



# Legal Issues for New Faculty

*- Frequently Asked Questions -*

**PRESENTED BY:  
THE OFFICE OF THE GENERAL COUNSEL**

**2018-19 ACADEMIC YEAR**

## **FAQ #1:**

# **What is the Role of the General Counsel?**



# Office of the General Counsel

- The Office of the General Counsel represents UVM as an institutional client, the institution acting through its authorized officials, including the Board of Trustees, the President, the Provost and Senior Vice President, Vice Presidents, deans and directors, and other persons responsible for the management of academic and administrative units.

**Sharon Reich Paulsen**, Vice President and General Counsel

**John Collins**, Deputy General Counsel

**Jennifer Papillo**, Associate General Counsel

**Meghan Siket**, Associate General Counsel

**Katie Beneke**, Paralegal



# What Types of Legal Issues Does UVM Face

## **How We Think of Ourselves**

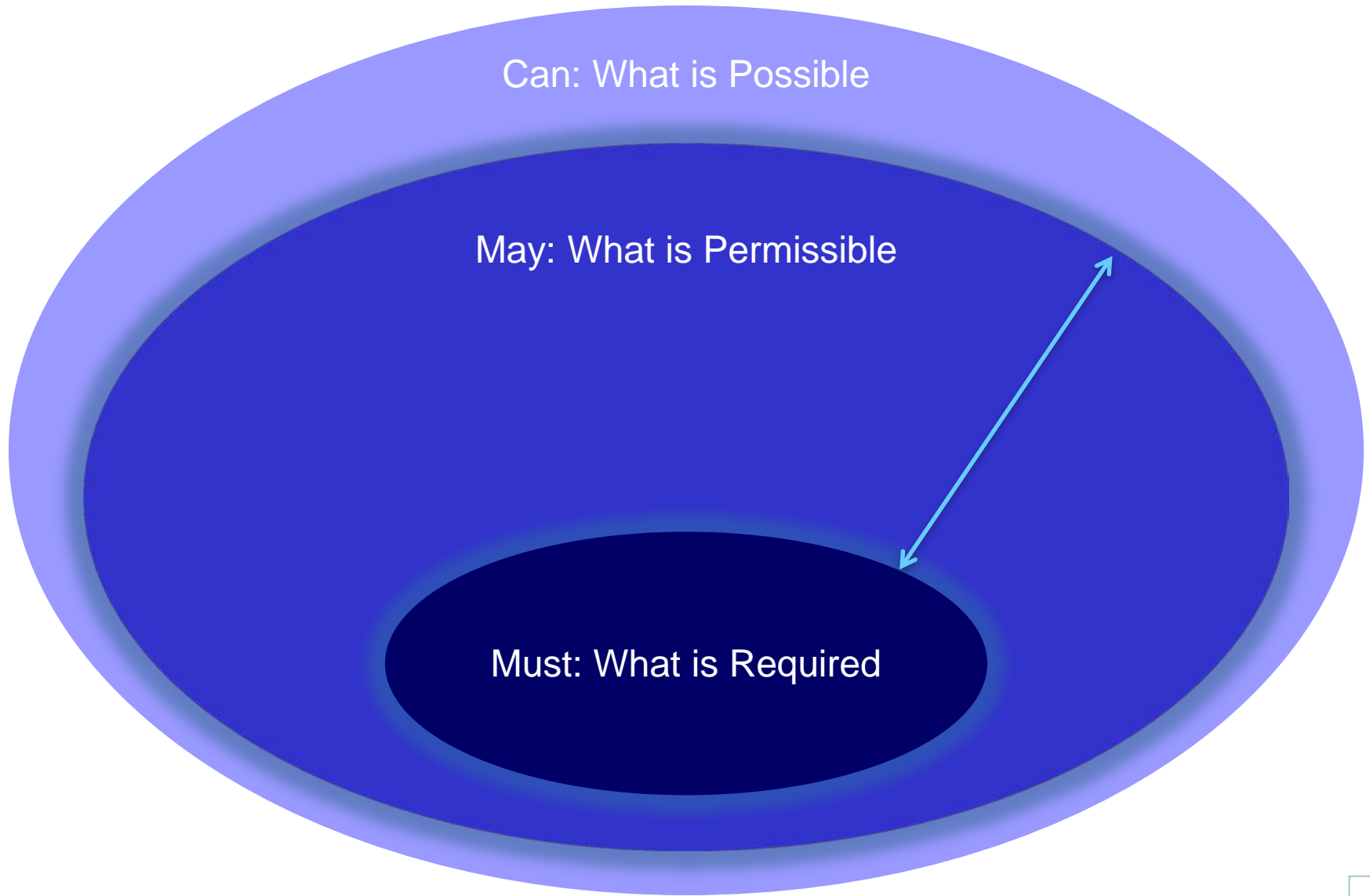
- Educators

## **In the Eyes of the Law**

- Educators
- Employers
- Landowners
- Landlords
- Restaurants
- Retailers
- Entertainment Facilities
- Fitness Clubs
- Power Plant Operators
- Hazardous Materials Handlers
- Health Care Providers
- Banks
- Internet Service Providers



# What Kind of Advice Does General Counsel Give?



## **FAQ #2:**

**As a faculty member,  
will I interact with the  
General Counsel's Office  
directly?**



# Requesting Services

- OGC has an open door policy.
- For routine matters, attorneys are assigned primary responsibility for certain subjects and clients, but work collaboratively and can triage any issue that is time sensitive.
- Appointments are encouraged.

357 Waterman Building  
(802) 656-8585

[General.Counsel@uvm.edu](mailto:General.Counsel@uvm.edu)  
<http://www.uvm.edu/~gencnsel/>



# Defense & Indemnification Policy

## Indemnification – Officers & Employees

[http://www.uvm.edu/policies/general\\_html/indem.pdf](http://www.uvm.edu/policies/general_html/indem.pdf)

- ***Can faculty members be sued in their capacity as employees of UVM? YES.***
- ***Will the University help? YES, if:***
  - ***The conduct occurred within the scope of University employment; and***
  - ***The conduct or actions were taken in good faith***  
*(a manner reasonably believed to be lawful and without gross negligence).*





