

# OFFICE OF GENERAL COUNSEL

## Newsletter

SPRING 2025

### NEW FEDERAL ANTI-HAZING LAW

On December 23, 2024, former President Biden signed into law a new federal anti-hazing statute. While many states, including Pennsylvania, have had anti-hazing statutes for several years, this is the first piece of federal legislation to address the issue. The new law seeks to ensure that institutions have policies and prevention strategies in place to protect students against hazing and creates several new legal obligations for institutions of higher education that receive federal student aid, including:

- disclosing reported hazing incidents and information about the incident, including any subsequent investigation, and the investigation's findings;
- establishing a policy on hazing which includes how to report incidents, the process used to investigate hazing incidents, and information about laws on hazing; and
- establishing a policy regarding hazing prevention and awareness programs.

The federal law defines hazing, in part, as any intentional, knowing, or reckless action committed by a person or group of people against another person in the course of an initiation into, an affiliation with, or the maintenance of membership in, a student organization, that causes or creates a risk of physical or psychological injury. The federal law explains that hazing is unlawful even if the individual participates in hazing activities willfully.

The new federal law also encourages institutions to develop prevention strategies to prevent hazing before it occurs, such as skills building for bystander intervention, information programs on ethical leadership, and promotion of strategies for building group cohesion.

### Pennsylvania's Anti-Hazing Law

Although the federal anti-hazing statute is new, Pennsylvania has had the Timothy J. Piazza Antihazing Law since 2018. In addition to providing a state definition of hazing, this law also outlines two additional offenses: aggravated hazing and organizational hazing. Aggravated hazing occurs when an individual commits an act of hazing that results in serious bodily injury or death to a minor or student. Organizational hazing occurs when an organization promotes or facilitates an act of hazing. Under the Pennsylvania law, both aggravated hazing and organizational hazing may result in higher punishments than standard hazing offenses.

Importantly, unlike the new Federal law, the Pennsylvania statute does not punish those who seek medical assistance, either for themselves or for another victim of hazing.

Like the federal law, Pennsylvania's anti-hazing law requires institutions of higher education to publish anti-hazing policies and publicly report hazing violations. It also requires that each institution adopt a written policy against hazing and

rules prohibiting students or other people associated with the University from engaging in hazing. In accordance with these legal requirements, Arcadia maintains an **Anti-Hazing Policy** and publishes a **report** of all violations of the Policy (and of Federal or State laws related to hazing) that are reported to the University. The report shows all such hazing violations for the past five years and is updated twice a year.

### Anti-Hazing at Arcadia

Arcadia University does not tolerate hazing of any kind and encourages participation in traditions and events that focus on belonging, connection, and engagement. The new, federal anti-hazing law does not change the fact that Arcadia-affiliated clubs, organizations, sports teams, and other community groups are permitted and encouraged to hold social events that strengthen community and build positive relationships. Welcome events, orientation programs, member initiation traditions, cultural events and celebrations, friendly competition or challenges, celebrations of academic, personal, or sports achievements, and safe social gatherings are all examples of acceptable events, as long as they are centered on inclusiveness, voluntary participation, and respect.

Avoiding any activities that subject individuals to harm, discomfort, humiliation, or embarrassment, and making clear that any instances of hazing will not be tolerated are best practices for organizing events at the University. Those in leadership positions may also consider holding anti-hazing training in order to help others better identify and respond to incidents of hazing or incorporate anti-hazing strategies and awareness into training programming that are already being provided.

The University encourages all members of its community who believe that they have witnessed, experienced, or are aware of conduct that constitutes hazing to report the activity to Dr. Donavan McCargo, Dean of Students, at 215-572-2934 or [mccargod@arcadia.edu](mailto:mccargod@arcadia.edu), Brian Granata, Executive Director of Athletics at 215-572-2194 or [granatab@arcadia.edu](mailto:granatab@arcadia.edu), or Ruth Evans, Director of Public Safety at 215-572-2187 or [evansr@arcadia.edu](mailto:evansr@arcadia.edu). Members of the University community may also report hazing through the anonymous, confidential Campus Conduct Hotline Reporting System at 1-866-943-5787 or on the **website**. If you have additional questions about the laws regarding hazing, please contact the Office of General Counsel at [ogc-contracts@arcadia.edu](mailto:ogc-contracts@arcadia.edu).

