Winters directs contracts

Leslie A. Winters is the University's new director of Contracts Administration. She began that post June 23.

Before coming to Ohio State, Winters served as executive director of the State Personnel Board of Review. Prior to becoming executive director, she was acting executive director from December 1983 to February 1984 and an administrative law judge from July 1983 to December 1983.

From August 1980 to July 1983, Winters served as the assistant attorney general.

Winters graduated with a Juris Doctor from Capital University Law School in 1980. She received her Bachelor of Science degree in Consumer Services from Ohio State in 1976.

The Office of Contracts Administration facilitates the negotiation and execution of contracts and other agreements entered into by the University. It serves as liaison with the Office of the Attorney General in handling requests for legal counsel and issuing payment for such legal services. Also, the Licensing Program within Contracts Administration controls the use of the University's name and seal through license agreements.
OSU legal services review barring

By John Seewer
Lantern staff writer

"The media will not be barred from meetings in the Ohio Union until at least the end of the month," OSU Legal Services Director David Mucci said. "If we receive a ruling that overturns the open meeting law, we will make a decision." The ruling on the legal services department's ability to bar reporters from meetings at the Ohio Union was expected to be issued by the Ohio Attorney General's Office on Monday.

Three Lantern staff members were asked to leave meetings at the Ohio Union in the past month.

According to the Ohio Attorney General's Office, any organization funded by the state cannot deny access to the public. African-American Student Services, Counseling and Consultation Services and the Rape Education Prevention Program, which asked reporters to leave its sponsored events, are offices in the university.

The Office of Student Life issued a new meetings policy which states: "programs at which participation is by invitation to a specified group of persons or by advance registration for participants are not open meetings."

Mucci has not received a copy of the new policy issued from the Ohio Office of Student Law. Counseling and Consultation Services can legally deny public access to group therapy and consultation sessions, director Louise Douce said. Due to the patient-doctor relationship she said the media would disrupt the sessions.

The line has to be drawn between what is therapeutic and what is educational," Matt Thompson, editor of the Lantern, said. The meetings were educational and for the public, Thompson said.

"We don't want to bar reporters, it's not for every workshop, but probably those for oppressed people..." Mucci said he would contact an attorney: "I'm not going to give interpretations of the law," Mucci said.

Mucci has continued to contact the OSU legal services and will wait until a legal decision is made before deciding on a policy for the Union.

"There is a conflict because the Lantern is concerned about freedom of the press and others are concerned with confidentiality for personal growth and awareness and to avoid any discomfort."

-Louise Douce, director of OSU Counseling and Consultation Services

Barring Summary

April 16 - Rape Education and (P)Prevention Program personnel, including a meeting at the Ohio Union, were banning reporters from attending the panel. Matt Thompson, editor of the Lantern, said there would be people willing to grant interviews about these issues... but some wouldn't talk. Douce said.

Any oppressed group mistrusts the press. Douce said.
TRUSTEES APPROVE REORGANIZATION OF ADMINISTRATIVE STRUCTURE

COLUMBUS -- Trustees of The Ohio State University on Friday (7/12) approved reorganization of several areas of the university's administration on the recommendation of President E. Gordon Gee.

The action affects Student Affairs, Communications, Development, Human Resources and Relations, Legal Affairs, and Business and Community Relations.

With the exception of a special assistant for Business and Community Relations, no new positions were created; instead existing positions and personnel were reconfigured.

The restructuring is necessary to address budgetary reductions, better serve the academic and intellectual mission of the university, and improve efficiency, Gee told the trustees.

"Our administrative structure must no longer define and confine the limits of our scholarly aspirations -- rather, our aspirations should define that administrative structure," he said.

"In short, the central administration must be made more responsive to the institution's primary goals of teaching, research and service."
Office of Legal Affairs. This new office has been created to bring all of the legal functions of the university under the direction of one person who will report directly to the president. Until a permanent appointment is made to this position James E. Meeks, special assistant to the president for legal affairs, will assume these responsibilities. This will provide coordination of efforts and better serve the interests of the entire university regarding key legal questions and the impact of changing legislation and regulations, Gee said. "This structure allows the university to anticipate and respond more effectively to legal problems and developments," he said. Attorneys may continue to be assigned to units within the university, but they will benefit from interaction and consultation with a central group of their colleagues, he added.
APPENDIX I

REALIGNMENT AND REORGANIZATION
UNIVERSITY ADMINISTRATION

Adopted by the Board of Trustees, July 12, 1991
(See page 5) - attached at end.
Realignment and Reorganization

