Welcome to the OGC!

Please join us in welcoming the newest members of our office to Northeastern University

Andy Curtin has joined the Office of General Counsel (OGC) and the Center for Research Innovation (CRI) as the Director of Intellectual Property. As Director, Andy will provide counsel to the University’s research community through the CRI, and will contribute intellectual property expertise to the University on broader issues through the OGC. Andy earned his B.S. in Marine Engineering from the Massachusetts Maritime Academy and his JD from Suffolk University Law School. Between 1990 and 1999 when not attending law school, Andy served as an engineering officer aboard US flagged merchant ships engaged in worldwide trade. Prior to joining Northeastern, Andy served as Senior IP Counsel for the Enterprise and Imaging divisions of Nuance Communications, Senior Patent Counsel at 3Com Corporation, and Patent Counsel at Mitsubishi Electric Research Labs. Andy has offices in both the OGC and CRI and can be reached at either location.

Lorna Hebert has joined the OGC as Assistant General Counsel. Lorna’s practice focuses on labor and employment law, dispute resolution, and litigation. Prior to joining Northeastern, Lorna worked at Murphy, Hesse, Toomey & Lehane where she represented employers, schools and municipalities, in all aspects of employment, labor, education law, dispute resolution and litigation. Her practice included representation at federal and state courts and agencies such as the Massachusetts Supreme Judicial Court, the MCAD, and the EEOC. Further, she provided advice to clients on a myriad of topics such as student and employee matters, policies, and compliance with discrimination laws and other laws affecting employment and education. Lorna graduated cum laude from Suffolk University Law School. She earned a Bachelor’s Degree from the University of Massachusetts, Amherst. Prior to becoming an attorney, Lorna was a Certified Public Accountant working for an international public accounting firm.

Heather Skinner has joined the OGC as Case Administrator. In this role, Heather will provide contracts review, litigation support, data analysis, as well as guidance on a variety of topics including export control. Heather earned her Bachelor’s Degree from Northeastern University, and her JD from Thomas M. Cooley Law School. Heather's legal background includes corporate finance, compliance, export control and juvenile law.
Guidance on International Business Visitors

Welcoming international business visitors to campus can be an exciting opportunity both for you and your visitor. A “business visitor” is someone who will be coming to the United States for certain academic activities, including attending meetings, participating in scientific, educational, professional or business conferences, seminars, or conventions, and/or conducting independent research. Business visitors may enter the U.S. on a B-1 visitor visa for business, or a WB (Waiver for Business) in lieu of B-1 for visitors from countries listed on the Visa Waiver Program (VWP). If from a country that participates in the VWP with the U.S., the visitor will need to carry his or her passport but does not need to obtain a visa for entry to the U.S. However, the visitor will be required to go online and register with the Electronic System for Travel Authorization (ESTA) prior to his or her departure. Please note that ESTA is not a visa status but rather a required registration for those visitors traveling to the U.S. under the VWP.

Depending upon the visitor’s prior presence in the U.S. and the nature of the activities the visitor undertook during any prior visits, he or she may or may not be able to accept an honorarium and/or reimbursement for expenses. Further, any payments to the visitor in the form of an honorarium may be subject to tax withholdings. As a reminder, an international business visitor may not undertake work as an employee or independent contractor and may not engage in collaborative research. If visitor visa status is deemed inappropriate for the proposed activity, the J-1 short-term scholar visa status may be an alternative to consider.

To facilitate a smooth entry to the United States and a meaningful visit to Northeastern, the Office of the General Counsel and the International Student and Scholar Institute working with Human Resources Management and Accounts Payable standardized the process for inviting and paying international business visitors. Please visit the Office of General Counsel Immigration website to obtain the most current versions of the documents and template letters for your use in this process. Northeastern departments should confer with their personnel contact in the Dean’s Office to ensure that the B-1/WB visa status is appropriate for the visitor’s planned activity at Northeastern.

Contracts

Engaging a Photographer or Videographer: Policy on Ownership of Photos and Videos

The University requires that all videographers and photographers who are engaged on a work-for-hire basis must assign to the University ownership rights associated with the videos and photos that they take for the University. Among other things, this requirement allows the University to retain control over how its name and images, as well as images of students, are used and disseminated. The Photographer/Videographer Agreement template is available on the OGC Contract Website, and provides that the University is the owner of all photographs and videos created pursuant to the agreement.

Although the University must own all such videos and photos, the University is able to license certain rights to the videographer or photographer. For example, the University may grant limited rights to the photographer or videographer to use and display images as part of a professional portfolio. You can work with the OGC to make the necessary edits to the template agreement. Please note all University-approved template agreements are available on the OGC Contracts Website.
Promoting a Culture of Compliance – Export Control

Northeastern University is committed to the principles of open scholarly exchange of ideas, including broad access to research data and results. The University is also committed to compliance with federal export control laws. Export Control laws regulate the dissemination or transfer of controlled items, technical data and information to foreign persons or organizations – whether the transfer takes place in the U.S. or abroad. These access controls are designed to further the national security, foreign policy, and economic interests of the United States.