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SPRING 2024

### GUIDELINES REGARDING WEB ACCESSIBILITY FOR ALL UNIVERSITY RESOURCES

#### Legal Guidance on Website Accessibility

On May 19, 2023, the Justice Department and the Department of Education, Office for Civil Rights (OCR) jointly issued a Dear Colleague Letter reminding colleges, universities, and other postsecondary institutions to ensure that their online services and other digital resources are accessible to people with disabilities. Acknowledging the increased use of web-based and other digital resources, the letter reminds institutions of the accessibility requirements under Title II and Title III of the American with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act. Those laws require the following:

- Title II of the ADA prohibits public colleges, universities, and other postsecondary institutions from denying qualified individuals with disabilities the opportunity to participate in or benefit from their aids, benefits, or services, including online programming and services; and from providing an unequal opportunity to benefit from that programming or services.
- Title III of the ADA prohibits private undergraduate, postgraduate, and other private places of education from denying individuals with disabilities the opportunity to participate in or benefit from its goods, services, privileges, or advantages, or providing an unequal opportunity to benefit from the educational programming.
- Section 504 provides that recipients of financial assistance from the Department of Education, like most public and private colleges and universities, must provide appropriate accommodations and auxiliary aids to ensure that students with disabilities are not denied the benefits of the educational program and activities.

Failure to follow these laws may result in an investigation by OCR or a private lawsuit. The Justice Department has published detailed resources and information regarding web accessibility [here](#). This information highlights common website accessibility barriers, explains when the ADA requires web content to be accessible, and explains different ways on how accessibility can be achieved. **The Web Content Accessibility Guidelines 2.0**, linked on the Justice Department's website, is a comprehensive set of guidelines with detailed technical standards to ensure that websites are accessible to people with disabilities.

#### Ensuring Accessibility at Arcadia

Arcadia University is committed to ensuring that our resources and programming are accessible to all community members, including people with disabilities. The Office of Disability Support Services maintains a website to provide faculty and staff with information about creating accessible online course content, available on the **Disability Support Services website**. Specifically, faculty and staff should be mindful of the following key principles to ensure that online content is accessible to all:

- (1) Color contrast in text
- (2) Text cues when using color in text
- (3) Text alternatives ("alt text") in images
- (4) Captions or transcripts for all video and audio content
- (5) Accessible online forms, including labels for fields and clear instructions
- (6) Appropriate text size and zoom capability
- (7) Provide appropriate and easily understood headers
- (8) Ensure keyboard navigation as well as mouse navigation
- (9) Ensure that all documents posted are accessible

In addition, when purchasing products or services involving web-based or electronic information technology, departments and business units should confirm with vendors that they will comply with all applicable accessibility guidelines.

Concerns about lack of accessibility for Arcadia's online and digital resources may be reported through the **Accessibility Concern Form**. For information about how to request a reasonable accommodation or auxiliary aid for a disability, please consult Arcadia's **Disability Support Services Policy for Students** and/or the **Disability Support Services Policy for Employees and Applicants**. For questions about these policies and accessibility generally, please contact Jennifer Smull, Director of Academic Development, at 215-572-4686 or [smullj@arcadia.edu](mailto:smullj@arcadia.edu). If you have additional questions about the laws regarding website accessibility, please contact the Office of General Counsel at [ogc-contracts@arcadia.edu](mailto:ogc-contracts@arcadia.edu).

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# OFFICE OF GENERAL COUNSEL

## Newsletter

SPRING 2023

### INSTITUTIONAL SUPPORT FOR PREGNANT AND AND PARENTING STUDENTS, FACULTY, AND STAFF

#### OCR Guidance

On January 26, 2023, the U.S. Department of Education's Office for Civil Rights ("OCR") published a letter offering insight into the legal obligations of colleges and universities when it comes to effectively supporting pregnant and parenting students. The letter provided that colleges and universities should:

- Prominently publish information on their websites and student handbooks setting forth the rights of pregnant and parenting students and the procedures by which students can request adjustments, contact university officials, and institute grievance procedures to file complaints of pregnancy discrimination.
- Support these policies and procedures with training for faculty and staff to ensure that employees offer pregnant and parenting students the same opportunities to participate in the university's programs as other students requiring temporary adjustments.
- Provide assistance for pregnant and parenting students in a way that is cohesive and intentional, rather than ad hoc or piecemeal.

#### Arcadia University's Support for Pregnant and Parenting Individuals

Arcadia University is committed to supporting our community's pregnant and parenting students, faculty and staff. Since 2022, the University's Office of Equity and Civil Rights ("OECR") has been reviewing its policies and procedures related to pregnant and parenting individuals to offer enhanced guidance and resources to the University community on this issue.