Across the nation our colleges and universities are facing a new reality—budgetary reductions and constraints. To address this reality, at a time when we also wish to make the Ohio State University a flourishing intellectual community, we must reshape and refocus the University’s central administrative structure. As I have stated on many occasions, our administrative structure must no longer define and confine the limits of our scholarly aspirations—rather, our aspirations should define that administrative structure. In short, the central administration must be made more responsive to the institution’s primary goals of teaching, research and service. Through this basic principle we can realize our aspirations for Ohio State in a period of revenue limitations because it will imprint a clear and efficient direction on all of our administrative efforts.

Over the past year, I have engaged in a comprehensive evaluation of the administrative structure through internal studies and external consultants. Based on this evaluation I believe we are now prepared to implement a number of changes designed to promote a flourishing community of scholars. I should now like to take a few minutes to set forth the essential aspects of this plan which, with your approval, I will implement at the earliest possible date with the final phases to be completed by September 1991.

With the exception of Business and Community Relations, the plan for realignment and reorganization will not create any new positions, but rather will be accomplished through the reconfiguration of existing positions and personnel. Specifically, the plan calls for the following changes, each of which will be discussed in greater detail.

- Reorganize the Office of Student Affairs and ancillary administrative services for students. Change the position of vice provost for Student Affairs to vice president for Student Affairs.

- Realign the Office of University Communications and Development, establishing communications and development functions as separate entities. The executive director for the Office of Communications will report directly to the president.

- Reorganize the Office of Development and appoint a search committee for the position of vice president of Development and president of the University Foundation.

- Consolidate the personnel, human relations and affirmative action functions into the Office of Human Resources and Relations to be headed by a vice president.

- Coordinate the legal services of the University through the creation of the Office of Legal Affairs to be directed by a general counsel.

- Appoint a special assistant for Business and Community Relations.

- Finalize the searches for vice presidents for Business and Administration, Finance and Agriculture.
Office of Legal Affairs

Under the present decentralized structure of legal services at the University, consistency and technical quality is difficult to insure. More importantly the president and the trustees are deprived the opportunity to rely on the advice of a properly positioned senior lawyer, who represents the interests of the entire University, regarding key legal questions and the impact of changing legislation and regulations. In short, given the complexity of Ohio State and the ever more challenging legal demands of our society, the consolidation of the legal function is necessary.

The creation of the Office of Legal Affairs, under the direction of a General Counsel, will provide this needed coordination of legal services. This Office will provide general legal services for the University and have the responsibility of insuring the quality and effectiveness of all unit level legal services where they exist. Legal Affairs will also coordinate with the Attorney General’s office in selecting outside counsel when such is needed. In addition the General counsel will function as the senior legal advisor to both the President and the Trustees.

This structure allows the University to anticipate and respond more effectively to legal problems and developments. Further as the general counsel directly reports to the President, significant legal issues will receive the appropriate executive level attention.

It should be made clear that the creation of the Office of Legal Affairs does not preclude the assignment of attorneys at the unit level. Specialization at the unit level can continue to be exercised, with trust and confidence nourished by proximity and repeated interaction. At the same time, the unit level attorneys will benefit from the ability to interact and consult with a central group of their colleagues who share the common goal of furthering the interests of the University as a whole.
July 12, 1991 meeting, Board of Trustees

PRESIDENT’S REPORT (contd)

President Gee (contd)

To that end, Mr. Chairman, I would like to recommend for the Board’s approval, the resolution on the restructuring of the University administration as noted in your Board book.

Restructuring of the University Administration – Amendments to the Bylaws of the Board of Trustees and Rules of the University Faculty

Resolution No. 92-1

Synopsis: Approval of amendments to the Bylaws of the Board of Trustees and Rules of the University Faculty to reflect title changes and the delineation of responsibilities in accordance with the recommended restructuring of the University administration is recommended.

