

TABLE OF CONTENTS

Introduction	v
The Author	vii
Acknowledgments	viii
I. THE CONSTITUTION AND PUBLIC COLLEGES	1
I. Overview	1
II. Application	2
Introduction	2
Constitutional Protections	2
First Amendment	2
Due Process	6
The Eleventh Amendment and Sovereign Immunity	11
III. Preventive Measures	13
SELECTED BIBLIOGRAPHY	14
II. THE CONSTITUTION AND INDEPENDENT COLLEGES	17
I. Overview	17
Introduction	17
Public Policy and the State Action Doctrine	18
II. Application	19
Student Discipline	20
III. Preventive Measures	23
SELECTED BIBLIOGRAPHY	25
III. THE COLLEGE CATALOG AND CONTRACTUAL COMMITMENTS	26
I. Overview	26
II. Application	27
College Catalogues as a Contract	27
Program Discontinuance	27
Tuition Increases	29
Honors Recognition	32

Graduation Requirements	33
Educational Malpractice	34
Quasi-Contract Approach	36
Closure of School	36
Consumer Protection Statutes	40
III. Preventive Measures	41
SELECTED BIBLIOGRAPHY	42
IV. LIABILITY AND RELEASES OF LIABILITY	44
I. Overview	44
Introduction	44
Negligence	45
Duties and Defenses	45
II. Application	47
Duty	47
Public Institutions and State Immunity	49
Affirmative Defenses for Both	
Independent and Public Institutions	52
Releases From Liability	53
III. Preventive Measures	57
SELECTED BIBLIOGRAPHY	60
V. COLLEGE RULES AND LIABILITY	62
I. Overview	62
II. Application	63
Introduction	63
Misfeasance and Nonfeasance	63
Rules and a Duty to Protect	65
Student Obligations	70
III. Preventive Measures	71
SELECTED BIBLIOGRAPHY	73
VI. STUDENT DISCIPLINE	74
I. Overview	74
II. Application	75
Public Institutions and Required Procedures	75
Notice	76
The Right to a Hearing	77

Institutional Rules and Public and Independent Colleges	82
A Matter of Contract	82
Arbitrary and Capricious	86
Independent Institutions and Judicial Review of Procedures	89
Off-Campus Misconduct	91
Timing of Disciplinary Action	97
Changes in Disciplinary Policies	99
III. Preventive Measures	101
SELECTED BIBLIOGRAPHY	103
VII. CAMPUS SECURITY	107
I. Overview	107
Introduction	107
Legal Theories of Liability	108
II. Application	109
Campus Security	109
The Jeanne Clery Disclosure of Campus Security Policy & Campus Crime Statistics Act	115
III. Preventive Measures	119
SELECTED BIBLIOGRAPHY	121
VIII. ALCOHOL USE BY STUDENTS	123
I. Overview	123
II. Application	124
Alcohol Rules and On-Campus Drinking	124
Duty to Protect	125
Premises Liability	128
Alcohol Rules and Off-Campus Activities	129
Fraternities and Alcohol	133
III. Preventive Measures	134
SELECTED BIBLIOGRAPHY	139
IX. DISCLOSURE AND RETENTION OF STUDENT RECORDS	141
I. Overview	141
II. Application	142
History and Purpose of FERPA	142

Settled Issues Regarding FERPA	143
Release of Records	143
Parents and Access to Records	145
Transcripts	146
Medical Disclosures	146
Recent Issues Involving FERPA	147
Campus Crime Reports	147
Private Causes of Action	149
Grade Challenges	149
Student Evaluations and Letters of Recommendation	150
Admissions Files	151
Rights of Auditing Students Under FERPA	152
Social Security Numbers and Student Data	152
Public Institutions and State Disclosure Laws	154
III. Preventive Measures	154
SELECTED BIBLIOGRAPHY	156
X. PEER SEXUAL HARASSMENT	158
I. Overview	158
II. Application	159
Title IX and Its Applicability	159
The Supreme Court Responds	160
OCR Guidelines	164
OCR Liability Standard	165
Policy on Sexual Discrimination	166
Same-Sex Peer Harassment	167
III. Preventive Measures	169
SELECTED BIBLIOGRAPHY	171
INDEX	173
ORDER FORM	181
SUPPLEMENT ORDER FORM	183

INTRODUCTION

STUDENT AFFAIRS DECISIONS AND THE LAW

This series of essays is designed to educate and inform student affairs administrators and staff about the legal implications of decisions they make. Knowing the law and adopting preventive measures is the best way to cope with the law and prevent legal challenges and reduce exposure.

Student affairs personnel often make or participate in the initial decisions that can lead to litigation. For example, student affairs personnel counsel and advise students; recommend, make and implement disciplinary decisions; and establish campus security and residence hall policies. In sum, student affairs personnel significantly determine the co-curricular program and provide services that the college offers.

As a matter of law, the college generally is responsible and liable for the acts of its employees, including members of the student personnel staff. In relatively few instances are student affairs personnel personally liable even if they are named in a lawsuit.

In all of these roles—counselor, policy maker, administrator, and disciplinarian—student affairs personnel make critical decisions that can generate litigation. Accordingly, it is in the interest of the college that student affairs personnel understand the law and take appropriate preventive actions.

This manual on student personnel administrators and staff as decision makers focuses on:

- **The Constitution and Public Colleges**
- **The Constitution and Independent Colleges**
- **The College Catalogue and Contractual Commitments**

- **Liability and Releases of Liability**
- **College Rules and Liability**
- **Student Discipline**
- **Campus Security**
- **Alcohol Use by Students**
- **Disclosure and Retention of Student Records**

Each of these essays is presented with a common format: Overview, Application, and Preventive Measures. A Selected Bibliography follows each topic.

Specific comments on this manual are welcome. For further information or additional copies, please write to College Legal Information, Inc., P.O. Box 150541, Nashville, Tennessee 37215-0541. Copies can be obtained by sending payment to College Legal Information, Inc., P.O. Box 150541, Nashville, Tennessee 37215-0541 or by calling 615-383-3332. Copies are \$60.00 each or \$55.00 each for 2 or more.

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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)*.

He was a Professor of the Practice of Education at Vanderbilt University for many years 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 different college personnel: *Managing Admissions, Records, and the Law*; *Complying with Federal Law*; *Faculty Decision Making and the Law*; *Faculty Evaluation and the Law*; *Managing Departments: Chairpersons and the Law*; *Strategic Legal Planning: The College and University Legal Audit*; *Implementing Student Policies: A Formbook*; *Institutional Advancement and the Law*; *Managing Liability and Overseas Programs*; *Managing Campus Conflict Through Alternative Dispute Resolution*; *Record Retention and Disposal*; *Student Handbook Policies*; *Staff Handbook Policies*; and *Faculty Handbook Policies*.

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

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This manual is a product of many years of thought and reflection on issues and laws facing student personnel administrators who make significant co-curricular and institutional decisions. It reflects numerous contacts with both student personnel administrators and staff and college administrations regarding the legal terrain in which student decisions are made.

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. Some of the material in this manual is adopted from articles in *Lex Collegii*, a quarterly publication I edit, the copyright of which is held by the Board of Higher Education and Ministry in Nashville, Tennessee.

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