

Faculty Student Advising at Western Carolina University

Dr. George Ford, P.E.¹ and Dr. Chip Ferguson²

Abstract - Student advising is often an additional duty for engineering and engineering technology faculty members at higher educational institutions in North Carolina. At Western Carolina University (WCU), student advising is officially a part of the duties of a professor. The authors perceive that many professors at WCU do not enjoy academic advising and view the responsibility as a burden and time consuming task. Advising loads are typically not a tenure promoting duty nor are there explicit rewards for excessive advising loads or stellar performance. Coupled with the fear of professional liabilities, the previously mentioned problems with advising responsibilities may lead professors to develop negative feelings towards advising students. The discussion which follows will briefly review: the framework which applies to faculty legal liability; the expectations of student advisees and faculty advisors based upon WCU policies; the Family Educational Rights and Privacy Act (FERPA), and the authors' opinion on the potential liability for faculty who advise at WCU.

Keywords: student academic advising, faculty liability, student retention, mentoring

INTRODUCTION

Student advising is often an additional duty for engineering and engineering technology faculty members at higher educational institutions in North Carolina. At Western Carolina University (WCU), student advising is officially a part of the duties of a professor. The role of the faculty advisor as mentor and guide for student success is supported in many documents published by the institution (Western Carolina University, 2006, April; 2006, March; and 2005). Furthermore, students and parents may view these published policies and procedures of an institution as legal rights. The authors perceive that many professors at WCU do not enjoy academic advising and view the responsibility as a burden and time consuming task due to the nature of most advisement sessions. While faculty advisors espouse the importance of advisement in terms of student professional development, faculty are typically tasked with only sorting and developing the student's course schedule, searching for open course sections, and discussing the technicalities involved in completing the Liberal Studies requirements at WCU at the expense of any meaningful conversations involving the nature, opportunities, and expectations of the engineering profession.

While expressed as an important duty of faculty at WCU, advising loads are typically not a tenure promoting duty nor are there explicit rewards for excessive advising loads or stellar advising performance. Coupled with the fear of professional liability and FERPA requirements, these perceived problems with advising may lead professors to develop negative feelings towards advising students. While advising is addressed in the tenure guidelines as a necessary service to students, there are no established metrics for determining neither effectiveness nor compliance. The discussion which follows will briefly review: the framework which applies to faculty legal liability; the expectations of student advisees and faculty advisors based upon WCU policies; the Family Educational Rights and Privacy Act (FERPA), and the authors' opinion on the potential liability for faculty who advise at WCU.

¹ Western Carolina University, Belk 211, Cullowhee, NC 28723, gford@wcu.edu

² Western Carolina University, Belk 211, Cullowhee, NC 28723, cferguson@wcu.edu

LEGAL FRAMEWORK

The pertinent documents which provide a legal framework for a discussion about university professors' liability at Western Carolina University are shown below:

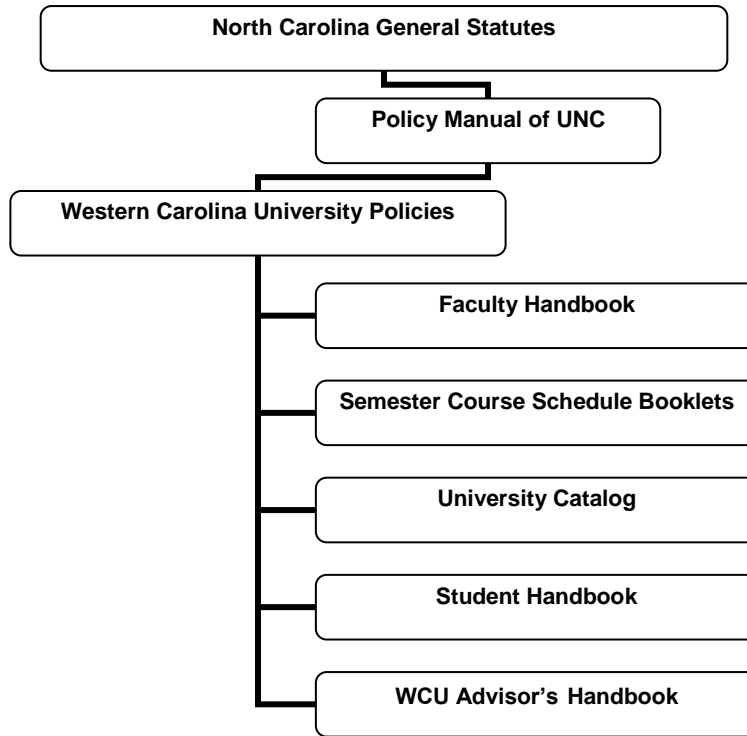


Figure 1: Advising documents at Western Carolina University

North Carolina General Statute Chapter 116 (N.C.G.S. 116) grants authority to the University of North Carolina System (UNCS) Board of Governors. The Policy Manual of the University of North Carolina System delegates executive authority for the Chancellors of each of the sixteen UNC campuses. The Western Carolina University Policy Manual provides guidance for various administrative and academic units at WCU. Of the three WCU documents, none specifically address faculty advising or legal issues relating to faculty. According to the Policy Manual of UNCS, university chancellors and presidents are authorized to deal with legal issues with a potential cost of \$75,000 or less. The primary sources of information for use by WCU faculty to advise their students are: the WCU Faculty Handbook; Schedule Booklets distributed each semester; the Western Carolina University catalog; the Student Handbook; and WCU Advisor's Handbook.

A search of similar advising manuals resulted in an unclear understanding of faculty liability. One manual stated, "A college may be held liable to its students if it does not fulfill promises or obligations contained in [college] publications. Some courts have characterized the obligations created by such publications as contractual in nature". (CSM website, 2006) This statement taken from the Colorado School of Mines Undergraduate Academic Advising Manual provides the fundamental legal argument for a student to bring legal action against a university or a faculty academic advisor. A student may lose income by not graduating on time due to poor academic advice given by his faculty advisor. The student seeking to address their damages in court may choose to name the university and their academic advisor as a party. The authors perceive that the current scenario is the fear of many faculty advisors at WCU. None of the NCGS, UNCS or WCU publications mentioned thus far have provided any indication of legal immunity for faculty acting responsibly in the performance of their duties according to policy. Ball State University

in Muncie, Indiana has such a policy posted on their website. Ball State also provides liability insurance covering its employees in the amount of \$1,000,000. (Ball State Policy Manual, 2003) Given the above information, a WCU faculty member who wishes to minimize his legal liability should stringently adhere to WCU policy and document every step of the advising process.

The Chronicle of Higher Education (2002) has warned institutions of higher learning about the changing environment of litigation cases filed by students and parents due to the breach of implied contracts and the uncertainty of how jurors and judges respond to the cases. Concluding, the Chronicle urges administration to fully inform faculty of their advising responsibilities and duty through well developed and documented processes. Other references to case law provide only minimal clarification of faculty liability for the advisement of students. *Sain v. Cedar Rapids Community School District* established that a tort claim may be established due to a perceived err in academic advisement. Fortunately, this precedent in law only applies to schools in Iowa. *Blank v. Board of Higher Education* (1966) is cited on St. Olaf College's advising website as a tort case which established an advisors' instruction on degree completion as a verbal contract regardless of the written policy.

CURRENT ADVISING Guidelines AT WCU

According to the WCU Faculty Handbook, Faculty Advisors should:

1. Provide to and discuss with the advisee the major eight-semester plan
2. Discuss specific requirements and expectations for the major.
3. Discuss course sequencing, specifying what years and/or semesters various courses are offered.
4. Discuss careers and various career paths for graduates of the major.
5. Discuss reported fifth-week grades (with students who request advice).
6. Discuss scholarship opportunities (Rhodes, Truman, etc.)
7. Discuss intern/co-op opportunities
8. Encourage students to join student professional organizations and become involved in other student life organizations/activities.
9. Discuss adjustment to the university as it concerns academic progress.
10. Encourage advisees to use available support on campus as needed.
11. Advise for early registration and approve next semester's course schedule.
12. Provide all advisees who have declared majors with their Registration Access Number (RAN) for web registration.

Most of these guidelines seem reasonable, but many faculty members at WCU may not be well equipped to provide career, scholarship, internship/co-op, and social/psychological advisement. Training is not readily available to professors which address these concerns and only a small pamphlet guides faculty when advising students who need services dealing with emotional and physical well-being. The WCU Advising Handbook refers to the Faculty Handbook, which has similar information, but it only provides additional guidance in processing students after acceptance into the University. The WCU Advising Handbook is not very well known or easy to acquire at WCU. Additionally, the manual has not been reviewed by a committee for at least 5 years.

Schedule Bulletins printed each semester have a list of "student expectations of their faculty advisor" and a list of "faculty expectations of their student advisees". The Fall Semester 2008 Schedule reads:

"Every student can expect the following of their academic advisor:

1. Knowledge of Liberal (general) Studies (42 hrs.) requirements.
2. Knowledge of the proper sequencing of courses in the major and related areas, including course prerequisites and departmental guidelines.
3. Knowledge of the various undergraduate majors at WCU, including course prerequisites and departmental guidelines.
4. Availability to sign up for an appointment, via telephone, e-mail, or sign-up sheet prior to the student's registration day.