- In Summer 2022 OECR created a sub-page on the OECR website that contains information for pregnant and parenting students and employees. The page includes information on:
  - Title IX and Arcadia's prohibition of sex discrimination in its educational programs and activities, including discrimination against pregnant and parenting students, faculty, and staff

- Examples of reasonable adjustments for parenting and pregnant students, faculty, and staff
- A "Frequently Asked Questions" section for students
- Information for pregnant and parenting employees
- Information about reporting harassment or discrimination due to pregnancy
- Information about the location of Arcadia's lactation room

Additional community resources for pregnant and parenting students

OECR has also coordinated with the Facilities Department to improve the lactation room located in the Dining Hall building. Facilities made the following improvements at OECR's request:

- Changed the sign on the outside of the room from "Mother's Room" to "Lactation Room"
- Placed a mini-refrigerator in the room
- Installed a combination lock on the door to the room so that students, faculty, and staff could enter the room with a code (available from Public Safety or Facilities staff)

In addition, OECR has provided trainings to almost every academic department, the Athletics department, and student resident advisors, on the University's Non-Discrimination and Non-Harassment Policy. During the trainings, OECR provided University faculty with a reference list of federally protected classes of individuals, including pregnant and parenting individuals.

Nora Nelle, Director of OECR and the University's Title IX Coordinator, serves on the Arcadia Alliance for Reproductive Rights committee, comprised of students, faculty and staff. If you would like more information on supporting pregnant and parenting individuals at Arcadia, please contact OECR at [oecr@arcadia.edu](mailto:oecr@arcadia.edu) or the Office of General Counsel at [ogc-staff@arcadia.edu](mailto:ogc-staff@arcadia.edu).

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## Newsletter

FALL 2021

### VENDOR CONTRACTS: A TEAM EFFORT

Most members of the University community with responsibility for getting contracts executed know the basics of review and approval (as explained in the Contract Review and Approval [Policy](#) and [Procedure](#)), and getting them signed by the appropriate VP (as described in the Contract Signing Authority [Policy](#)). But, for many, what happens in between is a mystery. This semester's OGC bulletin will answer the question: What are University partners looking for when a department puts forward a contract they want the University to enter into?

#### Finance & Administrative Services

Having the following documents in place helps ensure that a purchase has been properly authorized :

- Contract Routing Form
- Purchase Requisition
- Contract approved by OGC and signed by VP

Following Finance policy also helps to advance the justice, equity, diversity, and inclusion ("JEDI") initiatives of promoting business transactions with minority-owned businesses, and ensuring that purchases of electronic information technology and physical infrastructure are accessible to individuals with disabilities.

#### Information Technology ("IT")

As the use of technology resources becomes ever more essential to the University's academic mission and business functions, the risks associated with the use of such technology have risen commensurately. In order to keep business processes flowing, IT has shared the following recommendations for those seeking to enter into contracts that involve the transfer of institutional data:

- *Be collaborative*: If you're contemplating such an agreement, consult with IT through the Vendor Risk Assessment process early on, when you are still deciding on a vendor, product, or service provider.
- *Plan ahead*: These contracts can be high-risk even if low-cost, and often require IT to liaise with the vendor. If you start the review process right before you need to launch, you run the risk that you either will not have the access you need in time, or that you'll rush into a deal that wasn't properly vetted.

- *Be wary*: If a vendor does not immediately offer items such as a privacy policy, GDPR documentation (for information transfers involving the European Economic Area), and/or a HECVAT, your antennae should go up—if a vendor does not take security seriously, they pass that risk on to the University.

#### General Counsel

Here are some examples of what OGC is looking for when reviewing a contract:

- *Clarity*: is it obvious what is being provided, by whom/to whom, at what cost, at what time?
- *Leverage*: are we required to pay up front, upon completion/delivery, or at "milestones"?
- *Safety*: if activities will take place on campus, are all service providers background checked?
- *Compliance*: does it properly allocate responsibility for adhering to law/regulations?
- *Flexibility*: is there an automatic renewal clause? if needed, can we cancel for convenience?
- *Insurance*: can we meet their insurance requirements, if any? can they meet ours?
- *Responsibility*: does it contain an indemnity clause? if yes, is it mutual?
- *Liability*: if there is a cap on liability, is it sufficient to cover our damages if the product or service fails?
- *Privacy and Security*: if the other party will have access to AU data, do they have adequate privacy and data security policies and procedures in place?
- *Intellectual Property*: if the other party will be creating work product to which IP rights could attach, does it provide for the rights to go to us, if desired?

