

OF COUNSEL
Fall 2006 Newsletter

Northeastern University
Office of the University Counsel
115 Churchill Hall

Places to go . . . People to see . . .

This edition of "Of Counsel" is devoted to answering the questions raised to the Office of University Counsel about where to go and whom to see for what! Read on AND save this edition for your future reference.

1. Requests From Any Media for Interviews, Comments, Information or Opinions

Consistent with University policy, any and all inquiries or requests from the media, news or otherwise, for interviews, comments and/or the like must be referred to Fred McGrail, Director of University Communications, at x5823. Unauthorized interviews can put the University's reputation and you at risk. Our diligence with the media helps to mitigate that risk. Should you have any questions about media, marketing or University communications, please contact the Office of the University Marketing and Communications at x5817.

2. Subpoenas

It has been brought to the attention of the University Counsel's Office that there is some confusion over what to do when a University department or staff member is served with a subpoena. Please be advised that the Counsel's Office is the registered agent for Northeastern University, meaning that ***all subpoenas must be served on the Counsel*** and should not be directed to any other department.

A subpoena is an official court document that requires the recipient to appear in court, and often to produce documents. If you are served with a subpoena, please inform the server that you are not authorized to receive it and ask that they bring it directly to the University Counsel's Office. This is extremely important. Please do not try to execute the subpoena's request on your own, even if the request seems simple and straightforward, as it may have serious legal consequences for the University. Once the University Counsel receives the subpoena, we may ask your department to produce certain records or other information requested in the subpoena. Generally, the Registrar's Office facilitates this process, and may also ask you for documents. We ask that you please cooperate with the Registrar's Office and respond quickly to their needs. If you have any questions about requests, please feel free to contact our office.

In addition to persons serving subpoenas, you may also be approached by someone who is looking for private information about a student or an employee or who wants to perform a background check. Please be advised that anyone requesting these items should be directed to the Counsel's Office. It is imperative that we check an individual's credentials before providing him or her with confidential documents.

It is hoped that this process will make your jobs easier and will provide a streamlined and efficient way to handle legal information requests. If you have additional questions, please contact the Office of the University Counsel at x2157.

3. Event, Meeting and/or Conference Advice and Planning

The Office of University Counsel is often mistakenly referred to as “Council”, apparently also mistakenly leading some on campus to conclude that University Counsel, in addition to its legal representation of the University, plans concerts, conferences and events. We do not plan events! However, the University does have an Office of Conference and Event Planning, which can meet your advice and planning needs.

If you are planning a University event, conference, meeting, speaker, etc., and need guidance on how to arrange, plan and manage the event, please contact Suzanne Feeley or Joanne Durham in the Office of Conference and Event Planning. Suzanne Feeley can be reached at x5852 and Joanne Durham can be reached at x7562.

If you or your department wish to host an outside group or are co-sponsoring a conference, special event or meeting, please contact Kathy Newberry at x5849 for guidance on University policy, protocol and procedures.

If you want to book a meeting room in the Egan Center, please call Suzanne Feeley at x5852.

The website for the Office of Conference and Event Planning is www.northeastern.edu/eventsguide.

4. Contracts

Events like the ones discussed above generally require contracts. Contracts and any questions about contracts are processed through the Office of University Counsel.

The Office of the University Counsel at x2157 processes thousands of contracts each year, and is charged with protecting the best interests of the University and its employees in doing so. Northeastern’s policy on contract review and processing must be adhered to by the entire University community.

Here are “The Rules”:

1. Do not sign contracts yourself. A contract is any document that obligates or commits the University to doing something in exchange for another party’s agreement to do something else, including consulting agreements. The Office of the University Counsel has a variety of template/draft agreements available with pre-approved language. Please contact Karen Abbott to secure an appropriate document at x7072.
2. There are only **three individuals** authorized by the Board of Trustees to sign agreements on behalf of the University: President Joseph Aoun, Senior Vice President Laurence F. Mucciolo and Treasurer William Kneeland.

NOTE: Signing a contract *yourself* will subject you to individual responsibility and liability for that contract.

