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Of counsel: Spring 2005

Northeastern University - Office of the University Counsel

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OF COUNSEL – SPRING 2005
the newsletter of

NORTHEASTERN UNIVERSITY
OFFICE OF THE UNIVERSITY COUNSEL

Cyberhuskies: The University Counsel and the World Wide Web

The Office of the University Counsel now has a website! If you're looking for the University Counsel's contact information, general advice, or past editions of this newsletter, take a look at <http://www.legal.neu.edu/>.

Huskies Near and Far: The University Counsel and Immigration

If a Northeastern University employee or department has any questions or concerns regarding immigration, the employee or department representative should meet with Deanna P. Jantzen of the Office of the University Counsel. Contact Karen Brown at 617-373-2157 to schedule such a meeting.

What's New and Notable:

- ❖ Effective March 8, all NEW (not extended) H1B1 petitions require an additional "anti-fraud" fee of \$500.
- ❖ Published limitations on the number of available H1B1 visas ("the Cap") do **NOT** apply to colleges and universities.
- ❖ Permanent Residency: Northeastern University will support qualified tenure-track faculty and senior researchers/scientists for permanent residency. Candidates must be employed by the University for no less than one year before a petition will be entertained.
- ❖ For tenure-track faculty: in addition to applying an "outstanding professor" standard for green cards, we will also now use "special handling." This will require academic departments to provide the credentials of all interviewed candidates who were not offered the position. Please make certain these materials are preserved during the search process.
- ❖ As of March 28, so-called PERM regulations took effect. While Northeastern University does not usually file for labor certifications, the new regulations will impact special handling cases and will provide more accurate prevailing wage levels for non-immigrant visas.

N.B. Employers must now pay 100% of the prevailing wage, a 5% increase over prior regulations.

Please note: We are in transition with immigration assistants. In the interim, **all routine immigration matters will be considered by appointment only.** Please contact Karen Brown at extension 2157 to arrange such appointments.

Summertime Brown Bag Lunch Series

It may barely feel like spring, but the Office of University Counsel is already looking forward to summer. This year's line-up for brown bag lunch legal issues workshops include:

1. Consultant/independent contractor relationships – the do's and don'ts. Is there a legal definition of a consultant or independent contractor? Does this type of relationship require a contract? What should be included in an agreement with a contractor?

Thursday, June 23, 2005 - 12:00 pm – 1:00 pm (location TBA)

2. What's new in employment-based immigration? Ok, what's "old" that I should already know about?

Thursday, July 14, 2005 - 12:00 pm – 1:00 pm (location TBA)

3. The legal aspects of planning an event at NU. What do I need to know? And what do I do?

Thursday, July 28, 2005 - 12:00 pm – 1:00 pm (location TBA)

Please contact Karen Brown via e-mail or at x2157 if you would like to attend any or all of the sessions. Your advance reservation will assist us in space planning. As always, if you would like to arrange workshops on any of these topics or on another topic for your department, please contact us!

Certificates of Insurance

When conducting University business, the planning and arrangement process is very important. Issues such as payment arrangements, facility and insurance requirements should be taken care of well in advance of any planned businesses.

All events sponsored by Northeastern University personnel must be properly insured. If a University department plans to hold an event on or off campus which involves external vendors, such as an end of the year get together, the University may seek insurance coverage from the outside vendor. This will be in the form of an insurance certificate. In other cases, an outside venue may seek insurance coverage by Northeastern University.

1. When you planning an event, a clinical placement or any other business at an offsite location, Northeastern University policy requires insurance coverage for

Northeastern University by the outside entity. You must make this request and obtain that proof of coverage before you submit a contract to our office. Our Risk Management Office can provide details about the specific coverage needed. Failure to obtain this insurance will result in delays in contract processing.

2. The Northeastern University Office of Risk Management has specific insurance requirements for vendors or contractors whose operations may occur on the premises of the University.

3. If an outside institution seeks insurance coverage from the University, our Risk Management Office will determine whether we will agree to that request. That determination will be made after the University Counsel's Office reviews the contract. Please plan for this additional step in contract processing.

Any member of the Northeastern University community seeking to satisfy the Certificate of Insurance requirements should contact the head of the Office of Risk Management, Brian Burns, at 617-373-8668.

Of Huskies and Contracts

A contract is any document that obligates or commits the University to do something in exchange for another party's agreement to do something else. The Board of Trustees has authorized only three officers of Northeastern University to sign contracts on behalf of the University: President Richard M. Freeland; Senior Vice President Lawrence F. Mucciolo; and Treasurer William Kneeland. In addition, the Board of Trustees must approve the duration of all contracts longer than one year. Signatures by unauthorized parties may invalidate a contract, and may raise issues of personal liability should a problem arise. **Do not sign contracts on your own. Signing a contract on your own can result in disciplinary action in addition to personal liability.**

All contracts must be reviewed by the Office of the University Counsel *before* being directed to the appropriate University officer for authorization. **Do not send a contract to the Office of the University Counsel via e-mail.** Contracts reviewed should be either hand delivered or sent through the campus mail system (addressed to Karen Brown, Office of the University Counsel, 115 Churchill Hall). Once we receive your contract it will be logged into the University Counsel's tracking system.

Contracts must be submitted for review well in advance of an event or the anticipated effective date of the contract. Although the Office of the University Counsel makes every attempt to complete the review process as quickly as possible, you must allow **at least two weeks for processing.** The complexity of some contractual relationships, the workload of the Office of the University Counsel, and other issues associated with a specific contract may require more extensive negotiations, which may increase overall processing time significantly. **Please do not send revisions to previously submitted contracts via e-mail.** Failure to submit a contract for review in a timely manner (or at all) may result in the cancellation of the program.

Please note that the Office of the University Counsel has a variety of template/draft agreements available, with pre-approved language. Contact Janet Faulkner to identify an appropriate document for your use.

The Office of the University Counsel is available to answer your questions concerning the contract process Monday through Friday, 8:30am-4:30pm, and may be reached by phone at extension 2157.

Questions and Answers

Question 1: May I use a personal e-mail address to contact students in my class or to conduct University business, or do I have to use my NEU e-mail account?

Answer 1: When acting in any legitimate University capacity, use only your NEU issued e-mail account.

As updated on September 3, 2004, Section 14 of the Northeastern University's Appropriate Use of Computer and Network Resources Policy reads:

Electronic messages pertaining to the official business of the University, including all academic and administrative matters, shall be sent from University-owned messaging systems. In cases where third-party messaging systems are used to originate a message, and/or where a party chooses to forward messages from a University-owned system to a third-party system, individuals using these systems shall be solely responsible for all consequences arising from such use.

You only will receive business-related communications through your Northeastern University account. Please utilize this account and check it frequently. The University cannot be responsible for communicating with employees with alternative e-mail addresses. Please note that failure to comply with the Appropriate Use of Computer and Network Resources Policy also may subject the violator to disciplinary action by the University up to and including termination of employment or relationship, and may result in legal action. The full text of Northeastern University's Appropriate Use Policy can be found at <http://www.help.neu.edu/>.

If you have legal questions 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, the Office of the University Counsel will either answer you in person, or address the 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 the University Counsel, 115 Churchill Hall, x2157.

This edition of 'Of Counsel' was prepared with the assistance of Northeastern University law student Jacob Mandell.