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Of Counsel Newsletter

Office of the General Counsel

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# Of counsel: Fall 2003

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# OF COUNSEL – FALL 2003

**the newsletter of**

## NORTHEASTERN UNIVERSITY
## OFFICE OF THE UNIVERSITY COUNSEL

### REMINDER: CONTRACTS AND SIGNATURE AUTHORITY

Only three individuals at of Northeastern University are authorized to sign contracts on behalf of the University. Please be advised that signatures by unauthorized parties will call into question the validity of a contract, and may raise issues of personal liability should a problem arise**. Please do not sign contracts on your own!**

Those officers authorized by the Board of Trustees to approve and sign contracts on behalf of the University are: President Richard M. Freeland; Senior Vice President Lawrence F. Mucciolo; and Acting Treasurer William Kneeland.

The Board has also authorized the delegation of signature authority by these individuals when the need arises.

Requests for delegation must be made through the Office of the Board of Trustees, located in 403 Churchill Hall. In order to be effective, the delegation of authority must be in writing and the original copy of the document must be maintained on file in the Office of the Board of Trustees. Delegated authority may not exceed one year and will be specifically limited to certain transactions and situations.

Please remember that all contracts must be reviewed by the Office of the University Counsel **before** being directed to the appropriate university officer for authorization. Contracts that are either hand delivered or sent through the campus mail system should be addressed to Karen Brown, Office of the University Counsel, 115 Churchill Hall. **Please do not send contracts via e-mail, since they must be logged into a tracking system**.

Although we make every attempt to complete the review process as soon as possible, you must allow **two weeks for processing**. The complexity of some contractual relationships, the workload of this office, and other issues associated with a specific contract may extend the review period significantly, however.

The Office of University Counsel is available to answer your questions concerning the contract process Mon.- Fri. 8:30-4:30, or by dialing x2157.

## Your Questions and Answers

**A. Proposed Property Policy for a Pupil's Papers and Projects.**

*Question 1: When a student submits a paper or project that fulfills part of a course requirement, whose property is it, and what should faculty members do before incorporating that work into a faculty product, or reproducing or displaying it?*

*Answer:* During the course of a student's academic career, there should be many opportunities for students to combine their theoretical understanding of a given subject with a practical application. To achieve this, and Northeastern University's mission as a practice oriented institution, the University encourages its faculty to involve students in their research and/or outreach activities.

However, as stated in the *Undergraduate and Graduate Student Handbook's General Regulations, Policy on Copyrightable Material*: a "student['s] papers or projects submitted in partial fulfillment of

course requirements remain the property of the student." Should a faculty member or Unit wish to include the student's property into a faculty product, or reproduce or display it, permission in the form of a release from the student should be obtained. It is recommended that such a release be signed prior to the student beginning the work, and indicate both the nature and extent of the proposed use.

A release seeking to integrate a student's property into a faculty product should include information that acknowledges the student's participation, any grant or contract-related conditions or demands, and potential uses of the final product or result. A release seeking to display or reproduce a student's property, *i.e.*, papers or projects, in any form or manner should include information about acknowledgement of, or credit for the student's work, any grant or contract-related conditions or demands, proposed modifications of the work in the proposed display or reproduction, projected audiences, security measures taken to protect the student's property, and the duration of the proposed reproduction or display.

Model release forms are available from individual College Deans or from Professor Gerry Herman, the University Copyright Officer.

*Question 2: OK, but what is the policy if a student, while working on a faculty project, helps to produce a product that is patentable?*

*Answer:* Once again we turn to the *Student Handbook's* policies concerning *Copyrights and Patents*. When a student's work contributes to a patentable invention that involves "significant use of University resources…or…is subject to terms of a sponsored research or other agreement between the University and another party," a release "assign[ing] this invention and all associated applications and patents to the University" shall be mandatory for student participation. Models of these types of release forms are available from the Division of Sponsored Projects Administration, 405 Lake Hall.

