

Academic Misconduct, Academic Action, Discrimination, FERPA

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Office of General Counsel
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Academic Misconduct

What is Academic Misconduct?

- University Policy 6-400, Section 1(B)(2)
 - Cheating
 - Misrepresenting one's work
 - Inappropriately collaborating
 - Plagiarism
 - Fabrication of information
 - Falsification of information
 - Helping another to commit academic misconduct



Policy and Process

- Policy 6-400, Section V (Student Academic Conduct)
 - Expectation that students will engage in the “highest standards of academic conduct”
 - Faculty “shall” act on known misconduct
 - Others who discover “should” report
 - To faculty member
 - In writing
 - Within 30 business days of discovery



Policy and Process (informal)

■ Informal resolution

- Faculty member reasonable efforts to discuss
 - Within 20 business days
 - Student opportunity to respond
- Within 10 days, written notice of sanction and right to appeal
- Possible sanctions
 - Rewrite/retake assignment or exam
 - Failure of exam/assignment
 - Failure of the course

Policy and Process (informal)

■ Informal resolution

If no appeal, matter is done

■ Nothing reflected on transcript

Reporting

■ Failure of course reported to Chair and VP

■ Lesser sanction reported to Dean or Chair



Policy and Process (formal)

■ Formal Resolution

□ When

- If an appeal by the student
 - After one more attempt to discuss
 - Within 15 business days of sanction
- If faculty member pushes for greater sanction
 - Suspension/dismissal from program/University
- If Dean, Chair or VP think that a greater sanction is warranted
 - Multiple acts of misconduct

Policy and Process (formal)

- Formal Resolution Process
 - Appeal or Complaint to College Academic Appeals Committee (AAC)
 - Response-Within 5 business days
 - The AAC
 - 3 faculty members (2 in college, 1 out)
 - 2 student peers (graduate/undergraduate)
 - A hearing if
 - Disputed issues of fact
 - Sanction includes dismissal



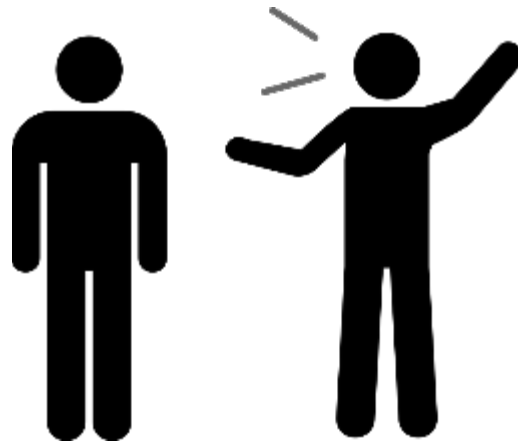
Policy and Process (the hearing)

- Hearing—AAC makes recommendation
- The Dean's Decision
 - Any sanction short of suspension
 - For suspension/dismissal, recommendation to Senior VP
- Appeals
 - To Senior VP (either party)
 - If VP decision to suspend/dismiss-to President
 - VP's decision (or President's) final

Policy and Process (reporting)

■ Reporting

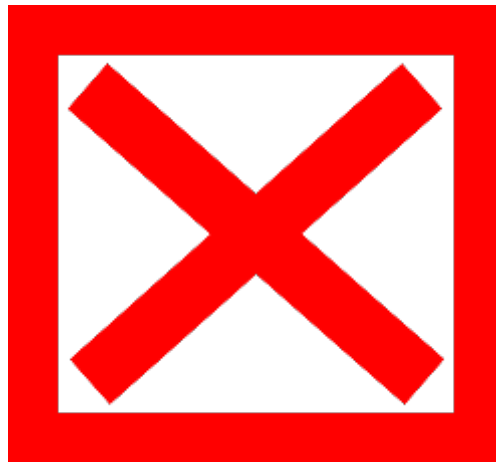
- To track/identify repeat offenders
- To whom
 - Failure of course—Chair of home department and cognizant VP
 - Lesser sanction—Dean or Chair of home department
 - Supposed to be departmental policy



Policy and Process (transcript notation)

■ Notation on the Transcript

- Only suspension, dismissal, revocation
 - During suspension or up to 5 years
 - Dismissal and revocation are permanent



Resources

- OGC regularly advises faculty, departments and committees



Faculty To Do List

■ Provide Clarity in Syllabus

- Expectations regarding misconduct and sanctions
- Expectations regarding collaboration
- Expectations regarding plagiarism
 - Proper citation, etc.