WHEREAS as a part of the restructuring of the University administration, amendments to the Bylaws of the Board of Trustees and Rules of the University Faculty are necessary to effectuate the changes proposed; and

WHEREAS paragraph (E) of bylaw 3335-1-03 and faculty rule 3335-3-05 delineates the composition of the president’s executive committee and incorporates changes made pursuant to the proposed restructuring of the central administration of the University; and

WHEREAS the recommendations for reorganization and realignment of the central administrative structure is made pursuant to The Ohio State University’s traditional landgrant mission of teaching, research, and service;

NOW THEREFORE

BE IT RESOLVED, That pursuant to rule 3335-1-09 of the Administrative Code and upon the recommendation of the President, the proposed amendments to the Bylaws of the Board of Trustees and the Rules of the University Faculty are hereby adopted; and

BE IT FURTHER RESOLVED, That the Secretary of the Board of Trustees is hereby authorized and directed to incorporate the recommended changes – title changes, unit designations, and unit realignments in the applicable sections in the Bylaws of the Board of Trustees and the Rules of the University Faculty; and

BE IT FURTHER RESOLVED, That the referenced changes should be reflected in the next printing of these official records of the Board of Trustees.

Upon motion of Mr. Celeste, seconded by Mr. Kessler, the Board of Trustees adopted the foregoing resolution by unanimous voice vote.

(See Appendix I for complete context on Realignment and Reorganization, page 63.)

President Gee:

Thank you, Mr. Chairman.
LEGAL SERVICES TO BE CONSOLIDATED UNDER A GENERAL COUNSEL

COLUMBUS -- Legal services at The Ohio State University will be reorganized and consolidated under terms of a new agreement announced jointly today (10/11) by Ohio Attorney General Lee Fisher and President E. Gordon Gee.

The new arrangement is part of a reorganization of the university's administrative structure recommended by Gee and approved by the university's trustees in July. Fisher's involvement is necessary because under the Ohio Revised Code the attorney general has the responsibility to provide legal services to state colleges and universities.

Under the agreement, a "general counsel" position will be established at Ohio State, with the individual to be chosen jointly by the president and the attorney general and approved by the university's Board of Trustees. The general counsel will be an assistant state attorney general and will head an Office of Legal Affairs at the university that will coordinate responsibilities for legal services.

"This office will bring together all the legal functions of the university under the direction of one person," Gee said. "This will provide coordination of efforts and better serve the interests of the entire university regarding key legal questions..."
and impact of changing legislation. It will allow us to anticipate and respond more effectively to legal problems and developments."

The new Office of Legal Affairs will coordinate the work of all university attorneys, including those now assigned to the Office of Contracts and Legal Services, University Hospitals, the Office of Business and Administration, and The Ohio State University Research Foundation.

In addition, the general counsel will be assisted by a deputy general counsel, also jointly chosen by the president and the attorney general, who will have primary responsibility for supervising litigation. Both the general counsel and the deputy will work closely with the Education Section of the Ohio Attorney General's Office.

Gee and Fisher plan to consult immediately about whom to appoint to these two positions and hope to announce their choices very soon.

James E. Meeks, special assistant to the president for legal affairs since 1988, will fill the general counsel position on an acting basis until a permanent appointment is made.

There is no significant budget implication to the creation of the new office because it is essentially a restructuring of existing positions and duties.

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Contact: James Meeks, (614) 292-0582.
Julie Graham, Ohio Attorney General's Office,
(614) 466-3840
Legal affairs are now centralizing

By Kelly Kramitz
Lantern staff writer

Ohio State's legal services will be reorganized and consolidated based on an agreement made Oct. 11 between OSU President E. Gordon Gee and Ohio Attorney General Lee Fisher.

The new agreement will improve Ohio State handling of legal affairs by centralizing legal services, said James Meeks, special assistant to the president for legal affairs. This will give the university more control over the way legal affairs are sent out, and will save money by enabling the university to anticipate possible legal problems.

"Under the new agreement, the university will be more involved in choosing its legal council," said Julie Graham, public information officer for the Ohio Attorney General's Office.

The old system was internally decentralized, but the new system will bring the work of all university attorneys to a new Office of Legal Affairs, Meeks said.

"This office will bring together all the legal functions of the university under the direction of one person," Gee said. "This will provide coordination of efforts and better serve the interests of the entire university regarding key legal questions and impact of changing legislation. It will allow us to anticipate and respond more effectively to legal problems and developments."

A general council will be appointed by Gee and the attorney general to head the new office. The general council will be a top-level position and will be the equivalent to a vice president at OSU, Meeks said.

The person appointed to this position will draft documents, help supervise litigation, work with "quasi-legal" internal affairs and give legal advice on a variety of legal affairs.

A deputy council will also be appointed to assist the general council. The deputy council will be primarily responsible for supervising litigation.

The new arrangement was recommended last February by an external review team that was hired to look at how the university handled legal affairs and then make recommendations for improvement, Meeks said.