OGC will handle the "legalese"! But, hopefully this will help you to understand what we are looking for when we review contracts, and why that review can help ensure the deals you enter into meet your needs and those of the University.

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Spring 2021

### GETTING TO KNOW THE FLSA

Sometimes understanding the legal compliance issues that impact your work is like alphabet soup! If you are a supervisor, the Fair Labor Standards Act ("FLSA") is probably a law you've heard of, but maybe not quite understood. The FLSA mandates the minimum wage, sets rules pertaining to overtime pay, mandates recordkeeping requirements, and ensures non-exempt ("hourly") employees are paid for all hours worked.

Because the manager is responsible for this latter obligation, let's take a deeper dive. Are non-exempt employees paid for...

- Meal periods? **Yes**, if required to remain at their work station (e.g. a lunch meeting), or if the time allotted is too short to be useful or is interrupted
- Breaks? **Yes**, if they are "rest breaks" or "short breaks"
- Professional development opportunities? **Yes**, if they are for the employer

If you have questions about the FLSA and how it impacts your unit, please contact Human Resources at 215-572-2173 or at [humanresources@arcadia.edu](mailto:humanresources@arcadia.edu).

### WHEN CAN I USE THE ARCADIA NAME AND LOGOS?

Sometimes you just want to see the Arcadia name splashed across a document you're working on! [Arcadia policy](#) permits current Arcadia faculty, staff, and students to use the University's names and logos on matters of official University business, or for the purposes of identifying themselves for private purposes (for example, "John Doe, Class of 2018, Arcadia University").

But, what if a vendor, organization, or publication asks you to promote their activities or products using the Arcadia name and/or logos? Although you are welcome to show your support in your individual capacity and not in your capacity as a representative of Arcadia, you should not

use the name and/or logos to imply University endorsement or responsibility for any particular vendor, organization, activity, product, or publication, or for any commercial purposes, without the express written permission of University Relations, which can be contacted at 215-572-2969. Now that you know, let's spread the word of Arcadia responsibly, but far and wide!

### ADDRESSING FERPA-RELATED INQUIRIES

As you may be aware, the Family Educational Rights and Privacy Act ("FERPA") is a law that protects the privacy of students' education records. The University maintains a [FERPA Compliance Policy](#) through which the University accomplishes aims such as, but not limited to, defining students' rights to inspect and review their education records; defining students' right to challenge contents of their education records that they believe are inaccurate or misleading or in violation of their privacy rights; identifying legally permitted conditions when personally identifiable information from education records may be released without the prior written consent of the student; and identifying categories of personally identifiable information which the University has designated as directory information and which the University will release without students' written consent.

The University's FERPA compliance is overseen by the Office of the Registrar, which can field questions and receive requests such as directives to withhold directory information; requests for the release of education records; and requests to review education records or challenge their contents. The Office of the Registrar can be reached at [registrar@arcadia.edu](mailto:registrar@arcadia.edu).

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## Newsletter

Fall 2020

### ELECTRONIC SIGNATURES: WHEN TO USE

The transition to a fully online environment has prompted many changes in the University's business operations. In the online environment, questions have increasingly been raised about the use of electronic signatures. When should we provide them? When should we accept them? How do we know they are genuine and enforceable?

Arcadia's [Electronic Signature Statement](#) defines a valid electronic or digital signature as one which is:

- executed by an individual with the intent to be bound,
- unique to the person using it,
- capable of verification, and
- under the sole control of the signatory.

Individuals seeking to provide or receive an electronic signature should arrange to sign documents using a software program approved by Arcadia, such as DocuSign, which authenticates users by password and produces a time stamp for the digital signatures, rather than relying on electronic signatures that do not incorporate security measures and which are typed, copied, pasted, drawn, or embedded as an image into a document.

It is tempting to rely on less formal means of electronic signatures or electronic approvals. These may be sufficient for internal Arcadia approvals, such as contract routing forms, but any use of less formal means of electronic signatures or electronic approvals should be approved before implementation.

Questions about electronic signatures should be directed to Information Technology, which will consult with the Office of General Counsel as needed. Arcadia relies on your cooperation in ensuring the integrity of our business processes, whether on campus or off campus. Thank you for doing your part!