■ If you learn of misconduct, take action

- Attempt to informally resolve
- Proceed with formal process if necessary
- Get help from Associate Dean or OGC
- Report findings of misconduct



FAQ's

- What language should I use in my syllabus?
 - Don't have to say “no cheating”, “no plagiarism”, etc.)
 - But doesn't hurt to have a class discussion about what plagiarism is
 - Students from another country (and even students from the US) may not get it
 - Should set clear expectations for when and how students may work together



FAQ's

- If one student cheats off another, can I hold them both accountable?
 - Yes, as long as intentional
 - Whole range of sanctions can be applied to each





Academic Action/Appeals



Student Failing to Meet Academic Requirements

- Address issues as soon as they come up
- Identify deficiencies
- Roadmap for Improvement
- Identify Resources
- **Memorialize in writing**
- Follow up

Policy and Process

- Policy 6-400, Section IV (Student Academic Performance)
 - Expectation is that students will “meet the academic requirements of a course” and “meet the academic requirements of the relevant discipline or program”
 - “Academic Action”
 - Final grade in course, exam, project, or thesis/dissertation
 - College/department decision to place student on academic probation, suspend, or dismissal for failure to meet academic standards

Policy and Process (cont.)

- Informal resolution between faculty member and student
- If unable to resolve, student may appeal the academic action
 - Student Appeal to Department Chair or Dean's Designee
 - Either party may appeal Chair's/Dean's Designee decision to the college's Academic Appeals Committee

Policy and Process (cont.)

- Academic Appeals Committee
 - Hearing required if academic action includes dismissal from program
 - Committee chair may require hearing on other matters if documents raise material issues of disputed fact or committee chair determines that a hearing would be helpful
 - To overturn academic action, Committee must find that academic action was arbitrary and capricious



Policy and Process (cont.)

- Committee recommendations submitted to Dean or Designee, who makes decision
- Either party may appeal to cognizant Senior VP

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Discrimination, Title IX, Accommodation Requests

Office of Equal Opportunity

- Resource for information
 - Education and Training
- Investigations
 - Internal and External
- Accommodation requests related to religion or pregnancy
- Minors in University Programs Policy 1-015



Discrimination Prohibited by University Policy

Prohibited discrimination is unfair or unequal treatment on the basis of certain characteristics or “protected categories.” These protected categories are:

- Race
- Ethnicity
- Color
- National Origin
- Sex
- Religion
- Age
- Sexual Orientation
- Gender Identity
- Gender Expression
- Veteran’s Status
- Disability
- Genetic Information (in employment)



Notice and Action Required

Knew or should have known

- If student or employee is being harassed and you “reasonably should have known. . .”

Once informed, a manager or supervisor must notify the OEO/AA

- University Policy 5-107
- University Policy 1-012

Complaints from patients must be reported and addressed appropriately!



Sex Discrimination: Title IX, Title VII, U of U Policy



Title IX Coordinator

Sherrie Hayashi, Director
Office of Equal Opportunity and
Affirmative Action

Park Building, Room 135
801-581-8365

Sherrie.Hayashi@utah.edu





Policy 1-020: Required Professional Boundaries in Relationships

University of Utah Policy:

- No romantic or sexual relationships with current students in same academic unit
- Prohibits sexual or romantic relationships (even if consensual) when one has direct authority over another: coaches/athletes, faculty/students, supervisor/employee
 - <https://regulations.utah.edu/general/1-020.php>



Discrimination Based On Sex Includes:

- Pregnancy Discrimination

- Gender
 - Sexual Orientation
 - Gender Identity/Expression

- Sexual Harassment
 - Quid Pro Quo or Hostile Environment, or
 - Other types of Sexual Misconduct



University employees must

- Assist a student who has been sexually assaulted:
 - Offer to call or help them call police (if they agree)
 - Offer to get or help them get medical attention
 - Inform them of the OEO/AA
 - Inform them that there are confidential resources
 - Inform the appropriate supervisor or administrator



Americans with Disabilities Act (ADA)

