. Of all the agreements the OGC reviews on behalf of the University, the 5 types of contracts most often submitted to the OGC over the past year were:

1. Services Agreements
2. Professional Services Agreements
3. Performer Agreements
4. Clinical Affiliation Agreements
5. Event Agreements

Collectively, these 5 types of agreements made up almost 2,000 of the 3,205 contracts reviewed by the OGC during the past year.

4. The OGC has template master agreements that will allow you to enter into one contract with a vendor and subsequently “order” additional or future services from that vendor using only a statement of work, as opposed to a new agreement for each project. Please contact our office directly for further information on whether a master agreement is appropriate for your project.

Questions about contracts?
You may reach our office at x2157 or by emailing: contractquestions@neu.edu.

Records Management Policy and Procedures

The University's policy and procedures for the management of University records (including a document retention schedule) now are available to faculty and staff through the myNEU portal, under the "Services and Links" tab. The documents accessible through this link provide information regarding which departments must keep certain University records, for how long such records must be kept, and procedures for the retention of certain types of documents. If you have any questions, please do not hesitate to contact the OGC at x2157.
Welcome to the Compliance Corner, a new addition to the quarterly newsletter from the Office of the General Counsel. In this edition, we want to introduce you to the Compliance Department of the University. In future editions, the Compliance corner will offer news and information about compliance-related topics of importance or interest to the University community.

The Compliance Department reports to Senior Vice President and General Counsel, Ralph Martin. John McNally is the Director of Compliance for the University. Lauren Alighieri serves as the Department’s Compliance Manager. John and Lauren work to carry out the Compliance Department’s mission to promote a culture of compliance at the University, including supporting ethical conduct and compliance with applicable laws, regulations and University policies.

The Compliance Department accomplishes its mission by collaborating with “compliance partners” throughout the University, departments with personnel whose responsibilities include compliance in certain subject areas. Examples include the Office of Research Administration and Finance, Enterprise Risk Management, and Public Safety.

The Compliance Department also supports the coordination of compliance efforts through training and education, communications on matters of compliance, assessment and monitoring, assistance in the mitigation of identified gaps, participation in committees with compliance components, and guidance on best practices. For example, the Compliance Department manages the annual conflict of interest reporting process at the University, including advising the Colleges and other areas of the University when potential conflicts arise and collaboration with those areas on addressing potential conflicts of interest.

Look for the Compliance Department’s new website to be rolled out before the end of the calendar year.

Questions about compliance? Please contact:

- John McNally (j.mcnally@neu.edu), Director of Compliance
- Lauren Alighieri (l.alighieri@neu.edu), Compliance Manager
New Electronic I-94 Process for Foreign Nationals in a Temporary Visa Status in the U.S.

On April 30, 2013, U.S. Customs and Border Protection (CBP) began implementing its plan to automate the Form I-94, Arrival/Departure Record and is no longer issuing paper Form I-94s to foreign nationals entering the U.S. in a temporary visa status at airports and sea ports. However, paper I-94 cards will continue to be issued at land border posts. CBP will now place an admission stamp in the passport, indicating the date of admission, port of entry, class of admission and the expiration of status (or “D/S” in the case of F-1 or J-1 students/scholars). Upon admission, CBP will create an electronic record that will be available online at www.cbp.gov/I94. For those who still have paper I-94 cards, it is important to keep this card as proof of valid immigration status while in the U.S. and surrender it to the commercial airline carrier upon departure.

It is strongly recommended that foreign nationals on a temporary visa status verify that the information is correct and print out a copy of the I-94 record after entering/returning to the U.S. by using their biographic information and passport/entry information to find their I-94 record online at www.cbp.gov/I94. The I-94 record is official proof of legal entry in the U.S., and therefore, an incorrect or missing I-94 record may have a significant impact on a foreign national’s immigration status. Further, a printed copy of the I-94 record may be needed for future immigration filings, to complete Form I-9 employment verification, and to apply for benefits such as a Social Security Number (SSN) or a driver’s license. Access to the electronic I-94 record will only be available until the foreign national departs the U.S. and a new I-94 record will be created each time a foreign national reenters the U.S.

If a foreign national cannot locate the Form I-94 on the CBP website, and instead, receives a “Not Found” message, it is possible that the Form I-94 does not exist because of a system error. However, it is more likely that the I-94 record is in the CBP system, but the data is formatted differently. Below are some tips to assist foreign nationals in obtaining an I-94 from the automated system:

- Enter the name as stated in the passport, visa, or on the submitted Form DS-160.
- Enter the first and middle name (if any) in the First Name field.
- Switch the order of the names. Some countries state the name in the passport as first name, last name, rather than the more standard order of last name, first name. This may cause the name to be recorded incorrectly in the CBP system.
- Enter multiple first names or multiple last names without spaces.
- Check for multiple passport numbers (for example, on the Form DS-160 or on the visa).
- Do not enter the year if included in the passport number.
- Check the visa classification on the visa and compare it to the admission stamp in the passport – if they are different, either classification may be used in the automated system.

We recommend that the printed I-94 record be kept with one’s passport as proof of valid immigration status. If there are any errors in the electronic I-94 record, please contact our office at 617-373-2157 as soon as possible so that we may assist in correcting the record.
In Association for Molecular Pathology v. Myriad Genetics, the Supreme Court ruled that a naturally occurring DNA segment is a product of nature and thus is not patentable subject matter. However, the court ruled that synthetically-created composite DNA (“cDNA”) is patentable subject matter because it is not naturally occurring.

The Supreme Court expressly noted that method patents in this subject area are not presumptively invalid. A method patent covers a process or series of steps that accomplish a result, as opposed to a patent covering a composition of matter or specific physical invention. For example, Myriad could have obtained a patent in the method for isolating the BRCA1 and BRCA2 genes rather than attempting to patent the isolated genes themselves.

What Does This Mean for Colleges and Universities?

Myriad has the potential to impact fundamental genetic research performed at universities. Because gene patents in isolated, naturally-occurring materials are no longer valid, researches may no longer be blocked from studying certain genetic sequences that were previously claimed as part of a patent. On the other hand, researchers who have patented isolated genetic sequences may find that patent law no longer covers these substances and thus cannot protect their work from duplication.

In Fisher v. University of Texas, the Supreme Court ruled that a university receives no deference with respect to the question of whether a race-conscious admissions policy is the least restrictive means possible to achieving a diverse campus. Previously, courts had held that colleges and universities should receive “substantial deference” in determining whether a race-conscious admissions plan satisfies constitutional requirements. The Supreme Court disagreed, stating that it is the obligation of the courts to ensure that each applicant is evaluated as an individual, and that race is not the defining feature of the application. The Supreme Court held that the reviewing court must ultimately be satisfied that no available workable, race-neutral alternatives would produce the educational benefits associated with racial diversity.

What Does This Mean for Colleges and Universities?

As a result of Fisher, colleges and universities should be prepared to demonstrate that their consideration of race in admissions meets certain requirements. First, universities must continue to show that the consideration of race is only one of many facets of an individual’s application, and is never a defining factor. Second, universities must show that the consideration of race is necessary in order to achieve the goal of a diverse student body. Third, universities must be prepared to explain that no other workable, race-neutral alternatives would produce the benefits sought by race-conscious admissions; universities will receive no deference from courts in this inquiry, and therefore must be prepared to present evidence of the necessity of race-conscious admissions plans as well as how and why other, race-neutral plans would not meet this goal.

You may access this edition of Of Counsel on the OGC’s website at: www.northeastern.edu/general-counsel/