



Legal Issues for New Faculty

Presented by:
The Office of the General Counsel

2023-24 Academic Year

What is the Role of 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.

Trent Klingerman, VP for Legal Affairs and General Counsel

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What Types of Legal Issues Does UVM Face

How We Think of Ourselves

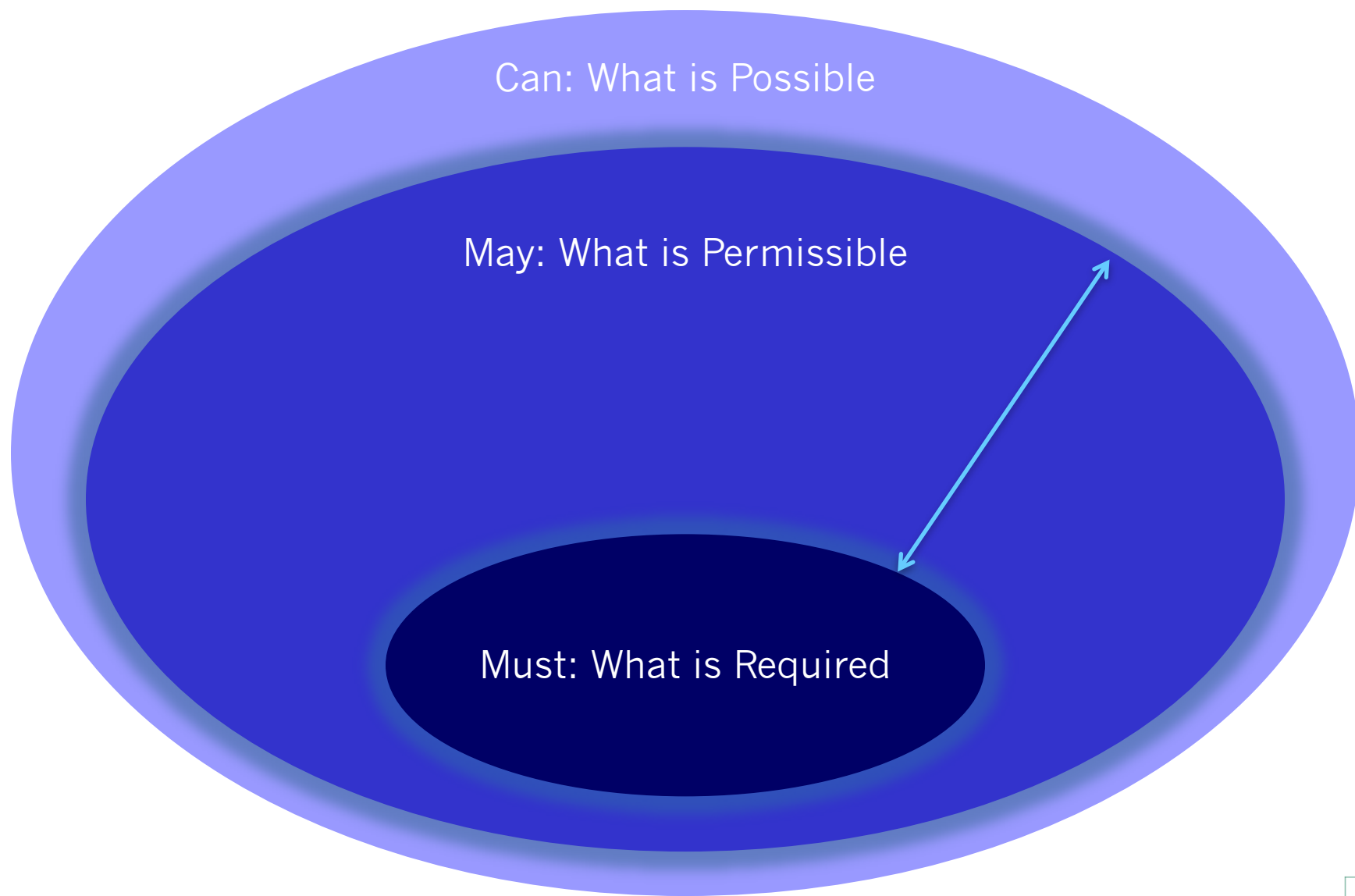
- Educators

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?



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/~facrsrscs/?Page=ftcontract.html> (Full Time)
 - <http://www.uvm.edu/~facrsrscs/?Page=ptcontract.html> (Part Time)
- The Office does not provide personal legal advice or representation to UVM administrators, faculty, students, or staff.