# Notice of Legal Action

## **Subpoenas and Other Legal Documents Policy**

[http://www.uvm.edu/policies/general\\_html/subpoenas.pdf](http://www.uvm.edu/policies/general_html/subpoenas.pdf)

- The Office of the General Counsel, or persons at their request and direction, are the sole University officials and employees authorized to accept subpoenas, complaints, notices of class action, warrants, or other legal documents addressed to the University, institutional officers, and other persons named in their capacities as University officials or employees.
- No University employee should speak to an outside attorney, except on his or her personal business, without the express consent of the General Counsel's Office. It is imperative that employees contact the General Counsel's Office immediately if litigation is threatened or other legal demands are made.



# Litigation Holds

## Records Preservation Directives

[http://www.uvm.edu/policies/general\\_html/litigation\\_hold.pdf](http://www.uvm.edu/policies/general_html/litigation_hold.pdf)

- Upon notice from the Office of the General Counsel, all affected units must immediately suspend all disposal and destruction of relevant records, and all deletion of relevant e-mail messages and other electronic records, in the following situations:
  - Litigation has been commenced or threatened, or is otherwise reasonably anticipated;
  - A state or federal investigation has been commenced or threatened;
  - An internal investigation or audit has commenced; or
  - Senior administrative officials have determined that urgent circumstances require the preservation of records and have issued a record preservation directive.

### **General Counsel**

357 Waterman Building

(802) 656-8585

[General.Counsel@uvm.edu](mailto:General.Counsel@uvm.edu)



# Matters Outside the Scope of Representation

- The General Counsel's Office has an obligation to refrain from advising faculty on matters within the scope of their union representation.
  - ✦ Copies of collective bargaining agreements may be found at:
    - <http://www.uvm.edu/~facsrcs/?Page=ftcontract.html> (Full Time)
    - <http://www.uvm.edu/~facsrcs/?Page=ptcontract.html> (Part Time)
- The Office does not provide personal legal advice or representation to UVM administrators, faculty, students, or staff.