The review team saw the need for some reshaping of administration.

The general council and deputy council have not as yet been chosen, Meeks said, but Gee is working on it by phone while in Colorado with his wife who is undergoing cancer treatment.

No significant change in expenses is expected because the changes being made are in restructuring positions that already exist.
JUDGE ROBERT DUNCAN TO HEAD NEW OFFICE OF LEGAL AFFAIRS

COLUMBUS -- Robert M. Duncan, Columbus attorney and former federal district judge, has been chosen to fill a new position at The Ohio State University as vice president and general counsel.

His nomination, which must be approved by the university's Board of Trustees, was announced today (11/20) by Ohio Attorney General Lee Fisher and Ohio State President E. Gordon Gee.

Duncan will head a new Office of Legal Affairs, which was established as part of a reorganization of the university's administrative structure recommended by Gee and approved by the trustees in July. Fisher's involvement in the appointment process is necessary because, under the Ohio Revised Code, the attorney general has the responsibility to provide legal services to state colleges and universities.

As general counsel, Duncan will be an assistant state attorney general. He will head the Office of Legal Affairs, which will coordinate the work of all university attorneys, including those assigned to the Office of Contracts and Legal Services, University Hospitals, the Office of Business and Administration, The Ohio State University Research Foundation, and the Office of Human Resources and Human Relations.
"We are tremendously fortunate that Robert Duncan has agreed to accept this vital position," Gee said. "His breadth of experience, deep knowledge of the law, and sensitivity to community needs make him an ideal candidate. I look forward to having him on my staff."

"All the legal functions of the university will be brought together under his direction," Gee continued. "This will provide coordination of efforts and better serve the interests of the entire university regarding key legal questions and impact of changing legislation. It will allow us to anticipate and respond more effectively to legal problems and developments."
OSU considers hate speech code

By Chris Davey
Lantern staff writer

The conflict between the First Amendment and political correctness has reared its head at Ohio State. The Office of Legal Affairs has prepared a draft of a proposed addition to the Code of Student Conduct that would place limitations on freedom of expression in an effort to protect members of the university community from speech and conduct that "a reasonable person would consider... to be hostile or patently offensive."

The policy was drafted in response to a demand by the group Afrikans Committed to Improving Our Nation. It would prohibit harassment of individuals based on "race, color, creed, religion, sexual orientation, national origin, sex, age, disability or Vietnamese veteran status."

"The draft states: "Conduct constitutes harassment when it has the purpose or effect of unreasonably interfering with or creating an intimidating, hostile or offensive environment for, another member's full enjoyment of any educational or other university-related program, activity or opportunity.""

The draft was written by the University of Michigan and the University of Milwaukee, Wis., were rejected by federal courts as unconstitutional. The OSU policy was drafted by OSU Chief Legal Council and Vice President Robert Duncan and was reviewed for possible implementation by the Office of Student Affairs.

Unlike the current OSU nondiscrimination policy that deals exclusively with conduct and employment practices, the proposed policy would allow for punishment of verbal behavior, which has at least one constitutional scholar as saying.

"My view is that the code does not distinguish conduct from speech... and I think it fails, it is unconstitutional and it is a matter of absolutely terrible public policy," said Professor David A. Goldberger of the OSU College of Law.

Goldberger is a former ACLU lawyer who argued the controversial "Sokie" case before the Federal Court of Appeals for the Seventh Circuit. In that case, the court ruled that an ordinance prohibiting any speech that would cause "disruption" was not constitutional.

Goldberger said he opposes the proposed OSU policy on the same First Amendment grounds that were involved in the Skokie case.

"It is the antithesis of what ought to be happening on the university campus. It sets up an invitation and opportunity for the university administration to engage in very heavy-handed censorship."

"I think it ought to be fought tooth and nail," he said.

OSU President E. Gordon Gee has said repeatedly that he is opposed to disciplinary codes that limit students' and faculty members constitutional right to free speech.

"When I first came as president of this institution, I thought that perhaps there was a way to draft a code that wouldn't interfere with freedom of expression. But now, the more I think about it, it seems other forms would be better."

Gee said that while he is opposed to disciplinary codes that punish certain forms of speech, he would support a "generic statement of university principles of tolerance and anti-discrimination."

Any addition to the Code of Student Conduct must go through the Legislative/Judicial Subcommittee of the Council on Student Affairs, the full Council on Student Affairs in the University Senate, the Office of Academic Affairs, the President's Cabinet and a Joint Conference Committee.

