



CURRENT ISSUES WITH STUDENT BEHAVIOR

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CURRENT ISSUES

- ❖ Drug Free Schools and Communities Act
- ❖ Medical Marijuana
- ❖ First Amendment
- ❖ Title IX
- ❖ Communicating with Students about Their Behavior
- ❖ Emotional Support Animals
- ❖ Classroom Disruption
- ❖ Working with Attorneys
- ❖ Communication/Prevention/Awareness

DRUG FREE SCHOOLS AND COMMUNITIES ACT

- Applies to all institutions receiving funds under any federal program
- Of 263 Final Program Review Determinations from January 1, 2014 to September 1, 2015, 57 institutions found not in compliance
- Must certify that institution has adopted a program to prevent the unlawful possession, use, or distribution of illicit drugs and alcohol by students and employees on campus and as part of institution's activities
- Potential penalty = loss of federal funds
- Annual notification to students and employees required

DRUG FREE SCHOOLS AND COMMUNITIES ACT

- Annual notification must include:
 - Standards of conduct that clearly prohibit, at a minimum, the unlawful possession, use, or distribution of illicit drugs and alcohol by students and employees
 - A list of applicable legal sanctions under federal, state, or local laws for the unlawful possession or distribution of illicit drugs and alcohol
 - A description of the health risks associated with the abuse of alcohol or use of illicit drugs
 - A list of drug/alcohol programs (counseling, treatment, rehabilitation, and re-entry) that are available to employees and students
 - A clear statement that the institution will impose disciplinary sanctions on students and employees for violations of the standards of conduct and a description of sanctions, up to and including expulsion or termination of employment and referral for prosecution

DRUG FREE SCHOOLS AND COMMUNITIES ACT

- Must distribute annual notification to all students and employees, but no specific method is required
- Can include in materials already distributed to students (new student orientation, etc.) but must include a cover page that clearly and conspicuously states the DFSCA information is included in the publication
- Can send by electronic mail
- Cannot just post online
- Must have process in place to ensure new employees and students also receive information

DRUG FREE SCHOOLS AND COMMUNITIES ACT

- Must conduct biennial review of the effectiveness of drug and alcohol abuse prevention program
- Must be on file at your institution by December 31 of every other calendar year (not required to submit to Department of Education or FSA)
- Institutions can determine how to best review the effectiveness of programs, but review must be thoughtful, material and data-informed, and outline clear recommendations for enhancing overall prevention program moving forward
- Include:
 - Description of research methods/data analysis used
 - Official responsible for conducting review
 - Detailed description of how effectiveness and consistency of sanction enforcement was measured
 - Plan of action detailing how findings/recommendations will be implemented
 - Signature of institution's chief executive officer or governing board

MEDICAL MARIJUANA

Federal Law

- **Controlled Substances Act** – marijuana is a Schedule I substance (high potential for abuse, no accepted medical use, lack of any accepted safety in medical treatment)
- **Safe and Drug Free Schools and Communities Act** – institutions of higher education receiving federal funds must comply or risk losing federal funding
- **Drug-Free Workplace Act** – applies to federal contractors only
 - Must publish a drug-free workplace statement, establish awareness program, and report employees convicted of statutory drug violations in the workplace

MEDICAL MARIJUANA

Americans with Disabilities Act

- Prohibits discrimination against individuals with disabilities in all public accommodations
- “Qualified individual with a disability” **excludes** individuals who are “currently engaging in the illegal use of drugs, when the covered entity acts on the basis of such use.” 42 U.S.C. § 12114(a).
- Use of medical marijuana during work hours or being under the influence of marijuana while at work not a recognized accommodation

Section 504 of the Rehabilitation Act

- Individuals may not be excluded from any program or activity solely because of the individual’s disability
- “Individual with a disability” excludes individuals who are currently engaging in the illegal use of drugs. 29 U.S.C. § 701.
- Use of medical marijuana during work hours or being under the influence of marijuana while at work not a recognized accommodation

MEDICAL MARIJUANA

Oklahoma Law

- Disability discrimination
 - Discriminatory “to deny an individual the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a ‘place of public accommodation’ because of...disability.” 25 Okla. Stat. § 1402.
- Medical marijuana discrimination
 - “No school or landlord may refuse to enroll or lease to and may not otherwise penalize a person solely for his status as a medical marijuana license holder, unless failing to do so would imminently cause the school or landlord to lose a monetary or licensing related benefit under federal law or regulations.”
 - “[E]mployers may not take action against the holder of a medical marijuana license solely based upon the status of an employee as a medical marijuana license holder or the results of a drug test showing positive for marijuana or its components.”

