



EYE ON EMPLOYMENT

With more than 8,000 employees, NC State remains one of the largest employers in the Triangle area and across the State.

This Eye on Employment edition of the Howling Counsel newsletter is dedicated to answer recurring employment-related questions and to provide additional information and resources for supervisors on current legal topics.

We invite your feedback by contacting howlingcounsel@ncsu.edu

Howling Counsel Presents...

November 17, 2014
Volume 3, Issue 3

THE OFFICE OF GENERAL COUNSEL

Attorneys:

Eileen Goldgeier
Vice Chancellor & General Counsel

Mike Poterala
Deputy General Counsel

Judy Curry
Associate General Counsel

Laura Ratchford
Associate General Counsel

Sarah Ann Lannom
Associate General Counsel

Shawn Troxler
Assistant General Counsel

Brenton McConkey
Assistant General Counsel

Professional Staff:

Deborah Harvey, Business Officer
Yolanda Smith, Paralegal
Irma Rose, Administrative Support

Office of General Counsel
NC State University
304 Holladay Hall
Raleigh, NC 27607
919-515-3071 (Phone)
919-515-3060 (Fax)
www.ncsu.edu/general_counsel

Related Links:

[DGC Website](#)

[Contact Info](#)

[Subscribe/Unsubscribe](#)

HAPPY HOLIDAYS!

Seasonal Q&A and Advice for Common Scenarios

As the holiday season approaches, there are a few questions and issues that tend to come up this time of year. . . .

Q: Who are we prohibited from accepting gifts from?

A: Entities and individuals that do or have done business with the university or want to do business with the university, or who are lobbyists or lobbyists principals are prohibited from giving gifts and university employees are prohibited from accepting such gifts under most circumstances.

Q: Am I allowed to accept a holiday gift from a vendor, contractor or customer of NC State? For example, the company that furnishes our laboratory supplies brought in a basket from Harry & David and left it in the office with a card saying "Season's Greetings." Can I keep it or share it with the office?

A: In order to prevent actual or perceived conflicts of interest, to discourage attempts at undue influence and bribery, and to avoid violating the State laws on ethics in government service, in this scenario, the answer is no.

Q: What should I do with the gift?

A: If sent a gift, the three best options are: 1) return it with a note of gratitude and explain the prohibition of gift acceptance; 2) if perishable, accept it on behalf of the university and send it to Dining Services for immediate consumption by students or place in a public space in your building for anyone to consume; and 3) if non-perishable, accept it on behalf of the university and send it to Human Resources for use as a staff appreciation award or giveaway. Document the option you choose.

Q: A third party would like to give a gift to the University. . . what do I tell them?

A: You can always refer a third party who wishes to give a gift to the University to the [Advancement donor page](#).

Q: What if we receive a gift from colleagues from another university?

A: Gift giving among ourselves, the other constituent institutions and General Administration is considered within the "UNC Family" and is permissible.

Summary of Gift Laws and Prohibitions: The Office of General Counsel has created a summary of gift laws and prohibitions. [Read more. . .](#)

Seasonal Q&A and Advice for Common Scenarios *cont'd*

Q: Our office wants to have a holiday function that includes alcohol. Are we allowed to do that?

A: It depends on location and time of the function. The answer is determined by [NC State REG 04.20.01 \(Alcohol Regulation\)](#) and the [Chancellor's 3-D memo](#) concerning the Drug-Free Workplace Act. Read together, these essentially put the brakes on serving alcohol at any office function on or off campus during the work day. If you want to have a party with alcohol at an on-campus location after 5:00 p.m., it is permissible under the terms of the Alcohol Regulation. If you have an after work hours holiday function off-campus at someone's home that includes alcohol, no permission is required, however, the host should be aware of North Carolina's law regarding social host liability for someone leaving your home under the influence and who gets into an accident. Permission is also not required to have an after-hours office holiday party at an off-campus restaurant or private club where alcohol is served— however, no matter where the function is held, keep in mind that alcohol may not be purchased with state-appropriated or federal funds.



Q: Can we decorate the lawn, lobby, reception and common areas of our building for the holidays.