Assistant Dean Sandra K. Schuster said the Office of Student Life has reviewed the policy and sent it back to Legal Affairs with a number of concerns.

First, she said, she is concerned that the policy could give students unreasonable expectations of a "safe environment." She cited the recent case at the University of Pennsylvania in which a Jewish student was brought up

Draft of Proposed Anti-discrimination Policy

No member of the University community shall discriminate on the basis of race, color, creed, religion, sexual orientation, national origin, sex, age, disability or Vietnamese veteran status.

Discrimination by an employee of the University shall be a violation of this policy.

Any complaint of discrimination shall be brought to the attention of the Director of Legal Affairs.

The determination of whether a particular conduct constitutes harassment will be made on a case-by-case basis and upon a review of the totality of the circumstances, including:

- Whether the conduct was physical, verbal or both
- Whether the conduct was a one-time occurrence or was repeated
- Whether a reasonable person would consider the conduct to be hostile or patently offensive
- Whether others joined in perpetrating the alleged harassment
- Whether the alleged harassment was directed at more than one individual
- The relationship between the parties
- Whether the manner in which conduct occurred reached the degree to which the conduct affected the target of the alleged harassment

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on speech code violations for calling a group of noisy black sorority members "water buffalo." Schuster said she would not like to see students expecting similar acts to be punished at Ohio State.

Second, Schuster said, her office recommended that, on its face, the policy appears as though students could be disciplined for pure expression, something she said she against.

Finally, Schuster said, Student Affairs questioned the advisability of applying the Education Amendments to the university. Originally, these anti-discrimination amendments to the Civil Rights Act of 1964 were applied to the private sector, and their applicability to state universities is still not established by the courts, she said.

Dean of Student Life Richard Hollingsworth said there will be an open, university-wide debate on the proposed policy, and he doesn't expect it to go through until next academic year at the earliest.

"The most difficult thing is to balance among multiple, conflicting constitutional rights. It is good that there will be wide debate and spread of debate," Hollingsworth said.

But Goldberger is not so sure.

"There should be a campuswide debate, and it feels as though they've done everything they can to avoid that," he said. "It's just basically a major step backwards for the university, and it squelches the pressures for political correctness."
Free Speech vs. Harassment at OSU

by John Lasker

Across the country, a debate is raging that pits free-speech advocates against civil-rights activists, dividing some historic allies. Ohio State, it seems, is not immune to the controversy. The university has presented a proposed anti-discrimination and harassment policy that some fear is unconstitutional, and may quash free speech.

The brouhaha started last spring, when the civil-rights group African Americans Committed to Improving Our Nation (ACTION) presented the university with 22 demands to benefit the African-American community. One of the demands asked the university for a new anti-discrimination and harassment policy, which was drafted this past school year by the Office of Legal Affairs. It was recently presented to the administration for review and possible implementation.

But a number of university administrators and the student newspaper, the Lantern, have a bone to pick with the new policy. A section of the proposed hate-speech code may overstep free-speech boundaries: It would give OSU the disciplinary power to sanction a person who says anything about another person’s race, sexual preference, religion, gender and a laundry list of protected categories. A heated and lengthy campus debate, said to be in the making, has been deemed unconstitutional by federal courts.

But perhaps more crucially to the overall discussion, the policy was written in response to a single incident of alleged harassment. Steve McDonald, associate legal council in the Office of Legal Affairs, and a drafter of the policy, says that when his office sat down to find a way to control harassment at OSU, they had no intentions of creating a hate-speech code to deal with the problem.

“I never meant this policy to be a broad-based hate-speech code, and it hopefully will not be applied to speech,” he explains. But he admits that “it could be applied to speech in some instances.”

The university’s lawyers maintain that their draft is not an “overbroad” infringement upon free speech, because any speech being regulated under the policy would have to be “threatening” and “severe,” so that a reasonable person would consider it hostile. McDonald says. “You would have to have a lot more than anger for grounds to sanction a speaker under this policy,” he explains.

“Free speech is not about the words used, it’s about the context in which they’re used,” McDonald says. “We’re not talking about speech that is used in a structured, corporate environment, where a completely different set of rules and social relationships are involved,” Goldberger explains. “These people are very well-meaning, but I don’t think they’ve done what they set out to do.”

