

## Howling Counsel Presents...

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# THE FACULTY EDITION

## HAVE YOU EVER HAD TO:

- Decide whether you could make “fair use” of a movie clip in one of your classes?
- Travel internationally with sensitive data on a laptop or flash drive?
- Evaluate the merits of forming a start-up company around your invention?
- Comply with “FERPA” without really knowing what “FERPA” is?

Dealing with situations that require specialized legal knowledge or resources can be challenging. Fortunately, many NC State departments are available to help faculty members navigate these and similar situations.

This special Faculty Edition of the *Howling Counsel* newsletter presents FAQs related to **teaching, supporting students, conducting research, and other common scenarios**, and provides hotlinks that lead directly to offices that can provide assistance and to relevant web-based information.

Our goal is to make it easy for you to locate information and obtain assistance that will support you in your work as a faculty member at NC State. We welcome your comments, suggestions and questions at [howlingcounsel@ncsu.edu](mailto:howlingcounsel@ncsu.edu).

Have a great school year! We look forward to working with you.

Sincerely,

The NC State Office of General Counsel

## A MESSAGE FROM PROVOST ARDEN

Dear Members of the Faculty:

As you return to campus for the beginning of a new academic year, it is my pleasure to introduce the inaugural Faculty Issue of the *Howling Counsel* newsletter. When pursuing your scholarship, it is common to have responsibilities that are impacted by applicable laws and policies, and to encounter situations that merit the involvement of or support from other campus offices. This newsletter aims to provide you with targeted access to relevant information and administrative support to help you meet such responsibilities and manage such scenarios efficiently and effectively. We are fortunate to have a number of units and colleagues across the university available and eager to help us, and I encourage you to take full advantage of their expertise and collegiality.



Warwick A. Arden, Provost and Executive Vice Chancellor

Please do not be misled by the name of this newsletter. The attorneys in our Office of General Counsel are indeed quite approachable and do not “howl,” they just happen to be big fans of NC State’s *Howling Cow ice cream*. Any time legal guidance is required in your work, be sure to [contact OGC](#) early on for helpful advice and assistance.

I extend my thanks to all of the campus offices who have contributed to this newsletter, and wish all of you the best during this academic year.

Warm regards,

Warwick A. Arden  
Provost & Executive Vice Chancellor

## A MESSAGE FROM THE CHAIR OF THE FACULTY

Dear Faculty Colleagues:

Welcome, or welcome back, to NC State for the start of a new academic year. I join with Provost Warwick Arden in introducing this inaugural faculty issue of the *Howling Counsel* newsletter. I want to thank the attorneys and staff in the Office of General Counsel (OGC), and all the other campus offices who contributed to this newsletter.

This newsletter is filled with resources and guidance for the work you do as researchers, scholars, teachers, and engaged members of the university community. Everyone in the OGC stands ready to answer your questions, or help you find the answers, so that you can be as productive, creative, and innovative as possible. University policies, rules and regulations (PRRS)—not to mention state and federal laws—may seem daunting at times. But the university’s attorneys strive to work as partners helping faculty understand the legal environment and achieve their goals.



Dr. David A. Zonderman, Chair of the Faculty

With best wishes for a successful academic year,

David A. Zonderman  
Chair of the Faculty

# FAQs: TEACHING

## When and how can I use third party materials (print, web, or video) in my class?

Contact the [Copyright and Digital Scholarship Center](#) for assistance.

## How do I create an online course/conduct distance education?

Contact the Provost's office of [Distance Education & Learning Technology Applications \(DELTA\)](#) for assistance.

## What procedures apply to choosing textbooks?

See this [3D memorandum](#) and contact the [NC State Bookstores](#) for assistance.

## How do I make technologies accessible to students with disabilities?

See [REG 04.25.05](#) and the related [ICT Accessibility Regulation FAQs](#). Contact [accessibility@ncsu.edu](mailto:accessibility@ncsu.edu) for assistance.

## Do I have to allow an animal accompanying a student into my classroom or office?

Yes, if it is a service animal. See [REG 04.20.05](#) for more information and contact the [Disability Services Office \(DSO\)](#) for assistance.

## Am I required to accommodate student religious observances?

Yes, under the [Attendance Regulations](#), students are allowed a minimum of two excused absences per academic year for religious observances. Contact the [Office for Institutional Equity and Diversity](#) with questions or for assistance. See a [list of major religious holidays](#) with work restrictions.

## Are there special considerations for teaching or interacting with student athletes?

See the [Faculty and Staff NCAA Compliance Info Sheet](#) prepared by the [Council on Athletics](#) for detailed guidance. To discuss academic issues, contact [Dr. Samuel Pardue](#), Faculty Athletics Representative, or the [Academic Support Program for Student Athletes](#). Contact the [Athletics Compliance Office](#) with questions about NCAA rules interpretation and compliance.

## How are cheating, plagiarism, and other forms of academic misconduct addressed?

Contact the [Office of Student Conduct](#) for assistance. The [Code of Student Conduct](#) and a series of [Academic Integrity Resources](#) also provide guidance.