A: Generally (facts do matter), only overtly religious symbols (crèche, cross, Star of David, etc.) displayed alone are prohibited. It is permissible to decorate when such items are included in a display with an overall secular purpose or included as part of a broader seasonal display. Christmas and holiday trees, wreaths, reindeer, candy, dreidels, candle holders (but no flames!), tinsel, assorted holiday-themed decorations and poinsettia plants have not been deemed overtly religious for purposes of separation of Church and State and can be displayed. When considering whether and how to decorate, please keep in mind that NC State values diversity and inclusion in religious beliefs.

Q: Can I display a religious symbol or religious images (e.g., Star of David, cross, star/crescent, image of Jesus) in my office?

A: Again, the answer to the question will be driven by the facts and circumstances of each individual situation. However, the short answer is that generally if you have a private office (non-cubical space), you may display a religious symbol as long as it would be viewed by others as personal expression, and not one sanctioned by or on behalf of the university. If you have any questions about what you may or may not be permitted to display at the university either in a public or office space, please contact Employee Relations, Office for Institutional Equity and Diversity or the Office of General Counsel for guidance.

Q: Where can I find a list of major religious and cultural holidays?

A: The Office for Institutional Equity & Diversity (OIED) has compiled a list of [major religious holidays](#).

Q: What must I do to accommodate a request for leave for a religious purposes?

A: An employee is allowed to take leave for major religious observances. Supervisors must arrange work schedules so the employee can take leave if the day is a major religious observance for him/her and the leave does not create an emergency situation in the department.

CAN I BE SUED?

Q: Are you being served?

A: If you are served with a summons/complaint, petition, or any other document that appears to be initiating an action in a court or administrative agency against the university or against you as an employee of the university, you should immediately contact the Office of General Counsel at (919) 515-3071. Read more information about subpoenas, court orders and search warrants [here](#).

Q: Will NC State defend me in a lawsuit?

A: In the event that you are sued for performing your duties as part of employment at NC State, the [Defense of State Employees Act](#) provides for legal representation in litigation by the Attorney General's Office (in its discretion) and for indemnification (in the event of a judgment).

Q: Is there insurance to cover me if I am sued?

A: Specifically, the law provides coverage up to a maximum of \$1 million per claimant for damages awarded in lawsuits or settlements against state employees and allows the State to pay damages on their behalf, at the discretion of the Attorney General. To learn about excess liability coverage, [read this 3D memo](#).

CAN I BE SUED? *cont'd*

Q: What should I do if I receive a court order or a subpoena, or if I am contacted by an outside attorney regarding my work at NC State?

A: Contact the [Office of General Counsel](#) immediately. See additional information on [subpoenas, court orders and search warrants](#).

Q: I received a Litigation Hold Notice. . . What is it and what do I need to do?

A: A litigation hold notice is routinely sent to individuals on campus who may have records or information relevant to a lawsuit or threatened litigation. The litigation hold requests that steps be taken to preserve such records and information. The Office of General Counsel has a summary of the litigation hold process on its legal topics page titled [Litigation Holds and E-Discovery](#).

COMPLIANCE CORNER

Q: What federal/state laws must I comply with?

A: NC State's new [Compliance Website](#) has recently "gone live." Watch the [Chancellor's message](#) about compliance and learn more about different compliance areas that may affect you and your role with the university. The university's [compliance calendar](#) provides important deadlines for reports.

Q: What do I need to know about Title IX?

A: If you've been hearing a lot about Title IX and universities these days, it's no accident. The U.S. Department of Education-Office of Civil Rights (OCR) recently published [Questions and Answers about Title IX and Sexual Violence](#), a White House Task Force has launched the [NotAlone website](#) providing information to students and schools about how to respond to and prevent sexual assault, and NC State has continued to reinforce and to expand its efforts with respect to Title IX.

All employees should have received the [Chancellor's memo](#) on Title IX and Non-Discrimination. This memo includes important information about Title IX, including a contact list for NC State's [Title IX Officers](#) and links to helpful resources for both students and employees. In addition, you may want to check out NC State's [Title IX website](#), which is dedicated to all things Title IX.

Q: What is NC State saying and doing about Title IX?

A: In 2014, NC State campus partners worked together to develop and present an educational program regarding sexual violence to new students as part of new student orientation. Students, faculty and staff, along with campus leaders, were part of a Public Service Announcement (now on YouTube), committing that [It's On Us](#) to stop sexual assault at NC State. The Title IX Team, a campus advisory group, has been meeting regularly and assisting university administrators and units in NC State's endeavors with respect to Title IX.

Q: What should I do if I see or suspect misuse of or damage to State property?

