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INTRODUCTION

COMPLYING WITH FEDERAL LAW A Reference Manual *for* College Decision Makers

Federal laws and regulations continue to expand exponentially. Recently, Congress has adopted several new statutes which apply to colleges including: The Higher Education Opportunity Act of 2008; Constitution Day and Citizenship Day; Voter Registration; and the Campus Fire Safety Right to Know Act. Confusing and sometimes conflicting requirements can drag a simple administrative decision into a legal morass.

Complying With Federal Law thoroughly explains federal law in a manner that is uncluttered by minute intricacies. This reference manual provides a basic awareness of the federal policies affecting the work of faculty, staff, and students, as well as a broad overview of major federal statutes and regulations that affect institutions of higher education.

Federal statutes addressed include:

- Title VI and VII of the Civil Rights Act
- Equal Pay Act of 1963
- Americans with Disabilities Act
- Rehabilitation Act of 1973
- Age Discrimination in Employment Act
- Age Discrimination Act
- Title IX of the Education Amendments
- Copyright Act of 1976
- Vietnam Era Veterans Readjustment Act
- Student Right to Know Act
- Family Educational Rights and Privacy Act
- Campus Security Act
- Resource Conservation and Recovery Act
- Drug-Free Workplace Act
- Campus Sex Crimes Prevention Act
- Drug-Free Schools and Communities Act Amendments of 1989
- Civil Rights Act of 1991
- Immigration Reform and Control Act
- Sherman Antitrust Act
- USA PATRIOT Act of 2001
- Family and Medical Leave Act of 1993
- Equity in Athletics Disclosure Act
- Solomon Amendment of 1997

- Constitution Day and Citizenship Day
- Higher Education Act of 2008

Occasionally, whether an institution is public, private, or religiously affiliated is significant in the application of a federal statute. Such instances are clearly identified and addressed within the text of each chapter. In the case of the chapter on Antitrust Law, nearly the entire chapter is applicable to only private institutions.

Of particular note are the many recent lawsuits being filed by state institutions challenging the applicability of federal statutes, such as the Fair Labor Standards Act and other employment statutes. This litigation is based on a recent Supreme Court decision, *Seminole Tribe of Florida v. Florida*, which calls into question the congressional intent of specifically applying certain federal statutes to public institutions. It should also be noted that in *Board of Trustees of the University of Alabama v. Garrett*, the U.S. Supreme Court ruled that employees of state governments cannot bring suit against their employer under the Americans with Disabilities Act (ADA). The impact of this decision and similar ones, if any, on the rights of complainants to sue public colleges and universities under ADA is evolving.

Each chapter follows a common format for easy reference: Overview and Purpose of the Act; Institutions and Individuals Affected; Effective Date of the Act; Detailed Discussion of the Act; Matters to Review; and Enforcement and Compliance Agency.

Specific comments on this manual are welcome. For further information, please write to College Legal Information, Inc., P.O. Box 150541, Nashville, Tennessee 37215-0541, or call (615) 383-3332. Copies can be obtained by sending payment to College Legal Information, Inc., P.O. Box 150541, Nashville, Tennessee 37215-0541. Copies are \$60.00 each or \$55.00 each for 2 or more. Supplements are available and may be ordered by using the form provided in this manual.

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IS REQUIRED, THE SERVICES OF A COMPETENT
PROFESSIONAL SHOULD BE SOUGHT.

THE AUTHOR

Kent M. Weeks, a practicing attorney with the law firm of Weeks, Anderson & Baker of Nashville, Tennessee has a distinguished professional career as a teacher, administrator, lawyer, and author. A Fulbright Scholar, Weeks earned degrees from The College of Wooster, University of New Zealand, Duke University, and a Ph.D. from Case Western Reserve University. He edited two volumes for the Center for Constitutional Studies that have had singular impact on the independent sector: *A Legal Inventory for Independent Colleges and Universities* and *A Legal Deskbook for Administrators of Independent Colleges and Universities (Revised 2nd Edition)*.

For many years, Weeks was a Professor of the Practice of Education at Vanderbilt University and has been invited by many colleges and their associations to present seminars on higher education and the law. He has written several books and more than 43 articles and papers for scholarly journals, and he currently edits *Lex Collegii*, a legal newsletter for independent colleges and universities. In addition to this manual, Weeks has written or coauthored others, each addressing particular topics relevant to college personnel and policies including: *Institutional Advancement and the Law*; *The College and University Legal Audit*; *Managing Liability and Overseas Programs*; *Managing Campus Conflict*; *Implementing Student Policies*; *Managing Admissions, Records, and the Law*; *Complying with Federal Law*; *Faculty Decision Making and the Law*; *Student Affairs Decisions and the Law*; *Faculty Evaluation and the Law*; *Record Retention and Disposal*; *Staff Employment Policies*; *Student Handbook Policies*; and *Managing Departments and the Law*.

Weeks has recently authored a book: *A Leaner America: Private Choices and Public Policies* that carefully examines the causes of the startling epidemic of overweight and obesity and zeros in on the efforts that are needed to address this private and public problem.

Weeks has consulted with colleges throughout the United States and serves as legal counsel to several national and international colleges and educational associations. He has participated in and directed more than 150 seminars and workshops for college administrators, faculty and trustees and has addressed many higher education organizations, associations, and legal groups. Weeks is a member of the National Association of Independent Colleges and Universities Legal Services Panel.

ACKNOWLEDGMENTS

This manual on federal laws is for college decision makers who make significant academic and institutional decisions. As a practicing attorney, providing counsel to colleges and universities, I receive numerous inquiries about federal laws and their applications to colleges. In order to provide an awareness of these laws and regulations, I decided to write this manual, **Complying With Federal Law: A Reference Manual for College Decision Makers**. It reflects numerous contacts with both faculty and college administrations regarding the legal terrain in which they operate.

Acknowledgment must be given to my many clients who throughout the years have caused me to think about the issues and how to identify preventive ways to reduce or eliminate legal exposure.

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