

Higher Education and Employment Law

Tara Evans
Office of General Counsel

Office of General Counsel

The Office of the General Counsel coordinates and supervises all legal services for the University of Wyoming by providing timely legal guidance; addressing existing and potential legal problems; reducing exposure to legal risk; and helping University units effectively and efficiently achieve their objectives.

Client and scope of duties

The University is our client, but our legal services are provided to the Board of Trustees, the President, University Officers, deans and heads of academic units, department heads, or other designated representatives of the University. We provide legal advice and representation to those employees acting within the scope of their duties, but we cannot provide personal legal advice to any individual.

Legal advice in wide variety of practice areas

- Legal advice to Trustees, President and Administration
- Communications with the State of Wyoming Attorney General's Office
- Contracts and agreements
- Copyright and trademark
- Discrimination and harassment

Legal advice in wide variety of practice areas

- Employment law
- Ethics and conflict of interest
- First Amendment
- Intellectual property
- Litigation, subpoenas and government investigations
- Management of UW Regulations, and Policies and Procedures
- Policy development and interpretation

Legal advice in wide variety of practice areas

- Open meetings
- Regulatory compliance
- Second Amendment
- Student education records requests (FERPA)
- Wyoming Public Records Act requests

Risk Management

- Certificates of Insurance
- Insurance, self-insurance, and claims (including property, auto, general liability, shipping, NCAA athletic injury, out of state workers' compensation, crime and employee fidelity, aviation, international travel, cyber, special events, and other specialty programs)
- International Travel Registration
- Minors on Campus Policy
- Special Event Risk Management
- Student Health Insurance
- University Authorized Drivers

Equal Opportunity and Prohibited Efforts

- Prohibited efforts include advocating, promoting, or funding a program, activity, or function that:
 - Advantages or disadvantages, or attempts to advantage or disadvantage an individual or group on the basis of race, color, sex, national origin, gender identity, or sexual orientation, to equalize or increase outcomes, participation or representation as compared to other individuals or groups; or
 - Promotes the position that the action of a group or an individual is inherently, unconsciously, or implicitly biased, privileged or inherently superior or inferior on the basis of color, sex, national origin, gender identity, or sexual orientation.

Equal Opportunity Report and Response Unit

- Conducting reviews and investigations of Civil Rights and violence in the workplace complaints
- Developing and administering employee training programs to address matters of sexual harassment prevention and other forms of discrimination
- Serving as Title IX Coordinator

UW Regulations: Equal Opportunity

- **4-1:** Equal Education and Employment Opportunity
- **4-2:** Discrimination and Harassment
- **4-3:** Title IX and Sexual Misconduct
- **4-4:** Violence in the Workplace

UW Regulation 4-1

Equal Education and Employment Opportunity

- The University will provide all applicants for admissions, employment and all University employees with equal opportunity without regard to applicable protected category or participation in any protected activity.

Protected Categories Include:

- Race
- Sex
- Religion
- Color
- National origin
- Disability
- Age
- Protected veteran status
- Genetic information
- Creed
- Ancestry
- Political status
- Pregnancy

UW Regulation 4-1

Prohibition against retaliation

- The University prohibits retaliating against individuals who make a good faith complaint or report pursuant to this policy or in any manner participates in an investigation of a complaint or report.

UW Regulation 4-2

Discrimination and harassment

- The University will not tolerate acts of discrimination or harassment based upon Protected Classes or related retaliation against or by any employee or student.
- Individuals who violate this Regulation shall be subject to corrective action and/or discipline, up to and including termination or separation from the University.

UW Regulation 4-2

Reporting obligations

- **General obligation:** Any individual who has experienced or witnessed discrimination, harassment or related retaliation **should** promptly report such behavior to the Equal Opportunity Report and Response Unit.

UW Regulation 4-2

Reporting obligations

- **Supervisor and University Officer obligation:** Any supervisor or University Officer who witnesses or receives a written or verbal report or complaint of discrimination, harassment or related retaliation that occurs in University employment or educational programs and activities, **must** promptly report such behavior to the Equal Opportunity Report and Response Unit.

UW Regulation 4-2

Reporting obligations

- **Obligation to report sexual misconduct:** Any employee who witnesses or receives a written or verbal report or complaint of sexual misconduct that is connected to University employment or educational programs and activities **must** promptly report such behavior to the Equal Opportunity Report and Response Unit.

Report It!

<http://www.uwyo.edu/reportit/>

Resources

- Make a report
- If Assault Happens
- Policies
- EORR
- NO MORE

Title IX Coordinator

Jim Osborn, Title VI, VII, and IX Coordinator

Bureau of Mines, Rm. 320
1000 E University Ave, Dept. 4307
Laramie, WY 82071
(307) 766-5200
Fax:(307) 766-2742
report-it@uwyo.edu

NO MORE Initiative

NO MORE

TOGETHER WE CAN END DOMESTIC VIOLENCE & SEXUAL ASSAULT

 UNIVERSITY OF WYOMING

UW Regulation 4-3

Title IX and Sexual Misconduct

- **Policy:** The University prohibits sexual misconduct in any form.
- **Sexual misconduct :** Includes dating violence, domestic violence, hostile environment sexual harassment, sexual assault, sexual exploitation, sexual harassment, stalking, and any other conduct of a sexual nature that is nonconsensual.