Every advisor can expect the following from their advisees:

1. Make your appointment with your advisor prior to your registration day and keep that appointment. If you miss your appointment, it may not be possible for your advisor to see you prior to your registration day. Be on time for your advising appointment.
2. Check your mailbox, campus email, and telephone messages regularly.

- 3 Work out a sample class schedule prior to meeting your advisor. It is your responsibility to make final accurate decisions about choices concerning your degree program and academic matters.
- 4 Come prepared with questions about your degree program and be prepared to discuss your long-term plans with your advisor.

Every student should be advised by a faculty member or professional advisor. No student should be given his or her Registration Access Number prior to receiving advisement.”

Again, the previous statements from the Bulletin appear reasonable, but the statement that charges students with the “responsibility to make final accurate decisions” is the most troublesome considering the potential for misunderstanding. The authors question why a registration access number is needed if the student is responsible for their own schedule? The authors’ opinion is that faculty members should document their advising sessions well and require student signatures and dates on all guiding documents. Additionally, faculty members should stay abreast of any University policy changes and changes in the liberal studies requirements. The authors perceived that these expectations are not well known on-campus and should be published in the Student Handbook and Faculty Handbook.

The Student Handbook and the University catalog have very little information about what to expect from advisors. Each has a one paragraph statement, which basically tells students that advising is provided by WCU employees. These documents should not mention student academic advising unless more substantial information is provided. There are no student expectations or advising specifics to avert misunderstandings. The short descriptive statements may cause many students and parents to expect a great deal more advising and student supervision than may be actually provided, dependent upon the advisor’s experience and knowledge. As pointed out previously, parents and students may view these published procedures and expectations as legal rights. Given the inconsistencies of these publications, the authors feel that extreme caution on the part of the faculty members of WCU should be taken to possibly avoid professional and legal liability.

Frustrations at the faculty level have been voiced through the faculty senate and concerns about the procedures and policies have been presented. Likewise, interviews with Advising Center personnel indicated frustration with faculty participation and attendance at training sessions offered each year. Many Advising Center personnel feel unsupported by WCU faculty. The call for change from both the Advising Center and faculty has been heard and administration is making current efforts to review and revamp the advising process and procedures at WCU. Results of these efforts will be disseminated in subsequent publications.

The current discussion thus far has only addressed academic advising. Two other areas which have not been addressed are student club and fraternity advising and FERPA. Faculty sponsors are commonly required for clubs and fraternities in most higher education institutions and faculty sponsors are required at WCU for all student clubs. Literature indicates this area of “advising” is a more risky extra duty for faculty advisors than academic advising. Articles describing an accident involving injury or death of a college student fraternity member are not uncommon. (Chronicle of Higher Ed, 2004) Invariably, universities and employees are drawn into liability cases due to issues related to Greek life. Faculty advisors of clubs and fraternities at WCU do not currently have a handbook available to them. There is a student organizations handbook, which includes a travel waiver form, but no policies providing immunity from liability for advisors.

FERPA

The Family Educational Rights and Privacy Act or FERPA is another issue of which faculty advisors should be made aware. According to the United States Department of Education, all schools must have written permission from the parent or eligible student in order to release any information from a student's educational record. For advisors in a college setting, FERPA requires that student information be kept confidential even from parents since most college students are of the legal age of eighteen years old. However, FERPA allows advisors to disclose those college student records, without consent, to the following parties or under the following conditions (34 CFR § 99.31):

1. School officials with legitimate educational interest;
2. Other schools to which a student is transferring;
3. Specified officials for audit or evaluation purposes;

4. Appropriate parties in connection with financial aid to a student;
5. Organizations conducting certain studies for or on behalf of the school;
6. Accrediting organizations;
7. To comply with a judicial order or lawfully issued subpoena;
8. Appropriate officials in cases of health and safety emergencies; and
9. State and local authorities, within a juvenile justice system, pursuant to specific State law.

An advisor must not release information about his advisees except for the conditions given above. Situations often arise where remarks are made without much thought to FERPA, which could prove to be embarrassing for a student especially in instances involving legal or disciplinary issues. Academic performance is another issue that may be embarrassing for a poor performing student. Advisors should keep all information about their advisees confidential. This might entail shredding documents when finished with them; keeping files in secure offices; or communicating only with a student and not their parents over the phone.