The three principle federal agencies that administer and enforce export control laws are:

- The Department of State through the International Traffic in Arms Regulations (ITAR),
- The Department of Commerce through its Export Administration Regulations (EAR), and
- The Treasury Department through the Office of Foreign Assets Control (OFAC).

ITAR regulates defense articles, services and technical data. The EAR regulates "dual-use" (commercial and military applications) and purely commercial items, software and technology. OFAC’s regulations address economic sanctions and trade embargoes against certain countries, regimes, and individuals (such as terrorists and narcotics traffickers).

Compliance with these laws and regulations is important because violations carry the possibility of substantial civil and criminal penalties (which can include incarceration) for the individual and administrative fines and sanctions for the University. When export controls can apply - for example, when disclosure-restricted technical information is used as a basis for fundamental research or when ITAR-controlled items are physically shipped or taken outside the U.S., in luggage or in a laptop computer or on a thumb drive - an approval in the form of an export license may be required. An export license permits "controlled" tangible items or software to be sent outside of the US, or controlled information or software code to be shared with foreign persons, either in the US or abroad. Likewise, travel to embargoed countries may fall under a general license, or may require a specific license for the specific activity.

There are a variety of resources available to help determine whether export control laws are applicable to a specific project:

- The Office of Research Administration and Finance Website has a page on export control laws, and includes an on-line tutorial;
- The Northeastern University Policy Page contains the new Policy on Export Control, which explains available resources and contains links to an export control decision tree.

In addition, the Office of General Counsel sponsored training opportunities this past summer, and on September 24, Northeastern and Kostas Research Institute hosted the 6th annual Conference on Export Controls and Espionage, sponsored by the multi-agency Counter-Proliferation Working Group, at which speakers from a variety of government agencies addressed topics including export enforcement efforts, an investigation into a multi-country illegal procurement network, and export compliance issues. Watch for further training on this important topic, and in the meantime be sure to become familiar with the policy and on-line resources.
Transferring Research and Intellectual Property Between Institutions

When faculty and researchers join Northeastern, they often expect to continue to conduct research in their chosen field of interest. However, sometimes intellectual property bumps in the road can cause unnecessary and expensive delay for everyone. To avoid these hazards, faculty and staff should be aware of the set of circumstances that can create these bumps and take easy steps to level them.

Among other things, the United States Supreme Court decision in *Stanford v. Roche* case affirmed that faculty and employee inventions may be assigned or transferred to an employer. In a university setting, ownership of inventions, i.e., the intellectual property, is generally transferred to a university through a written instrument such as a faculty or employee handbook, policy and/or another agreement. Absent an authorization from the owner of the intellectual property or an exception provided by law, U.S. patent and copyright laws generally give for a limited time the owner of the intellectual property a broad array of exclusive rights to the intellectual property that essentially preclude others from using the intellectual property.

In a typical case, one or more faculty members or university employees creates intellectual property that is automatically transferred to that person’s university employer and he or she shares in whatever revenue stream that flows from that intellectual property in accordance with the university’s policy. Thus, broadly speaking the university is the owner of the intellectual property and the faculty member shares in any licensing revenue generated by that intellectual property. When a faculty member leaves that university and joins another university, the rights to the intellectual property discovered by the faculty member or employee or in which he or she conducted research stay with the incumbent university unless they are transferred (or otherwise licensed) to the receiving institution. Without the appropriate transfer or license of rights, the same faculty member will likely be prevented from or delayed in continuing his or her line of research at receiving institution. In short, the ability of a new faculty member to continue to work with that intellectual property in his or her chosen field of interest is entirely dependent upon who owns the intellectual property.

If the former institution still owns the intellectual property, the faculty member will not be able to continue to use that intellectual property in his or her work at the new institution unless the former institution transfers or licenses the intellectual property to the new institution (or a lawful exception applies).

To avoid this hazard, prospective faculty members should identify the intellectual property they have created for their current institution and determine whether he or she may or will need it for future work or research at Northeastern. The Office of Research Administration and Finance (ORAF) recently launched a “Concierge” program to facilitate, among other things, the transfer to Northeastern of research awards of incoming faculty and employees. Please contact ORAF at researchconcierge@neu.edu (or the Office of the General Counsel) for assistance in transferring to Northeastern the intellectual property associated with those awards and/or otherwise necessary for the prospective faculty member to continue his or her research at Northeastern.

*This article does not discuss foreign intellectual property laws. Some countries have laws similar to our patent and copyright laws and the United States maintains agreements with some of these countries with the result being an attempt at providing similar kinds of protection to the owners of intellectual property. Other countries have regimes and practices that might be quite different from the United States.*