3. In order to have one of these three sign your contract, a hard copy of the agreement must *first* be delivered to the Office of the University Counsel at 115 Churchill Hall for review.
4. Contracts to be reviewed must be either hand-delivered or sent by campus mail to Karen Brown, Office of the University Counsel, 115 Churchill Hall. Do not send contracts via e-mail. A hard copy of a contract must be logged into a tracking system and no contract can be reviewed until that has been done.
5. Review will be for legal compliance and for compliance with applicable University policies. For instance, as one example, vendor contracts are reviewed to make sure they comply with the University's insurance requirements. Contracts are not reviewed for the content of your "business deal." You must read and understand the terms of your contract. Negotiate terms that you do not want or that you know will not be approved out of the contract before you submit it.
6. After the contract has been reviewed and initialed by the Office of the University Counsel, it will be sent to one of the authorized parties for signature.
7. Contracts with terms longer than one year must be approved by the Board of Trustees.
8. The project, event or other subject matter of the contract cannot begin until the contract is signed by all parties.
9. After signature, you will be notified that your contract is ready for pick-up. That notification will come from the office of the individual who signed the contract. We do not track the status of a contract once it leaves this Office.
10. While some contracts may be very simple, many of the contracts entered into by the University are extremely complicated. In 2005, between 3,000 and 4,000 contracts came through our Office. Contract law is only one aspect of the legal business handled by the Office of University Counsel. The Office represents the University in all of its varied legal matters.

Consequently, given the sheer volume of contracts at the University, it is imperative that you allow a minimum of 10 working days for review and processing. That means at least two weeks after our Office has received the contract. While in the past the Office of the University Counsel has been able to make exceptions to this requirement, based upon the current number of agreements, no such exceptions can be made without the specific approval of the Vice President and University Counsel Vincent Lembo. SPECIAL NOTE: CONTRACTS CANNOT BE APPROVED AND SIGNED RETROACTIVELY.

11. The two-week minimum requirement is necessary to ensure the University's agreements are properly logged, reviewed and tracked. However, the complexity of some contractual relationships or other legal issues related to a particular contract may extend the review period. For example, we cannot control the other party's availability or willingness to negotiate terms. Therefore, you should submit your agreement as far in advance of the event or the anticipated effective date of the agreement as possible.
12. FAILURE TO TIMELY SUBMIT A CONTRACT FOR REVIEW OR FAILURE TO SUBMIT A CONTRACT AT ALL MAY RESULT IN CANCELLATION OF THE EVENT OR THE WORK TO BE PERFORMED AND MAY RESULT IN PERSONAL RESPONSIBILITY.

NOTE AGAIN: SIGNING AN AGREEMENT ON YOUR OWN CAN ALSO RESULT IN PERSONAL LIABILITY AS WELL AS DISCIPLINARY ACTION.

5. Risk Management

The risk of liability for injury to another continues to be an important concern for the University and its personnel. Risk management is necessary to identify and help minimize potential injuries that may occur in a university setting and to help manage and stabilize an institution over time. There are many methods of risk management and questions about them may be addressed as follows:

General Insurance Questions	Office of Risk Management	x8688
Insurance Certificate Requests	Claims Manager	x2690
Workers Compensation Questions	Claims Manager	x2690
Risk Management Issues, such as	Office of Risk Management	x8688
Minors on campus;		
Alcohol on campus;		
Travel;		
Vehicle safety or other		
questions or concerns		

Brian Burns is the University Risk Manager and can be reached through x8688.

6. Environmental Concerns

What should you do if you have a concern about the air quality in your office? For concerns about environmental conditions in offices or other work areas, Facility Services should be contacted at the Facilities On-line Work Request web site at <https://workreq.neu.edu/workrequest/> or via telephone at x2754. Customer service representatives will be able to take your information regarding routine repair, maintenance, and custodial requests.

If there are specific questions or concerns about in-door air quality then the Office of Environmental Health and Safety can be contacted at x2769. The Office of Environmental Health and Safety has expertise in recognizing and evaluating the causes of indoor air quality concerns and works with Facility Services to remedy any noted concerns. Typically, simple adjustments to ventilation systems or office occupant work practices can greatly improve work area environmental comfort.

