



# Technical College System of Georgia

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## Overview of Legal Services

Janelle Cornwall  
Attorney, Office of Legal Services

# Staff

- Joshua McKoon – General Counsel
- Janelle Cornwall – Senior Staff Attorney
- Brannon Jones – Title IX Investigator
- Candice Dicker – Policy, Risk Management & Compliance Coordinator
- Donna Nealey – Legal Assistant

# Overview of Services

The Office of Legal Services provides advice and guidance on a number of areas impacting TCSG and its colleges, including:

- Compliance
- Risk management
- Purchasing and contracts
- Ethics
- Employee discipline
- Student complaints and disciplinary actions
- Unlawful discrimination
- Accessibility
- Litigation
- Investigations

# Overview of Services

## Compliance & Risk Management

- State and federal laws (FERPA, ORA, ADA, Title VII, Title IX, etc.)
- Governor's Executive Orders (ethics, sexual harassment prevention, etc.)
- TCSG Policies and Procedures
- DOAS Rules and Regulations (personnel, purchasing and contracting, etc.)

### A few notes:

- FERPA requires that education records containing students' personally identifiable information (PII) be protected from inappropriate disclosure (6.3.1p1 & 1p2)
- Instructors/Administrators need to know when they can speak with parents about their student (i.e., only if the student is under 18, is claimed as a dependent by parent on taxes, or gives consent)
- When emailing student information, instructors/administrators should not use student names, use initials instead (using student ID numbers is better than using SSN, but this is still PII because it can be traced back to the student)

## Purchasing and Contracts

- Review vendor contracts for terms and conditions TCSG and its colleges are unable to agree to as a state agency
- Also review contracts for compliance with DOAS purchasing rules and TCSG policies (competitive bidding required, State Board approval required, etc.)
- Update Letter to Vendors with common State agency contracting limitations

**Note:** Please send contracts (MOUs, clinical affiliation agreements, terms and conditions, etc.) to Legal Services for review and approval BEFORE signing

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## Ethics (4.3.2p1, 4.3.2p3, 4.3.2p6)

- Respond to questions regarding specific situations or circumstances which may result in an actual or perceived conflict of interest
- Report alleged violations of the Governor's Executive Order on Ethics to the Office of the Inspector General

### A few notes:

- State employees must avoid any conduct that gives off the appearance of ethical impropriety.
- It is a conflict of interest to allow a vendor to pay for an instructor to travel to conferences. Inference is that it is intended to influence a pending/future decision or to reward a past decision.

### A few more notes:

- No employee shall accept, directly or indirectly, any gift – even if it is less than \$75 – from any person with whom the employee interacts with on official state business, including vendors.
- State employees are prohibited from accepting any honoraria.
- State employees must avoid any outside business activity or secondary employment relationship (including certain board service) that creates an actual or perceived conflict of interest with their college employment, or that interferes/conflicts with their ability to effectively perform their job duties.
- Employees must request and receive prior approval from HR, their supervisor, and the college president in order to pursue, hold, or continue secondary employment.

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## Employee Discipline

- In consultation with TCSG's HR Office, advise on employee positive discipline decisions (including dismissals), mandatory EAP referrals, etc.
- Review appeals of employee termination actions and make recommendations to the Commissioner on whether the termination should be upheld

## Student Complaints and Disciplinary Actions

- In consultation with Student Affairs (and Academic Affairs, when necessary), advise on student complaints, student code of conduct issues (academic and behavioral), and student due process procedures

**Note:** Unless it is an emergency situation (i.e., there is a direct or imminent threat of harm to the health or safety of others), students are entitled to due process prior to being removed from a class, program, or clinical site for their performance or behavior.

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## Unlawful Discrimination

- Investigate employee and student complaints of sexual harassment (6.1.2p & 4.3.1p2)
- Report complaints of sexual harassment between employees to the OIG
- Advise on investigations into employee and student complaints of unlawful discrimination, harassment, and/or retaliation on the basis of race, color, religion, national origin, age, or disability (6.1.1p & 4.3.1p)
- Review student appeals of investigative findings
- Advise on EEOC/GCEO position statements and participate in mediations regarding charges of employment discrimination

### A few notes:

- Make sure everyone (including students, faculty, and staff) knows who the Title IX Coordinator is at your college
- Instructors must be aware of what to do if a student tells them they have been sexually harassed or assaulted
- Refer the student to the Title IX Coordinator
- Must tell the Title IX Coordinator even if the student does not want to go to the Title IX Coordinator

## Accessibility

- Respond to questions about providing accommodations to employees and students with disabilities
- Conduct Office of Civil Rights audits (review website and college policies & procedures, facilities walkthrough, interview students and faculty/staff)

### A few notes:

- Required by federal law to provide accommodations to students with disabilities
- Legal Services has had to get involved because instructors did not want to provide accommodations to SWDs
- The Disabilities Coordinator gets to determine the appropriate accommodations, not the instructor
- Must ensure courses are accessible to SWDs, including any platform(s) used by instructors or the college (website, online information is able to be read with a screen reader, etc.)

# Overview of Services

## Litigation

- Accept service of process of litigation notices for TCSG and its colleges
- Forward all litigation notices to the Attorney General's Office to obtain legal representation
- Serve as a liaison between the college and the AG's Office throughout the litigation process, including assisting with the production of documents

## Investigations

- Conduct internal investigations upon request by the Commissioner or a college president
- Investigate allegations of unethical and non-compliant activities within a college or the System Office (or forward the complaint to the appropriate division for investigation)

# Questions?

Email me at [jcornwall@tcsg.edu](mailto:jcornwall@tcsg.edu)

Call me at 404-679-4989