As for now, the Office of Legal Affairs has admitted that the policy may have some problems. It is being reviewed for possible revision.
OSU drops hate speech code

Gee concerned policy might not withstand constitutional muster

By Shannon Libby
and Chris Davey
Lancet staff writers

OSU President E. Gordon Gee has announced that Ohio State will not go forward with the proposed hate speech code that has been criticized as unconstitutional.

"That draft is dead in the water," Gee said of the code that was drafted in response to a demand from the group Africans Committed to Improving Our Nation. The code is similar to other universities' codes that have been stricken down by federal courts.

Gee said he has "come to realize that such codes probably would not withstand constitutional muster, and probably are not in keeping with what an institution such as Ohio State should be doing."

Robert Duncan and Steve McDonald, from the Office of Legal Affairs, prepared the draft and submitted it to the Office of Student Conduct, said Dean of Student Life, Richard Hollingsworth.

The policy would place limitations on freedom of expression in an effort to protect members of the university community from speech and conduct that "a reasonable person would consider... to be hostile or patently offensive."

Gee said he would consider a narrower code that would restrict "fighting words," or words the Supreme Court has ruled "by their very nature tend to pose a clear and present danger of inciting an immediate breach of the peace."

But no one in the Office of Legal or Student Affairs said Gee has said anything to them about dropping the current policy or attempting to draft a new one.

President Gee left for Europe yesterday for two weeks and was unavailable for comment.

Meanwhile, campus reaction to the idea of hate speech codes and specifically the proposed OSU anti-discrimination policy has been mixed.

Thomas Schwartz, associate professor of journalism and First Amendment scholar, said he is opposed to all unconstitutional codes.

But, Schwartz said, it is possible to create a constitutionally valid speech code. Instead of focusing on specific kinds of expressions and specific groups, such a code should prohibit "fighting words," which the Court has ruled are not protected by the First Amendment.

Professor Daniel Farrell, chair of the Department of Philosophy, supported the idea of a speech code but only if "it is properly understood and implemented."

Farrell said freedom of speech is important, but people should not be allowed to "use derogatory speech simply to abuse people."

"People have to be allowed to say obnoxious things but not in an obnoxious manner," Farrell said. "We must understand that free speech goes hand in hand with civility, and people should show respect for each other."

There will not be equal public discourse if women, minorities and other groups are verbally abused, Farrell added.

Farrell also said that any judicial committee to judge such offenses should definitely include non-faculty staff and students, as well as members of the faculty and administration.

Mark Conte, president of the Bisexual, Gay and Lesbian Alliance, said he is dismayed by how some people use speech, but he said he still sees freedom of speech as an important right.

"We need to recognize that speech is used to intimidate and harass people," Conte said, citing the verbal harassment of gay students in Bradley Hall as an example. Nevertheless, Conte thinks freedom of speech should not be infringed.

Conte also thinks there are already laws aimed at punishing threatening kinds of verbal behavior, but they are not adequately enforced.

Steve Conley, president of OSU Student Libertarians, said he is completely opposed to any limitations on speech.

"It is impossible to have a society in which no one is going to get offended," Conley said.

Conley also said freedom of speech should be allowed in all environments and no opinion should be suppressed, no matter how ignorant.

"Personally, I think people who use hate speech and ethnic slurs are expressing their own ignorance. Why stop people from showing who they are?" Conley said.

Wesley Bishop, a law student and president of the Inter-professional Student Council, said he supports the idea behind the code. He said he is a supporter of ACTION, which he said is a credible organization that works to improve things for all students, not just African-Americans.

As an African-American, Bishop said he has experienced an attitude of intolerance. "It is important to make sure that comments regarding race don't go unchallenged," Bishop said. Too often such comments are never dealt with, he added.

However, Bishop said he worries such a policy would infringe on free speech. He said such a policy, which punishes certain verbal behavior, "flies in the face of the first amendment."

Bishop said the craft of the policy is not clear enough. "Quite honestly, I don't know what the standards are."

He said there should be more explanation of what a "hostile" and "intimidating" environment is as well as what is necessary to ensure a student's "full enjoyment" of university-related programs, activities and opportunities.

Christopher Norman, president of USG, said he is also opposed to hate speech codes. "You can't monitor people's thoughts and speech."

Norman said he met with President Gee last week, who he said is also opposed to speech codes. He said Gee instructed him that there were no plans to implement such a code in the near future.

Norman added that an anti-discrimination policy that focused on "fighting words" was a possibility.
Policy’s revision irks professor

By Michael Zawlska
Lanteran staff writer

An OSU law professor said he disagrees with the process being used in the revision of a sexual harassment policy for OSU students.