7. Copyright and Related Matters

The Office of University Counsel is available to provide advice and materials on copyright and related matters for the University community both as creators and as consumers of copyrighted materials:

For creators of copyrighted materials, advice is provided about University policies (with respect to faculty, students, staff), the “authorship” of copyrighted materials, the scope of copyright, copyright of print and electronic materials, Trademark and URL acquisition issues, Fair Use and the TEACH act, incorporation of third party materials, and Open Access.

For users of copyrighted materials, consultation, advice, assistance, and model forms are available from Counsel’s Office, on the Copyright and related laws themselves, on the application

of “Fair Use” and the TEACH Act, and on University policies for individuals or Units utilizing such materials in on-site or distance education, the use, performance, broadcast, or display of such materials on campus or by University sponsored groups, the incorporation of student or third party work in faculty research, in grant/contract governed/funded projects, or on individual or Unit Web Sites, and on issues related to plagiarism. Model forms are available to assist in obtaining licenses or rights for the use of such materials. We are also available to visit classes or run Workshops on these and related matters.

As part of his work as Special Assistant in the Office of the University Counsel, Professor Gerald Herman (249 Meserve Hall, tel. (617) 373-4441, e-mail: g.herman@neu.edu) serves as **University Copyright Officer** and should be contacted concerning any of these matters. Glenn C. Hill (716 Columbus Avenue, Suite 448, tel. (617) 373-7718, e-mail: g.hill@neu.edu, the University’s Director of Information Security and Identity Services in Information Services can also provide assistance on electronic distribution of copyrighted materials and on the University’s “Appropriate Use” policies. Bill Corrigan, the director of University Reprographics (017 Forsyth, tel. (617) 373-4705, e-mail: w.corrigan@neu.edu) operates the University’s *Classpac* program that provides legal copies of copyrighted materials to students through the NU Bookstore and can assist in obtaining copyright clearances through the Copyright Clearance Center. Gail Olyha (328 Curry Student Center, phone, (617) 373-2663, e-mail: g.olyha@neu.edu) Associate Dean & Director, Student Center & Activities can provide information about the utilization and coverage of the University’s music use licenses.

8. Immigration Issues: Students and Employees

Northeastern wants to have the best and brightest reflected in its student body, faculty and staff. Some of those best and brightest are foreign nationals. In accordance with federal law, all employees – both domestic and foreign – **must** verify their employment eligibility no later than their third day of employment. This is done by producing documents to complete the federally required I-9 form. All foreign nationals who are at Northeastern as students or employees must have authorization from the Department of Homeland Security to study or work. In many instances, the foreign national must have the explicit support of Northeastern in gaining the requisite authorization. Students who need assistance in obtaining the proper authorization must contact the International Student & Scholar Institute (ISSI) at x2310; departments who wish to hire foreign nationals must work with the Office of University Counsel to determine the appropriate course of action at x2157.

A proactive course of action is always the best. In many instances, there may be no recourse for a foreign national who – even if by inadvertence – works or studies without authorization. He or she may have to leave the United States permanently. The institution also is exposed to heavy penalties if it enrolls or employs those without proper authorization. As a result, the stakes are high for both the individual foreign national and the institution. Consequently, the best course of action may not solve an immediate or short-term need, but protects both the individual and Northeastern from any future and more severe consequences. All of us need to work together to attract, and retain, the best and brightest, no matter their origin.

For: Student and Visiting Scholar Issues, x2130 (ISSI)

For: Hiring and Employee Issues, x2157 (Counsel)

If you have any questions you'd like to see responded to in this space, please submit them to the Office of University Counsel at 115 Churchill Hall. Depending upon the nature of your question, we'll either answer you personally or address your issue in a future edition of this newsletter.

Of Counsel has been prepared as a general summary of important developments. It is not intended as individual legal advice. Should you have any questions or need information concerning a specific situation or any of the content of this advisory, please contact the Office of University Counsel, 115 Churchill Hall, x2157.

Thank you to Kathy Newberry, Gerry Herman, Brian Kenny, Jack Price and NULS student Erin Baggeroer, all of whom assisted with the preparation of this edition of Of Counsel.