## What can I do to address disruptive classroom behavior?

Contact the [Office of Student Conduct](#) for assistance. Section 6 of the [Code of Student Conduct](#) sets forth classroom behavior standards.

## How are grade disputes handled?

See [REG 11.40.01](#) for grievances filed by undergraduate students, and [REG 11.40.02](#) for grievances filed by graduate students. Students may only grieve final grades; test or partial grades cannot be grieved.



Associate Professor of Forestry & Environmental Resources Stacy Nelson (left) works with a grad student on a project in Jordan Hall.



Professor William Snell helps Poole College of Management students in class.

## FERPA Q&A

With the beginning of the academic year approaching, we thought we would answer some commonly asked [questions on FERPA](#).

### Q. What is FERPA?

A. The Family Educational Rights and Privacy Act was passed over 30 years ago. It was intended to protect the privacy of student information maintained by schools, colleges and universities.

### Q. What specific student information does it protect?

A. FERPA protects student information, known officially as an “education record,” if it is directly related to a student and maintained by NC State. Some examples of a student’s education records are transcripts and academic coursework.

### Q. How does the law protect a student’s education records?

A. FERPA protects education records by requiring the student’s consent before NC State may disclose such information to a third party (including a parent).

### Q. I teach a distance education course using Blackboard Collaborate in which I require students to contribute to class discussion threads. Are these posts protected by FERPA?

A. Yes. In this situation, NC State could not reveal these discussion threads to someone unrelated to the course unless the students posting the comments consented to the release.

# FAQs: SUPPORTING STUDENTS

## What must I do to keep student information private?

Do not release a student’s records (e.g. grades, coursework, course schedule, etc.) outside the university, even to a parent or other family member, without first getting the student’s [written consent](#). See [REG 11.00.01](#) for information on the Family Educational Rights and Privacy Act (FERPA), and contact the [Office of General Counsel](#) for assistance.

## Should I obtain a written consent from a student who has asked me to write a recommendation?

Yes. Even if the student has made a verbal request, getting a student’s [written consent](#) helps insure compliance with [FERPA](#). Contact the [Office of General Counsel](#) for assistance.

## What resources are available to me for accommodating students with disabilities?

Contact the [Disability Services Office](#) (DSO) for assistance and see the [roles of the student, instructor, and the DSO](#) in the accommodation process.

## How does “Title IX” affect me or my students?

See NC State’s [Title IX website](#) and contact one of the [Title IX Officers](#) for assistance.

## What can I do if I am concerned about a student’s physical health?

Refer the student to [Student Health Services](#).

## What can I do if I am concerned about a student’s mental health?

Refer the student to the [Counseling Center](#).

## What should I do if I see a person who appears to be a threat to themselves or others?

Contact [University Police](#) at either 911 or (919) 515-3000 for emergencies or other imminent situations. For non-emergencies, contact the [Office of Student Conduct](#) (for students), or [Employee Relations](#) (for employees).

## How can I assist a survivor of sexual assault?

Refer the survivor to the [Student Health Center](#) if he or she needs medical attention and to the [Counseling Center](#) for confidential guidance and support.

## How can I assist someone who claims to have been subjected to discrimination or harassment?

Students who believe they have been subjected to harassment based on race, color, religion, national origin, age (over 40), sex, national origin, disability, veteran’s status, genetic information, sexual orientation or gender identity should be referred to the [Office of Institutional Equity and Diversity](#) for assistance.

## FAQs: RESEARCH

### Where can I get assistance in developing a proposal for research funding?

Contact [your college research office](#) for assistance with standard projects, and see [proposal development guidance](#). Contact the [Proposal Development Unit](#) for large-scale or multidisciplinary projects.

### Can someone help me address issues involving copyright, authorship, or other publication issues?

Contact the [Copyright and Digital Scholarship Center](#) for assistance. See [REG 01.25.03](#) for further information.

### Where can I get assistance for my invention or in seeking patent protection?

Contact the [Office of Technology Transfer \(OTT\)](#) for assistance, and see the [Patent and Tangible Research Policy](#) for more information.

### Where can I get assistance in forming a startup company?

Contact the [Venture Development staff](#) in the [Office of Technology Transfer](#).

### What guidelines and support exist for research involving animals?

Contact the [Institutional Animal Care and Use Committee \(IACUC\)](#) for assistance. See applicable [policies](#) and [regulations](#), and review related [FAQs](#).

### What guidelines and support exist for research involving human subjects?

Contact the [Institutional Review Board \(IRB\)](#) for assistance, and review [applicable policies and regulations](#).

### What guidelines and support exist for maintaining laboratory safety?



Assistant Professor of Environmental Technology Elizabeth Nichols works in her Jordan Hall Lab. She has been experimenting with plants that can either slow or stop underground contamination.

Contact the [Office of Environmental Health & Safety \(EHS\)](#) for assistance, and see detailed information regarding [chemical hygiene plan training](#), [biological safety](#), [radiation safety](#), [waste disposal](#), and [shipping of hazardous materials](#).