Although releases are mandatory under these circumstances, if a student is unwilling to execute such a release or assignment in a course necessary for the fulfillment of a major, minor, or concentration requirements, the faculty member may not penalize the student in any way. Instead, the student is to be provided with alternative, non-faculty project-related work of similar educational value that allows the student to fulfill the course requirement.

**B. Communications in the Time of E-Mail**

*Question 1: Are there any rules about e-mail communication here? It seems like civility is a virtue cast aside when it comes to the content of some of the e-mail I receive!*

Answer: The University has an Appropriate Use of Computer and Network Resources Policy which can be found on the University's web site, as well as at page 71 of the Student Handbook. This policy sets forth the rules that apply to all of us who use Northeastern University's information systems, including e-mail. Violation of the policy may subject us to disciplinary action, among other things. Therefore, it is incumbent upon each of us to take the time to read the Policy. Questions about the Policy may be referred to Glenn Hill, the University's Information Technology Security Manager, x7718. Or, as always, you are also welcome to refer your questions to this office, x2157.

Apart from University Policy, good business practice suggests that we treat e-mail communication with the same care we allot to a business letter. We must keep in mind that e-mail may be discoverable in legal proceedings, so following the University's Policy and using care in the what, how and to whom we communicate by e-mail is essential. Even if we delete e-mail, it is often retrievable or is subject to demands for retrieval as part of litigation. And, of course, e-mail we send is often forwarded, copied or otherwise saved by others. E-mail can serve as documentary evidence in the same manner as a letter. We will all be better served in our e-mail correspondence if we think of the word "virtue" as being part of this type of "virtual communication[1]".

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[1] "On language", Patricia T. O'Connor, Stewart Kellerman, New York Times Magazine, August 11, 2002.

## UPDATE: PROPERTY ACCOUNTING OFFICE, PROPERTY CONTROL PROCEDURE

While this article appeared in our last edition, we were asked to repeat it, including some supplemental information from the Property Accounting Office.

When the time approaches to update our office equipment, we can all assist the University in controlling and effectively managing its assets and resources by following the University's disposition guidelines. There are many instances where property that is either not needed or obsolete in one area, may fulfill the requirements in another area.

Under federal law, Northeastern University's Property Accounting Office is required to control University property through periodic inventories, provide logistical and financial accountability, and dispose of unneeded property.

The Property Accounting Office identifies, tags, and documents all equipment purchases, including those considered federal in nature that the University has acquired for a value at, or above $1,500. This includes capitalized equipment, *i.e.*, tangible, non-expendable personal property, including exempt property charged to ledgers 2, 3, 5, 6, or 7, having a useful life of more than two years and a unit cost of $1,500 or more.

Those wishing to move, or dispose of University-owned property must complete an Asset Disposition Form (provided by the Accounting Office and used for the transfer, retirement, or sale of equipment), and the Bill of Sale (prepared and executed by Purchasing and used in conjunction with the Asset Disposition Form when the equipment is to be sold).

Before processing can occur, section A of the Disposition Form, the general equipment information, is to be completed and then signed by a department head--section B of the form is for transfers, while section C is concerns dispositions.

Completed forms can be faxed to x8338, or sent via interoffice mail to Property Accounting, Room 251 Richards Hall for review and processing. However, any form describing an item with a unit cost of over $5,000, or to be sold, will be forwarded to, and reviewed by Jim Stack in Purchasing before being sent to Recycling or Transportation for removal.

Computer related items with a value of less than $5,000 are removed by Recycling approximately 5-7 days after processing and review--all other items of similar value are removed by Transportation in approximately 5 days.

If you have questions about the procedures concerning disposal of any University-owned items please contact Robin Murphy at the Property Accounting Office, 251 Richards Hall, x8264.

Do you have question that you would like to see answered in "Of Counsel"? Please submit them to the Office of University Counsel, 115 Churchill Hall. Depending on the nature of your question, we will either answer you in person, or address the issue in a future addition 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.*

This edition of Of Counsel was prepared with the assistance of Northeastern University law student Steve Patton.