## **FAQ #3:**

**UVM is a public  
institution ... does that  
mean my emails  
*(and everything else)*  
are public records?!?**



# Vermont Public Records Act

## Records and Documents Request Policy

[http://www.uvm.edu/policies/general\\_html/records\\_request.pdf](http://www.uvm.edu/policies/general_html/records_request.pdf)

- UVM is an instrumentality of the State of Vermont, and is subject to the requirements of the Public Records Act (Title 1, sections 315-320).
- ***Public Record or Document:*** is a written or recorded matter produced or acquired in the course of University business. All public records and documents are subject to prompt disclosure upon request unless they are exempt under the provisions of the Vermont Public Records Act.
- **ALL Public Records Requests should be directed to:**

**Gary Derr, VP for Executive Operations**

348 Waterman Building

[Gary.Derr@uvm.edu](mailto:Gary.Derr@uvm.edu)

(802) 656-8937



# Government Reviews

## Government Reviews Protocol

[http://www.uvm.edu/policies/general\\_html/govreviews.pdf](http://www.uvm.edu/policies/general_html/govreviews.pdf)

- It is the practice of the University of Vermont to cooperate fully, appropriately, and effectively with all lawful inquiries, inspections, audits, investigations, unannounced visits and other information-gathering activities conducted, directly or indirectly, by federal, state, or local Government regulators.
- **If you are contacted by a Government Regulator:**
  1. Advise them of the University's Government Reviews Protocol
  2. **Contact the Compliance Services (x63086)**
  3. Wait for further direction from Compliance Services.



## **FAQ #4:**

**I want to represent myself and UVM appropriately. What should I be thinking about?**



# Code of Conduct and Ethical Standards

## **Code of Conduct and Ethical Standards**

[http://www.uvm.edu/policies/general\\_html/businessconduct.pdf](http://www.uvm.edu/policies/general_html/businessconduct.pdf)

We are all individually responsible to be aware of and comply with the legal and regulatory requirements and with University policies and procedures relevant to our jobs.

- Creating a Respectful Campus Environment
- Privacy and Security of Confidential Information
- Conflicts of Interest and Conflicts of Commitment
- Protecting University Assets and Appropriate Use of University Resources
- Accuracy in Recordkeeping
- Relationships with University Vendors and Other Third Parties in Business Transactions
- Research
- Freedom of Expression
- Creating a Safe and Healthy Campus





# Conflicts of Interest and Commitment

## Conflict of Interest and Conflict of Commitment

[http://www.uvm.edu/policies/general\\_html/conflictinterest.pdf](http://www.uvm.edu/policies/general_html/conflictinterest.pdf)

- **Faculty must disclose conflicts of interest and commitment as they arise to their department chairs or, in units with no chairs, to their deans.**
  - A ***conflict of interest*** arises with respect to activities that compromise, or appear to compromise, an employee's judgment in performing his or her University duties. These conflicts can arise when an employee, or a member of his/her family has an existing or potential personal, financial or other interest that: (a) impairs or may reasonably appear to impair his/her independence of judgment in the discharge of responsibilities to the University; or (b) may result in personal gain or advancement at the expense of the University.
  - A ***conflict of commitment*** occurs when external activities undertaken by a UVM employee will or reasonably can be expected to significantly interfere with his or her ability to perform obligations to University duties fully or effectively.



# Personal vs. Professional Representations

## **University Name, Symbols, Letterhead and other Proprietary Indicia of Affiliation**

[http://www.uvm.edu/policies/general\\_html/letterhead.pdf](http://www.uvm.edu/policies/general_html/letterhead.pdf)

- University faculty may refer to their professional or student status for purposes of self-identification in connection with external activities and the public expression of personal views if the status is accurately described, and the use does not state or imply University endorsement of the activity or views.
- As to the expression of views, the following disclaimer is recommended:
  - “The comments or opinions here expressed are my own and should not be taken as a statement, opinion, position or endorsement by the University of Vermont.”