UW Regulation 4-4

Violence in the Workplace

- The University will not tolerate violence or threats of violence on its campus, at off-campus locations administered by the University, or in its programs, whether by faculty, staff, students, contractors, or visitors.
- Individuals who commit such acts may be subject to corrective action and/or discipline, up to and including termination or separation from the University, removal from the premises, exclusion from the premises, and criminal prosecution.

UW Regulation 4-4

Reporting obligations

- **Immediate report:** Assaults or threats of physical harm that require immediate police attention should be reported to local law enforcement by dialing 911.
- **General Obligation:** Any individual who has experienced or witnessed violence or threats of violence **should** promptly report such behavior to the Equal Opportunity Report and Response Unit.

UW Regulation 4-4

Reporting obligations

- **Supervisor and University Officer obligation:** Any supervisor or University Officer who witnesses or receives a written or verbal report or complaint of violence or threats of violence that occurs in University employment, **shall** promptly report such behavior to the Equal Opportunity Report and Response Unit.

Non-protected class protections

- Investigative process for complaints of harassment, hostile environment, and retaliation – Human Resources investigates for employee-related complaints

External agencies

U.S. Equal Employment Opportunity Commission (EEOC)

- <https://www.eeoc.gov/>
- The U.S. Equal Employment Opportunity Commission (EEOC) is responsible for enforcing federal laws that make it illegal to discriminate against a job applicant or an employee because of the person's race, color, religion, sex, national origin, age (40 or older), disability or genetic information.

External agencies

U.S. Equal Employment Opportunity Commission (EEOC)

- <https://www.eeoc.gov/>
- It is also illegal to discriminate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.
- The laws apply to all types of work situations, including hiring, firing, promotions, harassment, training, wages, and benefits.

External agencies

U.S. Department of Education Office for Civil Rights

- <https://www.ed.gov/about/ed-offices/ocr>
- OCR's mission is to ensure equal access to education and to promote educational excellence through vigorous enforcement of civil rights in our nation's schools.

External agencies

Wyoming Department of Workforce Services

- Wyoming Fair Employment Program/Equal Employment Opportunity Commission
- <https://dws.wyo.gov/dws-division/labor-standards/your-labor-rights/>

External agencies

Wyoming Department of Workforce Services

- Workers' Compensation
 - Injury in the workplace, disability benefits and other related subjects
 - <https://dws.wyo.gov/dws-division/workers-compensation/>

External agencies

Wyoming Department of Workforce Services

- Workers' Compensation
 - If injury occurs on the job:
 - Employees who are injured on the job should seek medical attention, notify supervisor within 72 hours and complete a [Wyoming Employee Injury of Report Form](#) within ten days and submit it to Human Resources.

External agencies

Wyoming Department of Workforce Services

- Unemployment Insurance
 - Unemployment Insurance Program pays temporary benefits to workers who have lost their job through no fault of their own.
 - <https://dws.wyo.gov/dws-division/unemployment-insurance/>

Immigration

- Employment of foreign national employees and students is highly regulated by the federal government
- UW may sponsor temporary non-immigrant visas (example: H-1B visas)
- UW may sponsor employment-based visas (example: EB-1B Outstanding Researcher or Professor)

Immigration

- New policy on hiring international employees and scholars will provide more information
- For additional information:
 - International Students & Scholars
 - HR: Deborah Marutzky, Manager, Talent Acquisition
 - OGC: Michele Fukawa, Associate General Counsel

Litigation and subpoenas

- If you are acting within the scope of your duties, we will represent you in a lawsuit or assist you with a subpoena

UW's Freedom of Expression Principles

- In accordance with the nation's First Amendment protections and the right to free speech enshrined in the Constitution of the State of Wyoming, UW recognizes and respects the liberty of students, faculty, and staff as private citizens to express their opinions and identities, including concerns they may have about public institutions and the larger society.
- At a public university, it is inevitable that the ideas and beliefs of different members of the UW community or visitors to campus will conflict with one another.
- UW does not shield individuals from the free expression of ideas and criticism, including that which community members may find uncomfortable, disagreeable, or even deeply offensive.
- The expression of criticism must respect the legal right of others to express themselves without serving to obstruct, censor, or otherwise interfere with the rights of others to hear those ideas.

Questions?

- **Resources and Contact Information**

- Office of General Counsel: 307-766-4997
- Tara Evans, Vice President and General Counsel: tevens15@uwyo.edu or 307-766-4019
- Michele Fukawa, Associate General Counsel: mfukawa@uwyo.edu or 307-766-5026