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OF COUNSEL – WINTER/SPRING 2000

the newsletter of

NORTHEASTERN UNIVERSITY OFFICE OF THE UNIVERSITY COUNSEL

HELPFUL TIPS

FOLLOW-UP ON E-MAIL PRIVACY

In the Autumn 1999 edition of this newsletter we advised you of the University's right to access e-mail you maintain on the University's systems. Because the computer you use in your daily work at the University is, in most cases, University property, there are no expectations of privacy. Consistent with University policy, the University's e-mail systems must not be used for any improper, illegal, offensive, unethical or harassing purposes.

Some readers commented that they feel they have a

right to use their employer's computer system to generate any form of private e-mail. However, a recent Massachusetts jury verdict was returned in favor of a defendant employer confirming that an employer may define the parameters of appropriate use of its property, in this instance, computers. Similar to Northeastern, the company in this case had an established practice regarding appropriate computer usage. Unlike Northeastern, the defendant employer's policies were not written. Despite the fact that the employer's policies were not

written, the jury nonetheless returned its verdict in favor of the company.

As noted in the Autumn edition, the University's policies on Conditions of Use and Appropriate Use can be reviewed on the University's web-site. While the University generally does not monitor employees' use of e-mail, it reserves the right to do so in order to resolve claims of improper, illegal, offensive, unethical or harassing activity.

YOUR QUESTIONS AND ANSWERS

NON-SOLICITATION POLICY:

Question: I've heard the University has a non-solicitation policy, but I can't find it. Can you tell me where it is and what it says?

Answer: The University's policy on commercial sales and solicitations is printed in the Undergraduate and Graduate Student Handbook, located at page 101 of 1999-2000 edition.

While the policy is printed in the Student Handbook (because most sales campaigns will be targeted at students), it applies to the entire University community.

The policy provides, "Northeastern University is not a marketplace. Sales of material, such as newspapers and other printed matter, insurance, foodstuffs, and all other articles are prohibited without the express written permission of designated officials of the University. Exceptions to this policy are made for recognized student organizations and residence hall residents. Residence hall residents should request permission to sell within their housing unit from the director of residential life; recognized student organizations should request permission for sales from the director of student activities; all others should apply to the business manager of the University. Such permission, when granted, is for designated areas within the University and is subject to the restrictions imposed by the approving officials. General solicitation, especially in such areas as classrooms, lounges, and cafeterias is not permitted."

Note: The University is currently undergoing a review of its policies and procedures toward consolidation in one central location to make finding what you're looking for more easily accessible to you.

SEXUAL HARASSMENT:

Question: My colleague filed a complaint with the Office of Affirmative Action and Diversity claiming her supervisor is sexually harassing her. In her complaint, my colleague listed me as a witness to some of the incidences of harassing behavior. I'm afraid that if I do tell what I saw, my job will be adversely impacted. Her supervisor is also my supervisor. I've decided I don't want to tell Affirmative Action and Diversity what I know. Is that okay?

Answer: No. The University's Equal Employment Opportunity Policy (EEO Policy) provides that Northeastern is committed to eliminating discrimination when it occurs. Sexual harassment is a form of prohibited gender discrimination.

The EEO Policy also provides that employees have the responsibility to report harassing behavior which may come to their attention and the obligation to cooperate fully in the investigation of complaints.

Therefore, you must speak with Affirmative Action and Diversity if requested to do so. Your refusal to do so would impede the investigation and limit the ability of the University to eliminate discrimination if it is found to occur. It may also result in liability.

The law recognizes your concerns about potential retaliation for participating in an investigation, and therefore, it is unlawful to retaliate against a person who brings a complaint of harassment or who cooperates in the investigation of one. Should you feel any actions taken by your supervisor may constitute retaliation, you should refer your concerns immediately to the Office of Affirmative Action and Diversity.

ADVISORY: The **University's Grievance Procedures for Discrimination** are in the process of being updated and will be issued to the University community in the near future. In the meanwhile, the procedures listed in the 1994 booklet remain applicable. A copy of that booklet is available from the Office of Affirmative Action and Diversity at 424 Columbus Place, x2133.

INQUIRIES FROM FEDERAL OR STATE LAW ENFORCEMENT AGENCIES:

Question: I received a telephone call from someone identifying herself as an FBI agent, telling me she was conducting some sort of investigation. I'm not even sure what it's all about, but should I speak with her?

Answer: It is the University's policy to foster cooperative working relationships with local and federal law enforcement agencies including the FBI, the U.S. Attorney's Office, the Office of the Attorney General or the District Attorney. Nonetheless, you must not respond to inquiries on your own. Joseph Griffin, Director of the Public Safety Division, is chairing a committee to develop University protocols to be followed when third parties seek information. In the meantime, please refer all inquiries or subpoenas you may receive from any agency to this Office so that we may coordinate an appropriate response in alignment with the departments that may be impacted. Often, when you receive a call like this, the facts the inquirer may be able or be willing to share with you are limited, so in order to ascertain the information necessary to respond and best protect you and the University, refer all questions from these agencies to the Office of University Counsel.

If you have any questions you'd like to see responded to in this space, please submit them to the Office of University Counsel at 115 Churchill Hall. Depending upon the nature of your question, we'll either answer you personally or address your issue in a future edition of this newsletter.

Of Counsel has been prepared as a general summary of important developments. It is not intended as individual legal advice. Should you have any questions or need information concerning a specific situation or any of the content of this advisory, please contact the Office of University Counsel, 115 Churchill Hall, x2157.