§ 504 of the Rehabilitation Act

- Prohibit Discrimination or Harassment
 - For having or having a record of a disability
 - For being “regarded as” having a disability
- Provide Reasonable Accommodations
- Provide Equal Access









Definition of Disability:

- A physical or mental impairment which substantially limits one or more major life activities

- Permanent or long-term in duration

Examples Of Reasonable Accommodations*

- Public Access
- Auxiliary Aids    
- Leave time or extended leave
- Parking/Transportation
- Allowing for powered mobility devices (Segways, etc)
- Workspace modifications
- Learning Materials
- Shifts or work hours
- Service Animal

* Each request must be individually accessed in consideration of essential functions of job, business needs, reasonableness.



What the ADA WILL DO

- Provide protection from discrimination
- Provide reasonable accommodations so that you can do your job or continue your education
- May cover conditions EVEN if they are in remission.
- Ensure confidentiality and privacy



What the ADA WILL NOT DO

- Waive essential job/academic functions
- Cover temporary or conditions that are “short-term.”
- Undo disciplinary actions or work retroactively
- Allow threatening conduct/performance
- Protect the use of alcohol or illegal use of drugs



To Request a Reasonable Accommodation:

- **Campus or Health Sciences Employees**
 - Contact the OEO/AA, or download, print, and fill out a request form:
<http://oeo.utah.edu/wp-content/uploads/sites/9/2017/03/ADA-Accommodation-Request-Form-Final-3-21-17-revision.pdf>
- **UUHC Employees** may request an accommodation by emailing or contacting UUHC HR directly.
 - Email: ADArequest@hsc.Utah.edu
 - Contact: UUHC Human Resources (UUHC HR) at 801-581-6500
- **Students:** Refer students to the Center for Disability and Access
 - <http://disability.utah.edu>
 - 801-581-5020

the office of

General Counsel



FERPA

What is FERPA?

- Family Educational Rights and Privacy Act of 1974
- The Act is enforced by the Family Policy Compliance Office, U.S. Department of Education in Washington, D.C.
 - No private right of action
 - Serious consequences for violations (loss of federal funding)



What does FERPA entail?

- Protection and privacy of student education records
- Guidelines for appropriately using and releasing student education records
- Rights of students to see their own records



The General Rule Regarding Disclosure

- Students must provide consent prior to the disclosure of “education records”
- Exceptions:
 - Directory information
 - Records shared among “**school officials**” for a “**legitimate educational**” purpose
 - Health or safety emergencies

FERPA Key Terms & Definitions

- **Education Records are:**
 - Maintained by the institution;
 - Contain personally identifiable information about a student;
 - May be in different formats or mediums
- **Education Records are subject to FERPA**



FERPA Key Terms & Definitions

■ School Officials

- Individuals employed in administrative, supervisory, academic, research, or support staff positions
 - Would include coaches, sport staffers, wellness team, etc.
- Individuals/companies under contract to perform a specific task, i.e.: agent, attorney, auditor, or outsourced service provider

FERPA Key Terms & Definitions

■ Legitimate Educational Interest

- Often referred to as “need to know”
- Interest in reviewing student education records for the purpose of performing an assigned institutional research, educational, or administrative function essential to the duties of your position
- Not just curiosity

FERPA Key Terms & Definitions

■ Directory Information

- Information generally not considered a violation of a person's privacy
- May be released without written consent from the student
- May not be released if the student has a “no release” on his or her record
 - In which case, treated like any other educational record



FERPA Key Terms & Definitions

- What is Directory Information at the University of Utah?
 - Student Name
 - Student Address
 - Telephone number
 - Student ID number
 - Class Standing
 - Field of Study
 - Participation in officially recognized activities or sports
 - Weight & height of members of athletic teams
 - Dates of attendance
 - Degrees and awards received
 - Most recent previous educational agency or institution attended
 - E-mail address
 - Enrollment Status (FT/PT)
 - Photograph

FERPA Key Terms & Definitions

■ Non-directory Information

- Anything that is not Directory Information
- Student information that is considered sensitive
 - Grades, GPA, Class Schedule, etc.
- A third party must obtain written permission from the student to acquire this type of information



When in doubt...



- Don't give it out!
- If you have questions, you may contact the Office of General Counsel or the University registrar

QUESTIONS?