A: Employees are required to report misuse within three (3) business days of discovery to their supervisor, University Police, Internal Audit or the Office of General Counsel. See NCSU [REG 07.40.02](#) and the [Chancellor's Memo on Reporting Misuse/Damage of State Property](#) for further information.

Q: Where do I turn if I, or someone I know, has been the victim of discrimination or harassment?

A: If you have a complaint involving an NC State employee or a third-party affiliate on campus, you should contact the [Office for Institutional Equity and Diversity](#) (OIED) at (919) 515-3148.





POLICY NEWS

A new [SPA Employee Grievance Policy](#) written by the Office of Human Resources for all SPA employees in the UNC System went into effect on May 1, 2014. There are a number of changes and new requirements for SPA employees wishing to file a grievance. [Read more.](#)

There is a new regulation on [Instructor Qualifications](#) (NCSU REG 05.20.40) that was issued on July 8, 2014. The regulation requires all employees who are instructors to provide documentation (i.e. official transcript) necessary to verify their qualifications.

The Board of Governors updated [UNC Policy 1000.2.2 Waiver of Tuition and Fees for Faculty and Staff](#), to bring it into alignment with recent changes in state statute N.C.G.S. Sec 116-143(d). This change allows for tuition waiver of up to three courses a semester to be taken by eligible UNC staff and faculty. NCSU Policy 07.55.07 and REG 07.55.08 are being updated to align with the UNC Policy and will be posted soon. Questions about the UNC and NCSU faculty and staff tuition waiver policy and regulation should be directed to the [Benefits Office](#). Specific questions about processing the tuition waivers should be directed to the [Cashier's Office](#).

Revisions were made to the [Resolution Procedures for Discrimination, Harassment and Retaliation Complaints](#) regulation (NCSU REG 04.25.02) to align with new North Carolina requirements under the SPA Employee Grievance Policy and recent guidance on federal requirements under Title IX of the Education Amendments. [Read more.](#)

In Case You Missed It: View a full listing of all policy and regulation revisions on the [“What's New”](#) page on the Policy, Regulation and Rules (PRRs) website.

YOU HAD ME AT HELLO

Best Hiring Practices

Whether you are hiring a receptionist or a research technician, a philosopher or a police officer, or any other employee at NC State, there are some best practices that can help prevent problems down the road.

Q: Diversifying Your Workforce

A: If you are hiring an EPA employee (faculty or non-faculty), a comprehensive resource for recruitment and hiring is the [Employment Procedures](#) manual developed by the Office for Institutional Equity and Diversity (OIED) and the Human Resources Department (HR). This manual is also instructive in the area of equity and diversity for the hiring of SPA employees. The OIED provides additional resources, such as [“Guidelines for Recruiting a Diverse Workforce,”](#) as part of its website.

Q: Recruiting and Hiring Employees

A: You should be aware of other policies that affect the type of employee you plan to hire. For example, there are a number of [policies relating to the recruitment and selection of SPA employees](#) (i.e. merit-based recruitment, priority re-employment, veteran’s preference, etc.) that are applicable to your hiring process. Or, you may need to consult [policies relating to the recruitment and selection of EPA employees](#) in conducting your hiring process. Whether you are recruiting and hiring an SPA or EPA employee (including faculty), [HR’s Employment Services](#) department provides information—including [Recruitment and Selection Guidelines](#) about the recruitment and employment of these employees.

Q: Make Sure Your Search Committee Avoids Land Mines

A: If you are using a search committee or interview panel, Contact the Office of General Counsel at (919) 515-3071 to schedule a mini-orientation for your search committee about public records law and the confidentiality of applicant information.

Q: Always Check References

A: Even if an applicant’s credentials are outstanding and his/her interview went smoothly, do not dispense with conducting a thorough reference check. Obtain permission from the employee before calling the employee’s current employer/supervisor (it can be a red flag if permission is not granted). See [recommended employment reference questions](#). You should obtain at least three references from individuals who have supervised the applicant and who have direct knowledge of the applicant’s skills, abilities and experience. Last but not least, just because a candidate is internal, you should conduct as rigorous a reference check as you would for any outside applicant.

Still have questions?

Please contact OGC at 919-515-3071 for assistance.

We are NC STATE’S law firm.

We would like to hear from you.

Please send any comments or feedback to howlingcounsel@ncsu.edu