MEDICAL MARIJUANA

Policy Updates

- **Student Code of Conduct** – may remain unaffected; consider adding language to Code addressing legalization of medical marijuana in Oklahoma
 - Example: While the use of medical marijuana has been legalized in the state of Oklahoma, federal law continues to prohibit marijuana. Therefore, the possession or use of prescribed medical marijuana is prohibited on campus property and at institution-sponsored activities.
- **Clery Act** – possession of a small amount of marijuana in states that have decriminalized the conduct does not count as a drug law violation (Clery Handbook 3-48)
- **Employee Policies** – may remain unaffected; consider adding language addressing legalization in Oklahoma
 - Example: Although possession and use of marijuana is legal under limited circumstances under state law, the manufacture, distribution, dispensation, possession or use of marijuana remains prohibited under federal law and consequently remains prohibited on institution property or in the conduct of institution business or in conjunction with any institution activity or associated event.

MEDICAL MARIJUANA

Residential Life and University-Approved Housing

- Policy regarding use, possession and distribution should remain unchanged; policy violations handled as they have been in the past
- If institution requires students to live in campus-housing, federal law does not require an accommodation; however, Oklahoma law *might* require that a student be granted a waiver to live off campus to accommodate student's use of medical marijuana
- Review agreements with University-approved housing providers to determine if updates are needed

FIRST AMENDMENT

- “Colleges and universities are places where intellectual debate should flourish.” “...and where the First Amendment is honored in practice and not only in theory.” (Villasenor, 2017, p. 1)
- Protests
 - University of Florida – Richard Spencer
 - University of California Berkeley – Milo Yiannopoulos
- Social Media

FIRST AMENDMENT

1. Be Prepared
2. Train Staff
 - Wear staff nametag
 - Introduce yourself to the visitor
 - Escort them to the location
 - Share relevant policies (egress, amplification)
 - Insure safety of person to best degree possible
 - Set up or take advantage of barriers
 - Inform police
3. Educate Community – before, during and after
4. Establish Counter Protests

TITLE IX


- 2011 Dear Colleague Letter rescinded on September 22, 2017
- 2017 Q&A issued to supplement 2011 Revised Sexual Harassment Guide
 - <https://www2.ed.gov/about/offices/list/ocr/docs/qa-title-ix-201709.pdf>
- Key Changes:
 - Interim measures should be “fairly apportioned” and not set in stone
 - Time frame to complete investigation/proceeding depends on circumstances (no longer 60 days)
 - Institutions can choose standard of proof
 - Informal resolutions might be appropriate
 - Resolution agreements do not set standards applicable to other schools (considered fact specific)

COMMUNICATING WITH STUDENT ABOUT THEIR BEHAVIOR

- Effective Communication is Key
- Listen then talk
- Become their ally
- Address changing behavior not the person
- Clarify their values
- Don't dance around the issue
- Acknowledge perception
- Respond to the emotion heard in the person's voice
- Solution focused
- Consider, "Am I making this worse or better?"

EMOTIONAL SUPPORT ANIMALS

Three Types of Support Animals Which is Right For You?

	 Service Dog	 Therapy Dog	 Emotional Support Dog
 Is legally allowed to accompany the handler into stores, restaurants, libraries, etc.	✓	✗	✗
 Must be allowed to live with owner even where there is a "no pets" policy.	✓	✗	✓
 Can fly in the cabin of a plane with the handler.	✓	✗	?
 Must be able to tolerate novel environments, experiences, and interactions.	✓	✓	✗
 Is specially trained to help handler only with tasks the handler cannot perform due to a specific disability.	✓	✗	✗
 Is trained to provide comfort to many others at the handler's direction.	✗	✓	✗
 Primary function is to provide general emotional comfort to the handler only.	✗	✗	✓
 Must wear special identifying gear.	✗	✓	✗

CLASSROOM DISRUPTION



Disruptive Examples

- Overt inattentiveness (sleeping in class, reading a newspaper)
- Prolonged Chattering
- Noisy Electronic Devices
- Disputing the instructor's authority or expertise
- Under the influence of a substance
- Yelling or being excessively loud
- Interrupting
- Under the influence of substance
- Refusing to leave or cooperate
- Destructive of property
- Not responding to instructions

PROCEDURES

1. Confront the behavior
2. Meet with the student
3. Document
4. Refer, if needed

WORKING WITH ATTORNEYS

Institutional Counsel

- OSU's World View
- Building Rapport
- Provide Education
- Suggestions

WORKING WITH ATTORNEYS

Advisor Involvement

- OSU's World View
- Provide Expectations
- Suggestions

COMMUNICATION / PREVENTION / AWARENESS

- Communicate your expectations
- Mass communication about expectations
- Work with campus partners
- Work with communications office
- Utilize social media