# Contracting Authority

## Contract Approval and Signatory Authority Policy

<http://www.uvm.edu/policies/procure/contract.pdf>

- Individuals have the authority to enter into negotiations, approve and/or sign contracts on behalf of the University only pursuant to:
  - (1) a resolution of the Board of Trustees;
  - (2) a valid delegation of authority from the President or the Board; or
  - (3) a purchase made in accordance with the University “Procurement or Lease of Goods and Services and Contract Approval and Signatory Authority for Procurement or Lease of Goods and Services” Policy.



# Ethics & Compliance Reporting Help Line

## Ethics and Compliance Reporting and Help Line

<https://secure.ethicspoint.com/domain/media/en/gui/24544/index.html>

**877-310-0413**

- Employees are encouraged to use the Help Line to address questions regarding compliance issues or anonymously to report incidents or situations that may involve violations of the University's Code of Conduct and Ethical Standards

([http://www.uvm.edu/policies/general\\_html/businessconduct.pdf](http://www.uvm.edu/policies/general_html/businessconduct.pdf)).

- **Non-Retaliation Statement**

- Neither the University nor its employees may retaliate against a whistleblower with the intent or effect of adversely affecting the terms or conditions of employment or enrollment (including but not limited to, threats of physical harm, loss of job or educational status, punitive work assignments, or impact on salary or wages).



## **FAQ #5:**

**Is UVM a safe campus?  
What should I know  
and who should I  
contact with questions?**



# Personal Safety & Security

## Personal Safety & Security Policy

[http://www.uvm.edu/policies/general\\_html/personalsafety.pdf](http://www.uvm.edu/policies/general_html/personalsafety.pdf)

- In a possible or actual emergency situation, administrators, faculty, and staff **must** report threats or acts of violence ***immediately*** to UVM Police Services.
- In a non-emergency situation, employees should contact their immediate supervisor or department head (or the next-senior University official in the event that the immediate supervisor or department head is the source of the perceived threat).



# UVM *CatAlert*

FACULTY, STAFF, AND STUDENTS WILL AUTOMATICALLY RECEIVE AN EMAIL NOTICE OF A CAMPUS EMERGENCY, INCLUDING A DESCRIPTION OF REQUIRED ACTIONS, THROUGH THE CATALERT SYSTEM TO THEIR UVM.EDU ADDRESS.



## **To opt-in for expanded notification via phone or text:**

- **Instructions for Students**

- Log into MyUVM, and go to the “Registrar” Tab
- Navigate to the left side of the page to “My Contact Info (CatAlert)”
- Click on the link and update your number
- Insert your new or updated number and click “Submit”

- **Instructions for Employees**

- Log on to UVM's PeopleSoft Human Resource System from the PeopleSoft portal page.
- Navigate to "Self Service."
- Navigate to "Personal Information."
- Navigate to "Phone Numbers."
- Use the "Add a Phone Number" button to insert as many emergency broadcast numbers as you like.



# UVM Reporter Status

## Campus Security Authorities (CSAs) and Responsible Employees under Federal Law

<http://www.uvm.edu/policies/riskmgm/campussecurity.pdf>

- Collectively, CSAs and Responsible Employees may be referred to as “UVM Reporters”. ALL FACULTY ARE UVM REPORTERS
- An annual notice will be distributed to all UVM Reporters informing them of their responsibilities under applicable laws and University policy.
- The University ***strongly encourages*** all UVM Reporters to complete a training program to familiarize themselves with their legal obligations on an annual basis.





