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**From:** Randhawa, Sabah
**Sent:** Thursday, March 17, 2011 11:24 PM
**To:** Provost's Council
**Cc:** Lynch, Rebecca; Reeves, Meg
**Subject:** New federal rules re "misrepresentations"

The US Department of Education recently passed new “program integrity” rules under the Higher Education Act. There are many aspects to these rules, and we are working with multiple areas on campus to ensure that they are aware of them and taking steps to comply by the July 1, 2011 effective date. Among other things, the new rules significantly broaden the scope of possible “misrepresentations” by the institution, as well as the available sanctions for making misrepresentations (including civil penalties and suspension of federal financial aid). **Any OSU representative can now create OSU liability and threaten OSU federal funding by making oral or written statements that are “likely to confuse or deceive” others regarding (1) the nature of the University’s education program, (2) its financial charges, or (3) the employability of its graduates.** (Note that a statement may be factually true and still be a misrepresentation if it is likely to confuse others.)

If you are interested in more detail, please see <http://www.gpo.gov/fdsys/pkg/FR-2010-10-29/pdf/2010-26531.pdf> for the text of all of the new rules and DOE response to public comment (starting at page 66958 for the misrepresentation rules). On page 66959 (34 CFR 668.71-668.74) of that publication, you will find a long list of examples of the kinds of statements that can lead to a finding of misrepresentation. Note that this is not an exhaustive list, and the definition of “misrepresentation” here is broad.

Becca Lynch, our Assistant General Counsel, has advised the following departments about these new rules to ensure that all are careful and clear in their statements to others about the three categories above: University Advancement, Admissions, INTO, Athletics, Registrar’s, Student Life, Financial Aid, Career Services, and the Cascades Campus Administrator. I am sending you this email so you are aware of the new federal rules. Also, please forward this email unit heads/chairs, CIP directors, and others you decide need to be aware of the rules.

I want to thank Becca for doing the background work and for preparing this summary for us. Please contact Becca with any questions or concerns.

Sabah

**From:** Lynch, Rebecca
**Sent:** Wednesday, June 08, 2011 11:55 AM
**To:** Inform-C10 (Academic Advisors)
**Cc:** Brubaker-Cole, Susie
**Subject:** DOE's New Program Integrity Rules
**Importance:** High

All:

Thank you for the opportunity to speak with you this morning about the misrepresentation portion of the Department of Education’s new Program Integrity Rules.  I hope our discussion was helpful, despite the lack of clarity in the rules themselves and in the Department’s guidance.

I have received a couple of follow-up questions regarding disclaimers, and wanted to clarify a couple of things.  Although questions brought up a discussion of disclaimers this morning, that is not the focus of my advice on this matter.  If you have a syllabus or website with information (for example) and you believe that it may change or that exceptions may be made to certain requirements, it is advisable to be clear with the students in appropriate disclaimers so that they are not misled.  That goes along with my advice to give the students clarity and provide the limits of our knowledge.  But, a disclaimer does not absolve us of our obligation to provide clear and accurate information to our students at all times.  And, of course, any additional statements made to the student (or others) about the information in the syllabi, websites or other documents will be their own candidates for misrepresentation.

**The takeaway is just to be as clear and accurate as possible in all oral/written communications about the nature of OSU’s educational program, OSU’s financial costs and the employability of OSU graduates**.

Per requests, I have attached the text of the rules themselves.  You will notice that the first rule gives the relevant definitions and the next three outline (non-exhaustive) lists of examples of the kinds of statements on which the DOE is focused.  Feel free to let me know if you have any further questions or concerns.  I think Susie will be organizing follow-up issues or best advising practices and I’m happy to work with her on that also.

Thanks!  -Becca

**Rebecca Gose Lynch**

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