Working with the General Counsel's Office



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.

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Notice of Legal Action

Subpoenas and Other Legal Documents Policy

http://www.uvm.edu/policies/general_html/subpoenas.pdf

- The Office of the General Counsel 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 regarding University business without the express consent of the General Counsel's Office.



A Caution About Communications



Personal vs. Professional Representations

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

http://www.uvm.edu/policies/general_html/letterhead.pdf

- Faculty may refer to their professional status for purposes of self-identification in connection with external activities or the public expression of personal views

BUT

- Faculty should include a disclaimer that the views expressed are their own and do not imply endorsement by the University.



Vermont Public Records Act

Records and Documents Request Policy

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).
- **Be aware that your e-mails and other communications and documents** that are sent or received in the course of University business are subject to disclosure upon request unless they are exempt under the provisions of the Vermont Public Records Act.
- **If you receive a request for records from a third party you must direct the requester to:**

University of Vermont Office of Compliance & Privacy Services

ATTN: Public Records Custodian

public.records@uvm.edu



Conflict of Interest and Conflict of Commitment



Conflict of Interest (COI)

When external activities compromise, or appear to compromise, an employee's judgment in performing their UVM duties.

Conflict of Commitment (COC)

When external activities will or reasonably can be expected to significantly interfere with an employee's ability to perform University obligations fully or effectively.

Nepotism

When favoritism is applied, without regard to merit, by someone in a position of power, toward family members or others for whom the employee is legally responsible.



It's not about saying “no”

It's about “doing it right”

If you have an outside interest or affiliation that **MIGHT** conflict with your University duties or **MIGHT** result in personal gain or advancement;

OR

If you have outside employment or consulting arrangements that **MIGHT** interfere with the performance of your job duties at the University

DISCLOSE IT. This allows the University to help manage the potential conflict and protect you as an employee and UVM as an Institution.



Want to know more?

- Office of Compliance and Privacy Services at <https://www.uvm.edu/compliance/conflicts>
- Includes information on what to disclose, how to disclose, and FAQs.



Amorous Relationships with Students Policy



Prohibited Behavior

- **Faculty are prohibited from engaging in or soliciting a romantic, sexual or dating relationship with:**
 - any undergraduate student;
 - any graduate student in the same department;
 - any graduate student with whom they have influence or authority over regardless of department or program.

https://www.uvm.edu/sites/default/files/UVM-Policies/policies/student_relation.pdf



Expectations

- Faculty must maintain appropriate boundaries in their relationships with students.
- Central focus must be on student learning and development regardless of the perception of consent by both participants.
- An amorous relationship has a high potential to:
 - Create a conflict of interest because of inherent power differentials between employees and students;
 - Jeopardize the centrality of focus on student learning and development; and
 - Create indisputable risks to students, employees, and the broader University community.



Student Conduct and Resources



Classroom Disruption: Rights of the Teacher and Learner

- Faculty and students have a right to teach and learn without substantial or repeated interruption in the academic environment.
- Students' first amendment rights are limited in the classroom:
 - Student speech is only protected insofar as it is related to the course content and topics being discussed.
 - Civil expression of disagreement with the course instructor, during times when the instructor permits discussion, is not in itself disruptive behavior.



Setting Expectations; Promoting Accountability

- Students have a property interest in obtaining an education once enrolled at UVM. Therefore, in order to take disciplinary action that would disrupt a student's educational engagement, students must be afforded due process:
 - Fair, accurate, and documented notice of behavioral expectations;
 - If you feel a student is not meeting those expectations, documented notice of your concerns and reiteration of applicable policies;
 - Additional intervention by Academic Deans / Chairs to engage the student in reforming their behavior or implement alternative arrangements to course completion in certain situations;
 - Only if the behavior is substantially or repeatedly disruptive to teaching and learning can it be referred to the Center for Student Conduct as a potential University policy violation.



Academic Integrity

Code of Academic Integrity

<https://www.uvm.edu/sites/default/files/UVM-Policies/policies/acadintegrity.pdf>

- Standards: plagiarism, collusion, cheating, and fabrication
- Violations of academic integrity must be reported to the Center for Student Conduct within two weeks of discovery to be addressed. See <https://www.uvm.edu/sconduct/faculty>.
- Faculty may not impose disciplinary measures outside the process run by the Center for Student Conduct.