# Legally Required Reporting

## Alleged Crimes, Discrimination and Harassment

- Call 9-1-1 immediately if a crime or other emergency is in progress, or if at any time there is an imminent or continuing threat of harm to persons or property.
- In all other cases, upon the receipt of information that a crime or incident of discrimination or harassment (including sexual misconduct) has occurred, the UVM Reporter **MUST**: Promptly fill out a CSA form at [www.uvm.edu/police/csa](http://www.uvm.edu/police/csa), regardless of whether the individual who disclosed the incident chooses to file a police report.
  - The name of the alleged victim(s) should not be included unless: Disclosure is required by law (e.g. abuse or neglect of minors or vulnerable adults); The incident presents an “imminent or continuing threat of harm”; or The UVM Reporter is given permission to do so.
- Promptly contact AAEO to facilitate appropriate support and institutional response, if the alleged incident involves discrimination or harassment, including sexual misconduct, as follows:
  - ✦ Discrimination/Harassment: AAEO Incident Reporting Form (<http://www.uvm.edu/aaeo>)
  - ✦ Sexual Misconduct: [TitleIX@uvm.edu](mailto:TitleIX@uvm.edu) or [Title9@uvm.edu](mailto:Title9@uvm.edu)
- Make the individual aware of their option to report the incident to local law enforcement (UVM Police Services) and that UVM makes confidential and non-confidential resources available to the campus community that may be helpful to individuals who have experienced or witnessed an alleged crime, or incident of discrimination or harassment.
- You **CANNOT** promise confidentiality when someone discloses an incident of discrimination or harassment.



# Reporting Suspected Abuse or Neglect of Minors

- **UVM *requires* any employee who has reasonable cause to believe that a minor or vulnerable adult participating in a program or activity at the University has been abused or neglected in any way to report the concern promptly to UVM Police, who will assist in contacting the Vermont Department for Children and Families (DCF).**
- Vermont law further requires that certain professionals make those reports to DCF ***within 24 hours*** by calling the **Child Abuse Hotline at 1-800-649-5285.**
- The professionals who have a legally mandated reporting obligation include:
  - Physicians, surgeons, osteopaths, chiropractors, physician's assistants, hospital administrators, nurses, medical examiners, dentists, psychologists, or other health-care providers;
  - School superintendents, teachers, school librarians, child care workers, school principals, school guidance counselors;
  - Mental health professionals social workers;
  - Employees, contractors, and grantees of the agency of human services who have contact with clients;
  - Probation officers and police officers;
  - Camp owners, camp administrators or counselors; and
  - Members of the clergy.



# Reporting Suspected Abuse and Neglect of Vulnerable Adults

- **UVM requires any employee who has reasonable cause to believe that a vulnerable adult participating in a program or activity at the University has been abused, exploited, or neglected to report the concern promptly to UVM Police, who will assist in contacting Vermont Adult Protective Services.**
- Vermont law further requires that certain professionals make those reports to Adult Protective Services ***within 24 hours*** by calling the **APS Abuse Hotline at 1-800-564-1612.**
- The professionals who have a legally mandated reporting obligation include:
  - Health care providers;
  - School district and independent school employees and contractors;
  - Mental health professionals, social workers, and persons or organizations that offer, provide, or arrange for personal care for vulnerable adults;
  - Caregivers employed by a vulnerable adult;
  - Employees of, or contractor involved in caregiving for, a community mental health center; and
  - Law enforcement officers.



# Contact Information and Additional Policies

**UVM Police Services**  
Emergency: 911  
656-FIRE (x63473)

**Affirmative Action & Equal Opportunity Office**  
428 Waterman Building  
(802) 656-3368  
<http://www.uvm.edu/~aaeo/>

- **Campus Safety and Security**
  - <http://www.uvm.edu/policies/riskmgm/clery.pdf>
- **Equal Employment Opportunity/Affirmative Action**
  - [http://www.uvm.edu/policies/general\\_html/affirm.pdf](http://www.uvm.edu/policies/general_html/affirm.pdf)
- **Equal Opportunity in Educational Programs and Non-Harassment**
  - <http://www.uvm.edu/policies/student/equaledu.pdf>
- **Discrimination and Harassment**
  - <http://www.uvm.edu/policies/student/studentharas.pdf>
- **Sexual Harassment and Misconduct**
  - [http://www.uvm.edu/policies/general\\_html/sexassault.pdf](http://www.uvm.edu/policies/general_html/sexassault.pdf)





# Questions?

**OFFICE OF THE GENERAL COUNSEL  
357 WATERMAN  
656-8585**

**UNIVERSITY POLICIES AND OPERATING PROCEDURES  
[HTTP://WWW.UVM.EDU/POLICIES/](http://www.uvm.edu/policies/)**