

# Howling Counsel

NC STATE UNIVERSITY  
OFFICE OF GENERAL COUNSEL

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## BACK TO SCHOOL ISSUE. ARE YOU READY?

### Students with Disabilities: Providing Reasonable Accommodations

With the academic semester about to begin, it's an opportune time to review the university's legal obligations and standard practices with respect to providing reasonable accommodations to students with disabilities. Both the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act (Rehab Act) require NC State to provide reasonable accommodations to qualified students with disabilities by making reasonable modifications in university services, programs or activities unless such modifications would fundamentally alter the nature of the service, program or activity or constitutes an undue hardship. Lowering of academic standards is not required under federal law.

If a student asks you about an accommodation due to a disability, you should start by reviewing [NC State REG 02.20.01 \(Academic Accommodations for Students with Disabilities\)](#), which provides the essential information regarding a student's request for an accommodation and outlines the appropriate steps to follow to assist the student—including referring the student to the [Disability Services Office \(DSO\)](#) if the student has not already registered there. The DSO website has helpful guidance for faculty ob-

ligations too. Do not attempt to diagnose a student's disability or to craft reasonable accommodations on your own – that responsibility lies with DSO. The U.S. Department of Education, Office of Civil Rights takes the position that no single individual faculty member or administrator is qualified to solely determine what the requesting student may be entitled to under federal law, including whether the requested accommodation constitutes a fundamental alteration of a course.

That is where DSO plays a critical compliance role. The [DSO](#) will engage in an interactive process with the student to arrive at a reasonable accommodation based on the medical documentation provided, the student's preferences and DSO's expertise in working with disabled students. The DSO will notify the faculty member, program director, or other supervising individual of the particular accommodations for a student, but not the student's medical diagnosis (which is confidential). If the faculty/staff member believes the recommended accommodation is unclear, fundamentally alters the class or program, or otherwise appears unreasonable, he or she should contact the DSO immediately.

If you are a faculty/staff member who works with students in the classroom, there are some things you can do to make learning more accessible before the start of classes:

- If you are ordering text books for a course, ask the publisher whether the books are available in an alternative format (electronic, Braille, audio, etc.) If the answer is "no," you should check to see whether another publisher has a similar text book that does come in alternative formats.
- Prepare your syllabus, handouts and other course materials—including library reserve materials, prior to the start of the semester (it takes time to convert some of these materials into alternative formats!)
- Determine the essential requirements for participation in your course or program (e.g. attendance, homework assignments, format of tests, readings, field trips, clinical experience or internship, laboratory work, physical exertion).

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- CLERY ACT COMPLIANCE
- FERPA FAQs

#### We make house calls!

Send your inquiries to:  
[howlingcounsel@ncsu.edu](mailto:howlingcounsel@ncsu.edu)  
or call (919) 515-3071

#### Related Links:

- [OGC Website](#)
- [Contact Info](#)
- [Subscribe/Unsubscribe](#)

## Student with Disabilities: Providing Reasonable Accommodations *cont'd*

- Check with the DSO to make sure any use of technology for the class (e.g. class website, clickers) is in an accessible format. For more information regarding Emerging Technologies and the

ADA, as well as the [Information and Communication Technology Accessibility regulation](#) check out the [Legal FAQs](#) on the OGC website.

If you have any questions, please contact DSO at (919) 515-7653, the IT accessibility consultation services at [it-access@ncsu.edu](mailto:it-access@ncsu.edu) or the Office of General Counsel at (919) 515-3071.

## NC State Expands Clery Act Compliance Effort

The Jeanne Clery Act was passed by Congress in 1990 to require colleges and universities to collect, classify, count and publish crime statistics for their campuses, as well as to provide timely crime warnings and emergency notifications. An important aspect of the law requires certain university employees, known as “campus security authorities” or CSAs, to report crime to campus police.

Recently, university administrators expanded NC State’s Clery Act compliance effort by adding annual training requirements for CSAs and creating an updated database of all CSAs on campus. When fully implemented, these new efforts will help improve campus safety.

Unsure if you are a CSA? Want more information on the Clery Act? Please contact your supervisor or campus police at 919-515-3000. Also review OGC’s online training for “[Clery Act Campus Security Authority \(CSA\)](#)”.

## FERPA FAQs

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 record?

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

Q. Are there any exceptions to FERPA’s student consent requirement?

A. Yes, several exceptions exist. However, the most common exception relates to the release of directory information. NC State may disclose a student’s directory information without his/her consent unless the student takes steps to affirmatively block this release.

Q. What is directory information?

A. Directory information is information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed. At NC State, directory information includes such information as a student’s name, academic year (e.g. freshman, sophomore, etc) and preferred email account. To review all categories of directory information, please visit NC State’s [FERPA regulation](#)

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.

Q. In the same distance education course, may I share for group discussion examples of particularly good work submitted for grading by another student?

A. Yes, so long as you redact the name and any other information that would identify the student who submitted the work. Recall that a student’s “education record” is information directly related to a student. Once a student submission is “de-identified”, then it no longer directly relates to the student and can be freely shared with other students.

Q. In the distance education setting, can I share a coursework that has been submitted for grading?

A. No. Generally speaking, once coursework is submitted to an instructor for grading or credit, the instructor cannot share that coursework with other students unless it is (1) de-identified or (2) the student who submitted the work consents in writing.

If you have other questions about FERPA, or how FERPA applies in the distance education setting, please contact the OGC at (919) 515-3071.