Students with Disabilities: Providing Reasonable Accommodations

- Refer all requests to Student Accessibility Services (SAS).
- SAS will collaborate with faculty in determining whether an accommodation that addresses a student's disability is reasonable for a particular course.
- Faculty are not authorized to independently provide ADA accommodations. Providing accommodations on an ad hoc basis is not in the best interest of the student, the faculty member, or UVM.
- Faculty must implement SAS approved accommodations.

https://www.uvm.edu/academicsuccess/student_accessibility_services



Concerns for Personal Safety / Wellbeing

- UVM's **Threat Assessment Team** is charged with assessing risk associated with perceived or actual threats / acts of violence and formulating a response in situations where an individual's objective conduct indicates they may present a threat to the physical health or safety of others.
 - ✦ <https://www.uvm.edu/dsc/threat-recognition-reporting>
- UVM's **CARE Team** is charged with engaging in behavioral intervention where an individual's objective conduct indicates they may present a threat to the health or safety of themselves or may otherwise need additional personal support.
 - *Examples: academic struggles, mental or physical health concerns, family crises, personal challenges, absenteeism, substance use concerns.*
 - ✦ https://www.uvm.edu/deanofstudents/student_advocacy/care_form



UVM Reporter Status



ALL Faculty are UVM Reporters

UVM Reporter Operating Procedure

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

- You are not confidential. You have required reporting responsibilities under federal law and University policies.
- The University ***strongly encourages*** all UVM Reporters to complete a training program to familiarize themselves with their obligations on an annual basis.



#1 -- CONTACT LAW ENFORCEMENT

- **ALWAYS**, call **9-1-1** 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 a non-emergency situation**, make the individual you are speaking with aware of their option to make a report to local law enforcement and assist with making initial contact.



#2 -- PROVIDE SUPPORT AND RESOURCES

FREE & CONFIDENTIAL Campus Resources:

- H.O.P.E. Works (Sexual Violence Support) 863-1236
- Counseling & Psychiatry Services (CAPS) 656-3340
- Employee Assistance Program (Invest EAP) 864-EAPØ
- Student Health Services 656-3350

FREE & CONFIDENTIAL Community Resources:

- Howard Center Adult Crisis Hotline 488-6400
- Safe Space at Pride Center VT (LGBTQA survivors) 863-0003
- Steps to End Domestic Violence 658-1996
- UVM Medical Center Emergency Department 847-2434
- Vermont Center for Crime Victim Services 241-1250
- Vermont Domestic Violence Hotline 1-800-228-7395
- Vermont Sexual Violence Hotline 1-800-489-7273

NON-CONFIDENTIAL Resources:

- Equal Opportunity Office / Title IX Coordinator 656-3368
- Dean of Students Office 656-3380
- UVM Police Services 656-3473
- Vermont Adult Protective Services 1-800-564-1612
- Vermont Department of Children and Family Services (DCF) 1-800-649-5285



#3 -- MAKE A CLERY ACT REPORT

Incidents occurring on University property or at sponsored event

- **Promptly file a Clery Crime Report** at www.uvm.edu/report, regardless of whether a police report is filed when a Clery crime is alleged on campus. Select “Crime Report (Including Clery Direct Reporting & Hate Crimes).”
- **The report should include:**
 - All identifying information shared with you about the incident (i.e. date, location, incident description, alleged perpetrator name, witness names, etc.).
- **The report should not include the alleged victim(s) name unless:**
 - Disclosure is required by law (e.g. abuse or neglect of minors; vulnerable adults);
 - The incident presents an “imminent or continuing threat of harm”;
 - The incident constitutes stalking or domestic (incl. dating) violence; or
 - You are given permission to do so by the alleged victim.



#4 -- REPORT TO EQUAL OPPORTUNITY

All Forms of Discrimination and Harassment, including Sexual Misconduct

- **Promptly file a report to the Office of Equal Opportunity** at www.uvm.edu/report in all cases of alleged sexual misconduct, discrimination, and harassment involving a UVM affiliate. Select “Bias, Discrimination, Harassment & Sexual Misconduct (Title IX) Report.”
- All allegations of **discrimination and harassment, including all forms of sexual misconduct**, must be reported to OEO to enable appropriate support and institutional response.
- **Reports should include:**
 - ✦ Name(s) of All Parties and Witnesses, including Alleged Victim, to extent known
 - ✦ Location of the Incident
 - ✦ Nature of the Incident



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.





Questions?

Office of the General Counsel
357 Waterman
656-8585

University Policies and Operating Procedures
<http://www.uvm.edu/policies/>