

OF COUNSEL – SUMMER 2009

the newsletter of

NORTHEASTERN UNIVERSITY OFFICE OF THE UNIVERSITY COUNSEL 378 COLUMBUS PLACE

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Still Thinking About Offering a Summer Program for Youth?

If your department is considering hosting a summer program for minors in 2009, please contact the Office of Compliance, Institutional Audit and Risk Management **prior** to developing or distributing your program applications to prospective participants. It is important that you make this contact even if you have offered the program in previous years, since the Office of Compliance and Risk Management is coordinating summer program initiatives on a University-wide basis. The Office of Compliance and Risk Management can be reached at x5997. The Office of the University Counsel can also provide guidance about the many ways youth programs are regulated in Massachusetts. We can be reached at x2157. We also can point you in the direction of other departments on campus who may need to be involved in your planning.

Logos and Other Creative Works:

Question: Our department has an idea for a new logo, which represents our current activities. Are there any steps that we need to follow?

Answer: If your department is interested in developing or using a unique logo to identify its projects, that logo first must be approved by the University's Department of External Relations. Please consult External Relations at x5045 before you begin using a new logo or identifier. You should contact them before your department invests resources into development of a logo, in the event that your proposed design conflicts with or already is being used in the University or elsewhere. If your logo is approved, both the Office of University Counsel and External Relations are available to advise you on the proper use of your logo.

Question: Our department paid an artist to film an event. We paid another artist to develop a logo. We assume the University owns rights to the film and the logo?

Answer: Not necessarily. From time to time, University departments may retain individuals outside the University for development of creative works. For example, your department may work with a firm outside the University to film footage for a webpage, design a logo for your program, or for a variety of other creative collaborations. Please be aware that ownership of creative works is a complex issue. The University does not necessarily own the creative work or rights to use the work just because the University pays an outside vendor to create the work.

Ownership depends on a variety of factors. If the University does not own the work, your department will be limited in how it can use the final product, or whether it can make any changes. A written agreement is essential for spelling out these details. Please be reminded that all contracts must be reviewed by the Office of University Counsel before being any work is begun. In addition, before your department retains an outside entity to make a creative work please contact our office to discuss ownership concerns.

Important Immigration Updates:

1. The University is now an E-Verify employer. Some government agencies and states require E-Verify participation as one of the conditions to qualify for a grant or contract award. E-Verify is a web-based program that supplements the current I-9 employment eligibility verification process. E-Verify FAQs are available online on the Human Resources Management and University Counsel webpages.
2. The U.S. Citizenship and Immigration Services (USCIS) has issued a revised Form I-9 Employment Eligibility Verification and requires all employers to use this revised form effective April 3, 2009. The University began using the new I-9 form on April 3, 2009 for all new hires and reverifications. The new I-9 form is available online on Human Resources Management's webpage.
3. The U.S. Department of Labor (DOL) has changed the procedures required prior to the filing of an H1B petition with USCIS. Effective May 15, 2009, all employers are required to use the DOL's new system. This will mean that a Labor Condition Application (LCA) - the first step for an H1B petition prepared by University Counsel - will no longer be certified immediately online, but instead may not be issued for seven or more days. This will mean that **University departments will need to plan ahead, as additional time will now be required** by the University Counsel's office to prepare H1B petitions to be filed with USCIS.

Does Your Department Maintain Personal Information in its Records? Strict New Regulations Are Forthcoming

If you anticipate entering into contracts which may involve sharing or maintenance of personal information, such as databases or web platforms, there are new criteria which must be considered as you select and negotiate with potential vendors. Your department must consider whether a vendor can satisfy Massachusetts' stringent new regulations concerning protection of personal information. The goal of the new regulations is not just how to deal with security breaches after they happen, but to prevent them from happening in the first place. The new regulations go into effect on January 1.

“Personal information” includes an individual’s name, address, phone number, social security number, driver’s license number, financial account numbers, and/or debit or credit card numbers.

The new Massachusetts regulations deal with personal information which may be transmitted electronically and/or stored or maintained by vendors. The University will provide more detailed information about this law in the near future, including in a special edition of Of Counsel, as well as announcements provided by the Office of Information Security and Identity Services.

For now, please pay special attention to any vendors your department may be considering to handle, store, or maintain personal information of students, employees, and/or research subjects. Your department's contract for any such vendors will need to have specific language, and your department must be able to answer questions about how the vendor addresses Massachusetts' new requirements. The new contract requirements apply both to new and current contracts.

Summer Brown Bag Workshops

The annual lineup of summer brown bag workshops will be announced shortly in a special edition of this newsletter. If your department would like a specialized brown bag workshop over the summer months, please contact us at x2157 to discuss and arrange your seminar.

If you have any questions you would like to see responded to in this space, please submit them to the Office of University Counsel at 378 Columbus Place. 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, 378 Columbus Place, x2157.

This edition of 'Of Counsel' was prepared with the assistance of Northeastern University law student Sarah Mitchell-Weed.