Electronic security measures must also be considered by an academic advisor. Many universities historically have maintained student records using students' social security numbers. In the last few years, many universities have begun to issue special student identification numbers to maintain student records. Protecting these identification numbers may be as important as protecting social security numbers. Computers used to maintain student records and identification numbers must be kept in a secure condition, password protected, and under lock and key.

Phone calls and emails from parents seeking how their child is performing is another common student issue. According to FERPA, discussing student information with their parents is a blatant violation of federal law, unless the student has provided written documentation waiving FERPA rights. WCU handles the waiver process by requiring students to sign and date a waiver form which subsequently prescribes a pin number parents can use to notify advisors of the waiver. However, the authors found that the waiver process and procedure was not well known among WCU faculty.

Advisors at universities should maintain student confidentiality in a fashion similar to that found in the medical professions. An advisor-student relationship should be a relationship of trust and respect. The advisee should trust and heed the advice given by their advisor. The advisor should earn this trust through confidential, exemplary performance of their duties.

CONCLUSIONS

While the chances of legal action against a faculty member seem to be very unlikely, faculty should seriously consider their advising responsibilities and document these activities well. If several students complain about their academic advisor, what will be the damage to the professor's professional reputation? If he is not tenured, then student complaints could be a problem. Many professors are baffled by the degree of supervision which is demanded by their students. They often complain about the lack of discipline their students exhibit at the University in the course of obtaining their college education. Faculty members should ensure they understand the demands and requirements related to student academic advising. They may not get sued, but they will experience grief and frustration until they seriously consider their advising responsibilities.

REFERENCES

- [1] Ball State University (2006, April 11). Ball State University Policy. [On-Line]. Available: <http://publish.bsu.edu/soa/Documents/Handbook/Advisor%20Liabilities%20and%20Responsibilities.doc>.
- [2] Colorado School of Mines (2006, March). Academic advising at the Colorado School of Mines. [On-Line]. Available: http://www.mines.edu/stu_life/academic/services/pages/UAAM%20PDF%20Docs/Section2.pdf.
- [3] Makar, S. (2002). Litigious students and academic disputes. *The Chronicle of Higher Education* (November, 8). Available: <http://chronicle.com/article/Litigious-Students-and/12601>.
- [4] North Carolina General Assembly (2006, April 11). NC General Statutes. [On-Line]. Available: <http://www.ncga.state.nc.us/gascripts/Statutes/Statutes.asp>.
- [5] Templeton, R.A.; Skaggs, J.L.; Johnson, C.E. (2002, April). Examining faculty's perceptions of student advising to improve learning environments. Annual Meeting of the American Educational Research Association, New Orleans, LA.
- [6] St. Olaf College. Legal issues connected with advising student organizations. Student Organization Advisor Resource. Available: <http://www.stolaf.edu/stulife/orgadvisor/advisorreadings/legalissues.html>
- [7] Tribbensee, N. (2003). **Tort litigation in higher education: A review of cases decided in the year 2001.** *Journal of College and University Law*. V 29, 2, p. 249 – 285.
- [8] Tribbensee, N.E. (2004). Faculty advisor; Beware, you may be liable. *The Chronicle of Higher Education*, 50(42), 811-815.
- [9] Western Carolina University (2006, April). Faculty Advising Manual. [On-Line]. Available: <http://www.wcu.edu/advising/pdf/AdvisingManualforFaculty.pdf>.
- [10] Western Carolina University (2006, April 11). Faculty Handbook. [On-Line]. Available: <http://www.wcu.edu/fachandbook/>.
- [11] Western Carolina University (2006, March). Fall 2006 Schedule of Classes.
- [12] Western Carolina University (2005). University Policies. [On-Line]. Available: <http://www.wcu.edu/chancellor/policies/index.html>.
- [13] University of North Carolina System (April, 2006). The UNC Policy Manual. [On-Line]. Available: <http://www.northcarolina.edu/content.php/legal/policymanual/contents.htm>.

George Ford, EdD

Dr. Ford is an assistant professor in the Department of Construction Management at Western Carolina University. Dr. Ford worked for over fifteen years in the corporate world in plant engineering and environmental engineering positions and managed numerous construction projects as a plant engineer in the paper, plastics and rubber industries including warehouses, manufacturing buildings and utilities infrastructures.

Chip Ferguson, EdD

Dr. Ferguson is an associate professor in the Engineering & Technology Department at Western Carolina University. Dr. Ferguson's professional interests include product design and development, 3D computer modeling & rapid prototyping, and engineered systems development.