

Whose Byline Is It Anyway? UNC Charlotte's Role in Promoting and Supporting Faculty Scholarship

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Division of Institutional Integrity Annual Legal Symposium
October 24, 2019



Case Study #1

- Professor Risa Lasmussen is serving as an editor of a peer reviewed journal. She receives manuscripts at her UNC Charlotte email address to review in her capacity as a peer reviewer for the journal. The journal assures prospective authors that the manuscripts and feedback will be treated confidentially, consistent with common practice in the peer review context. A journal publication becomes the subject of litigation between the author and a third party. The third party files a public records request with the University, seeking all of Dr. Lasmussen's emails related to the manuscript, including all feedback provided during the peer review process as well as all prior iterations of the resulting publication.



North Carolina Public Records Law

- The North Carolina's Public Records Law generally requires the University to disclose all records that *relate to the public's business*. N.C. Gen. Stat. § 132-1(b). This includes records maintained on personal computers or email accounts, if they relate to the public's business.
- Limited exceptions apply, including, for example:
 - Research Exemption: research data produced or collected by or for state institutions of higher learning that has not been patented, published, or copyrighted are not public records as defined by the NC Public Records Law. See N.C. Gen. Stat. § 116-43.17.
 - Personnel Records Exemption: "personnel files of State employees shall not be subject to inspection and examination as authorized by G.S. 132-6." N.C. Gen. Stat. § 126-22(a).
- The law generally does not apply to personal information, even if that information is maintained in a University email account. (i.e.: emails with your partner coordinating school pick-up)



Scope of University Attorneys' Representation

- The Office of Legal Affairs represents the University, meaning the UNC Charlotte Board of Trustees, the Chancellor, and other senior administrators of the University, and through them, the University's faculty and staff, **regarding legal matters involving or affecting the institution.**
- The Office is not authorized to represent employees in their personal capacity.



North Carolina Tort Claims Act/Indemnity & Defense of State Employees

- The University may provide employees defense and indemnity, if employees are sued based on acts or omissions made in the scope and course of their employment as a State employee. N.C. Gen. Stat. § 143-300.3. Intentional misconduct may not be covered, however.
- The Tort Claims Act allows University Counsel to provide representation for employees who are being sued; it does not provide a basis to represent employees in suits against others, even if those suits are related to the work they do for the University.
 - Examples:
 - Professor Lasmussen wishes to pursue a copyright infringement claim against a third party she alleges plagiarized her book.
 - Professor Lasmussen is sued based on statements made in the same book that a third party claims constitutes defamation.



Case Study #2

- Dr. Faren Fox is a University professor and public scholar who frequently appears on national news outlets in her capacity as a public scholar. Dr. Fox's appearances and publications in national, high-profile media are routinely promoted by her College and University, with links to publications hosted on University websites and announcements about her upcoming appearances in national media in University newsletters. Following several such appearances and publications, Dr. Mox becomes the target of vile commentary from anonymous individuals whose outrageous statements are clearly intended to demoralize and silence her. The nature of some of the comments, including some that are received via her University email account, make Dr. Fox feel personally threatened.



University Policies Prohibiting Harassment

- University Policies 501 & 502 prohibit discriminatory harassment
 - Harassment must be sufficiently severe, persistent, or pervasive to give rise to a hostile working environment;
 - Jurisdiction extends to all University employees and students; Jurisdiction may also include guests, though scope of disciplinary action in that context is limited.



University Policies Prohibiting Harassment, continued

- University Policy 101.17 prohibits workplace violence
 - Covered behaviors include those that can affect the campus or the workplace, may generate reasonable concerns for personal safety, or may result in physical injury, and includes, but is not limited to: Bullying, Domestic Violence, Intimidation, Physical Attack, Sexual Assault, Stalking, and Threat, as those terms are defined herein, as well as intentional damage to property owned by the State, University, employees, students, visitors, or vendors.
 - Workplace Violence includes acts of violence committed by State employees, clients, customers, relatives, acquaintances or strangers against State employees in the workplace.
 - Scope of disciplinary action that may be implemented against nonemployees and nonstudents is limited.



The Role of the University's Police and Public Safety

- Police and Public Safety may supplement the jurisdictional scope of the University, when the behaviors at issue constitute criminal behavior or to facilitate implementation of University trespass orders.
- Trespass Orders may be issued to facilitate University decisions prohibiting presence of individuals on campus—student suspensions, expulsions, etc.
- Even when behavior does not rise to “criminal behavior” PPS may work with employees and students to implement safety plans to respond to concerns.



Criminal Harassment

- Harasses or harassment. - Knowing conduct, including written or printed communication or transmission, telephone, cellular, or other wireless telephonic communication, facsimile transmission, pager messages or transmissions, answering machine or voice mail messages or transmissions, and electronic mail messages or other computerized or electronic transmissions directed at a specific person **that torments, terrorizes, or terrifies that person and that serves no legitimate purpose and places that person in reasonable fear of death, bodily injury, or continued harassment.**



Academic Freedom Policy

- University Policy 102.13:
- UNC Charlotte supports and encourages full freedom, within the law, of inquiry, discourse, teaching, research, and publication for all members of its Faculty, to the end that they may responsibly pursue the transmission and advancement of knowledge and understanding free from internal or external restraints that would unreasonably restrict academic endeavors.
- Faculty Members share in the responsibility for maintaining an environment in which academic freedom flourishes and in which the rights of each member of the academic community are respected. They are expected to recognize that accuracy, forthrightness and dignity befit their association with the University, and may not represent themselves, without authorization, as spokespersons for the University of North Carolina or any of its constituent institutions.



Copyright Policy

- University Policy 315:
- Faculty generally own the copyright of their creative work outright, unless it is a:
 - A Traditional Work;
 - A Non-Directed Work Involving Exceptional Use of University Resources;
 - A Directed Work,
 - A Sponsored or Externally Contracted Work requiring University ownership of copyright.



Related Resources for Faculty Scholars

- AHA Guide
- OLA Online Resources
- Community Support
- Professional Liability Insurance



Questions for us?