David Goldberger, director of the OSU clinical law program, said the university community should be involved in the revision of the policy, which he says is not happening.

"What are they trying to hide? They’re freezing out the rest of the university from the draft and that is outrageous," Goldberger said. "We want to know what is going on. This should not be a matter of secrecy. It should be something that the whole community participates in."

Goldberger is a former ACLU lawyer and constitutional scholar who argued the controversial “Skokie” hate speech case before the Federal Court of Appeals for the Seventh Circuit.

He raised concerns this summer about the constitutionality of the sexual harassment policy, saying it would infringe on First Amendment rights.

"Legal Affairs thinks it is constitutional, but they are wrong. It will be struck down if it is litigated," he said.

Alist Amanosky, the University Senate representative for the College of Law had the policy struck from the Senate agenda in June because he shared some of Goldberger’s concerns.

"I was concerned by the First Amendment issues involving that policy that were not considered," he said.

But university administrators have stood by the policy since its inception.

"I don’t think that, as drafted, that the policy is unconstitutional," said Steve McDonald, OSU associate legal counsel in the Office of Legal Affairs.

The proposed policy defines sexual harassment as "any unwelcome sexual advance, request for sexual favor, offensive reference to gender or sexual orientation or other conduct of a sexual nature."

The proposal goes on to say that an action is considered sexual harassment when it falls under one of two categories. The first is when "submission to or rejection of such conduct is used either explicitly or implicitly as a basis for any decision affecting an individual's employment, any program or activity, or status in an academic program." The second category is virtually identical to criteria in the proposed OSU hate speech code that was withdrawn by the university over the summer because OSU President E. Gordon Gee said it “probably wouldn’t withstand constitutional muster.”

The sexual harassment policy states that conduct constitutes harassment when it “has the purpose or effect of unreasonably interfering with an individual's work performance or educational experience or creates a hostile, intimidating or offensive environment for working, learning, or living while associated with activities involving the university.”

Saundra Schuster, OSU assistant dean of Student Life, said there have been no revisions to the policy since it was pulled from the University Senate agenda this summer, and the policy will not be ready to be resubmitted to the Senate until the Nov. 6 meeting.

Schuster said the controversy surrounding the proposed policy lies in the fact that much of the terminology in the proposed policy comes from Title VII of the 1964 Civil Rights Act, which covers sexual harassment in the workplace.

Title VII says sexual harassment occurs when a person’s work environment is compromised, or if a person’s employment or advancement is affected, Schuster said.

If accepted by Ohio State, the policy, which would be added to the OSU Code of Student Conduct, would apply to students during all activities at Ohio State.

Goldberger remains wary of the constitutionality of the proposed policy saying that it would be better suited for a business environment.

"This is a state university, and they want to turn Ohio State into a General Motors manufacturing plant," Goldberger said. "The use of Title VII is too broad."

In a similar situation in 1991, the University of Wisconsin Board of Regents went to court to defend its rule, also derived from Title VII, that stated “students are prohibited from directing discriminatory epithets at particular individuals with intent to demean them and create a hostile educational environment.” A U.S. District Court decided in that case that Title VII addressed employment, not educational settings, and, since Title VII is only statute, it cannot supersede requirements of the First Amendment.

A separate sexual harassment policy, applying to all OSU faculty, staff and students working at Ohio State, will be presented to the University Senate on Oct. 3.

Helen Ninio, director of Dispute Resolution Services, said this policy will feature an expanded definition of sexual harassment.

She would not further elaborate on the policy, and because it is still in draft form, Ninio would not release it to the Lantern.

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Student alleges summer job scam

By Julie Stebbins
Lantern staff writer

An OSU student who said she didn’t get paid for her summer job last year got a certain amount of satisfaction Thursday.

Royal Prestige Elite Opportunities, an Indianapolis-based company that employed Mary Kidder, a junior from Marietta, found itself kicked out of the Ohio Union because of her complaints.

Kidder said when she took an internship with Royal Prestige, they guaranteed she would earn $3,600 for the summer for giving health awareness programs for various companies.

Instead, Kidder said she ended up having to sell pots and pans on commission.

“They keep you in the dark for as long as they can, so you can’t find another job,” Kidder said.

She said the company does not have to pay an employee who quits, because they weren’t going to pay anyone until the end of the summer. Kidder said she kept the job for the duration but was never paid.