### What do I need to know about export controls?

If you create or work with novel technologies or other regulated items, your activities may be subject to export control regulations. Illegally exposing regulated items to non-US citizens without a required government license can lead to fines and imprisonment. Consult the [export controls website](#), and contact [Sponsored Programs and Regulatory Compliance \(SPARCS\)](#) for assistance.

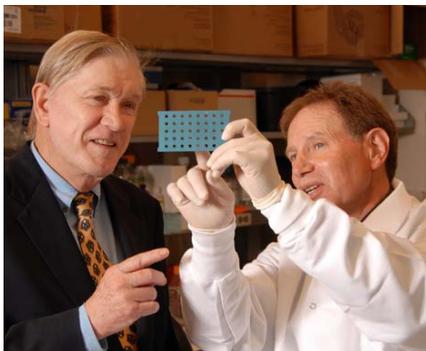
### How should I report possible research misconduct?

Contact the [Research Integrity Office](#) for assistance. See [REG 10.00.02](#) for further information.



Professor of Immunodermatology Dr. Thierry Olivry and allergic dog at the Vet School.

## WHAT HAPPENS WHEN . . .? ADVICE FOR COMMON SCENARIOS



Dr. Ken Adler (right) shows investor Fred Gant the latest work going on in his CVM lab.

### Can I consult or engage in other outside professional activities for pay?

Yes, NC State encourages these activities so long as a) they are first approved by the dean of the faculty member’s college, and b) any conflicts of interest (COI) and commitment are properly disclosed and managed. See the [COI/NOI page](#) maintained by SPARCS, including FAQs on [COI](#) and [Consulting](#). See the Office of General Counsel’s [Consulting FAQs](#) for further information.

### Do I have authority to sign a nondisclosure agreement or a material transfer agreement?

NO! If your work requires that NC State enter into such an agreement, contact the [Office of Technology Transfer](#) for assistance.

### Do I have authority to sign any other contracts?

NO! The Chancellor has delegated contractual signature authority to only select campus officials as described in [REG 01.20.02](#) and summarized in this [Chart](#). Contact the [Office of General Counsel](#) for assistance.

### Is it permissible for me to download “free” software to use in my work at NC State?

It may be, but to be sure, please check first with your unit’s IT professional. This will help insure a) that the software is compatible with existing NC State hardware and software, avoiding unexpected and costly “fixes”, and b) that problematic terms in the online “clickwrap” agreement (just like any other contract) are avoided. Check out [software@NCState](#) to see if your desired software is already licensed for your use, and contact the [Software Licensing Management Staff](#) for assistance. Please see OIT’s [clickwrap site](#) regarding approved, conditionally approved and denied clickwrap agreements.

### What guidelines exist for the use of NC State’s name and trademarks?

Consult the [brand guidelines](#) maintained by [University Communications](#). Also see [REG 01.25.06](#), and contact the [Trademark Licensing Office](#) for assistance.

### Does the university have liability insurance that covers me while working?

Yes, see this [3D memorandum](#).

### Does the university have insurance for when I travel on business?

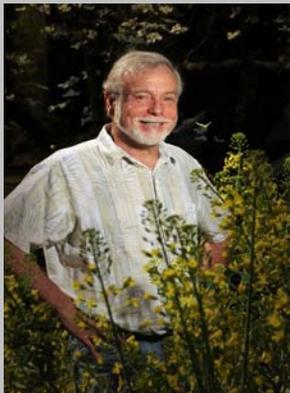
Yes, contact the [Office of Insurance and Risk Management](#) to learn about and apply for [Business Traveler Insurance](#) required to travel internationally.



Professor of Biological Sciences Dr. Nick Haddad works with students in the field at Yates Mill.



Vice Provost for International Affairs Bailan Li and flags representing countries NC State works with.



Professor of Entomology Dr. Fred Gould in his garden.



CHASS researcher and professor of Sociology & Anthropology Ann Ross and a human skull.

## WHAT HAPPENS WHEN . . .? ADVICE FOR COMMON SCENARIOS

### Does international business travel require any special preparation?

Yes, please contact [SPARCS](#) for assistance and review [related materials](#) well before you are required to travel internationally.

### What should I do if I am sued for something that occurred during my work at NC State?

Contact your supervisor and the [Office of General Counsel](#) immediately.

### Will NC State defend me if I am sued?

Generally speaking, yes, subject to the NC Attorney General’s discretion, if you were acting within the course and scope of your assigned duties. See additional information on the [Defense of State Employees Act](#) and contact the [Office of General Counsel](#) for assistance.

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

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

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

You should report any information or evidence to your immediate supervisor within three (3) days as required by state law. See [REG 07.40.02](#) for further information.

### Are there guidelines to follow if I want to engage in political activity?

Yes, state law generally prohibits state employees from engaging in [political activities](#) during any time they are expected to perform work for the state, and prohibits the use of state property to support or oppose a candidate or an issue.

### When should I consult with the Office of General Counsel?

For a representative list of situations, see the [November 2011](#) edition of the [Howling Counsel](#) newsletter.

*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](mailto:howlingcounsel@ncsu.edu)**