### UNIVERSITY POLICIES: PART OF OUR CYBERSECURITY PLAN?

Most of the University community knows that the [Policy Library](#) serves as the official, centralized repository for all University Policies. This helps us to ensure compliance

with federal, state, and local laws, rules, and regulations; reduce institutional risk; provide consistency; and establish responsibilities and accountability. But, did you know that University Policies also play an important role in the University's cybersecurity program? Consider a few examples of how these Policies help keep us safe online:

- The [Acceptable Use Policy](#) ensures that all members of the University community act in a responsible, ethical, honest, and legal manner when using technology resources.
- The [Electronic Funds/Wire Transfer Policy](#) ensures that electronic funds transfers are initiated, executed, and approved in a secure manner.
- Our [Interim Information Technology Policy](#) articulates standards for the consistent use of IT resources throughout the University, and interprets laws and regulations to ensure our use is consistent with them.
- The [Disability Support Services Policy for Students](#) and for [Employees and Applicants](#) help individuals with disabilities gain access to online accessibility services and resources they need.

If you have any policy related questions, contact the PAC at [policyadvisory@arcadia.edu](mailto:policyadvisory@arcadia.edu).

### LEGAL SHORTCUTS?! OGC FORMS

The OGC site includes a set of [Forms](#) which can simplify and expedite the review and approval process for routine transactions. Check out our offerings before reinventing the wheel or sending an external contract for review—we might be able to save you some time! OGC is also happy to receive requests for new forms if your department has a routine transaction we don't already accommodate.

Please send any feedback to [muldoonk@arcadia.edu](mailto:muldoonk@arcadia.edu).

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## Newsletter

Spring 2020

### THE CAMPUS CONDUCT HOTLINE REPORTING SYSTEM: HERE FOR YOU

Would you know what to do if you learned about wrongful conduct at the University? The [Campus Conduct Hotline Reporting System](#), managed by InTouch, empowers individuals to promote safety, security, and ethical behavior. You can use the anonymous, confidential system to report situations, events, or actions by individuals or groups that believe unethical or inappropriate.

The University encourages community members to come forward with concerns, but if you are uncertain, or seek anonymity, this portal is here for you. For more information, see the University's [Whistleblower Policy](#).

*For immediate threats to persons or property, call 911 or Public Safety.*

### COMMUNICATIONS WITH OGC: WHEN ARE THEY PRIVILEGED?

Attorney-client privilege allows a client to protect information discussed with an attorney from being disclosed. But what is a privileged communication? Who is protected by the privilege? How do I know for sure?

*What is privileged communication?*

Attorney-client privilege does not apply to all communications with a lawyer. Covered communications are those through which advice is sought from the lawyer in the lawyer's capacity as a lawyer. Put another way, the communications have to relate to the lawyer's provision of legal advice - not non-legal business advice, and not offhand statements made by a lawyer in her personal capacity.

*Who is protected by the privilege?*

The Office of General Counsel represents the University, not individual students or employees. If an individual seeks legal advice with respect to University activities and their interests are consistent with those of the University (e.g. a faculty member seeking advice about how to comply with a law pertaining to sponsored research, or an employee seeking to act consistently with anti-discrimination policy), the legal advice provided can be covered by attorney-client privilege. OGC cannot keep confidential knowledge that is harmful to the University, such as if an individual calls OGC to disclose that they have been embezzling University funds and seek advice.

*How do I know for sure that a given communication is covered by privilege?*

If you are sure, please ask! Along the same lines, if you plan to disclose a confidential communication you had with an OGC attorney, ask about that too--the privilege can only be waived by the University and not by individuals without authority.

#### A few tips:

- Do not discuss or disclose privileged information in a public place (such as an elevator or corridor)
- Remember that communications are not privileged just because they were sent to OGC, or if OGC was cc'd
- In written communications through which you are seeking advice on a legal question, use a label like "Confidential: Privileged Communication." This will not transform communications not subject to privilege (those not involving legal advice or that are inconsistent with the attorney's role representing the University), but it will put OGC on notice that you are seeking privileged communications so they can respond accordingly.

### WHEN SHOULD I REACH OUT TO OGC?

- You have been served with a [lawsuit or subpoena](#)
- You have questions about the University's [Policy Advisory Committee](#)
- To [submit contracts](#) for review and approval
- To ask questions about compliance with legal or policy obligations
- To ask for advice about legal issues or issues that could result in litigation
- You are working with someone who is upset and has said they will be filing an external complaint or lawsuit, or retaining an attorney

*This list is not exhaustive. If you are unsure if OGC is the right place for an inquiry, reach out! We'll redirect if needed.*

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## *Bulletin: Summer 2019*

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#### WAYS TO REPORT:

1. Visit the website:  
[arcadia.edu/CCHotline](http://arcadia.edu/CCHotline)
2. Call (toll-free):  
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