

MEMORANDUM
APS 02-03:01

April 7, 2003

To: ALL FACULTY MEMBERS

From: Thomas J. Ebert
Associate Vice President for Academic Personnel

Subject: Private Student Employment by Faculty Members

Recently, it has come to the attention of the university that some faculty may be employing "teaching assistants" or other student employees from their personal funds. Please be advised that such a practice carries risks to both the university and the individual faculty member and therefore is prohibited.

These students are not university employees, but may mistakenly believe otherwise (even if the hiring faculty member has informed them of their true status). They are not covered by the university's worker's compensation program or any other benefits, protections or controls that apply to university employees. Under the circumstances, these arrangements place the university at an unacceptable risk of litigation for claims of injury, discrimination and/or harassment.

Moreover, given that these students are not university employees, they may not legally be granted access to student records, assist with grading, proctor exams, supervise classrooms, or perform other university work as if they were university employees. Faculty who give their privately paid student employees access to student records do so in violation of student privacy rights under FERPA and the Privacy Act of 1974. The university must assure student privacy rights under these federal statutes, and therefore must prohibit this practice.

Faculty should be aware that, while employing a student from their personal funds, faculty "employers" may be held civilly liable for worker's compensation and other claims, and that in such circumstances they should not expect the university to defend or indemnify them. For example, faculty "employers", not the university, are responsible for checking work status (I-9), using appropriate wage rates, deducting and reporting appropriate taxes (including social security taxes, and complying with other employment laws, including those that prohibit discrimination and harassment. The faculty "employer", not the university, will be liable for any and all claims that may result from the prohibited practice of hiring and paying "student assistants" using personal funds and without following university procedures.

Faculty members who wish to pay privately for a student assistant are advised that the best procedure would be to donate the funds to the department and have an appropriately trained individual hired through the normal channels. Under such circumstance, the university assumes the obligations of the employer.

Should there be any questions, do not hesitate to contact academic personnel services at 8-3027.

c: Dr. John D. Welty, President
Dr. J. Michael Ortiz, Provost
Deans