“(At) the end of the summer, I did not get my money,” Kidder said. “It was a very degrading experience. I put many hours into working for this company and I got nothing,” Kidder said.

Royal Prestige refused to comment.

Barbara Kidder, Mary’s mother, said she had contacted OSU President E. Gordon Gee, who referred her to Legal Affairs because Royal Prestige was using an unauthorized affiliation with Ohio State.

Mrs. Kidder said she was told the Ohio Union would no longer let the company rent space for interviews.

Mrs. Kidder said Mary later called to inform her that the company was returning to the Ohio Union for internship interviews. Mrs. Kidder then called Susan Henderson, acting director of Ohio Unions.

Henderson said she called Royal Prestige to inform them they would have to cancel their room reservations, because of the problems Mrs. Kidder had brought to the university’s attention.

Henderson said Royal Prestige then called Legal Affairs to tell them they were a different company. She said Mary Kidder told her Thursday the names were the same as the ones on the last year’s brochures.

Henderson said she, the Kidders, and the head of housekeeping then made the company leave the premises.

“They basically just misrepresented themselves to us on the phone, and I told them no, they have to leave,” Henderson said.

James Wilkens, associate legal counsel in the Office of Legal Affairs, said the language on the brochures was the main concern of the university.

“They were indicating that college credit was available for the work,” Wilkens said. “While I have no idea if college credit is available at other institutions, it certainly is not here at Ohio State.”

Kidder said Royal Prestige told her to tell people she was affiliated with Ohio State, and that she would receive college credit for her work. Wilkens said they do not normally screen the people who recruit students from the unions because the university does not have the necessary financial resources.
OSU to examine compliance with Internet law

By David Bhaerman

Even though a federal judge last week temporarily blocked a controversial new law that bans "indecency" on the Internet, a court battle is still looming.

University officials here and across the country will have to wait until the lawsuit is resolved before determining whether computer policies need changed.

But even if the law is sustained in court, don't expect it to completely rid computer terminals at Ohio State of sex-related material, say University computer and legal experts.

The Communications Decency Act, which imposes Internet restrictions, is part of a sweeping telecommunications bill recently signed into law by President Clinton. The restrictions are the focus of a lawsuit filed by the American Civil Liberties Union and a coalition of other groups immediately after the bill was signed Feb. 8.

On Feb. 15, a federal judge issued a temporary restraining order halting enforcement of provisions making it a felony to transmit "indecent" material via computer to children younger than 18. But the judge left open a provision barring "patently offensive" material.

Steve McDonald, associate legal counsel for Legal Affairs Administration, said the law could cause some serious problems for Ohio State, where Internet access is available to everyone.

"We have a lot less control than the commercial services, which can say, 'If you're not 18, you're not allowed on,'" McDonald said. "We have a system that anyone is eligible to use, and we have a lot of freshmen who are younger than 18." Ohio State's system also offers a service for students in kindergarten through grade 12.

"Our system is a lot more porous than a commercial system," McDonald said. "More minors have access to it, which makes it harder for us."

It's the censorship provisions that worry First Amendment expert David Goldberger, professor of law.

"I'm concerned about the impact of the statute on the University's open and relatively uninhibited access to the Internet," Goldberger said. "For the most part, the University has kept its hands off the Internet."

But Goldberger can envision a day when that no longer is the case.

"If it's sustained in the courts, it would place a terrific burden on the University," he said. "It may result in the University trying to regulate access to control free and open discourse."

But Bob Dixon, director of the advanced technology group for University Technology Services, said much First Amendment concern about the Internet is moot. His reason? "Some of these restrictions are unenforceable and impossible to implement," he said.

"How ridiculous to legislate something that's impossible to do," Dixon said. "It's impossible and futile. We'll do nothing right now until the legal actions play out, until we see by consensus what all the universities will do," he said. In the meantime, "we'll follow the situation closely."

Although there are new kinds of controls that the University might be able to use to comply with the law, Dixon said people easily could find their way around the controls.

"We could ban, not distribute, the sex newsgroups. But people would find their way around that," be said. "They would just change the name of it, and word would get around where it is."

Likewise, there are computer programs that block access to a particular web site, but if the web address is changed, that part of the software is rendered useless.

This week, Ohio State carried 4,622 newsgroups of the tens of thousands in existence — but there is no way to determine how many of those have a sex theme, said Bill Miller, assistant director of academic computing in UTS. And since none of them originate at Ohio State, there is no way to measure how many web pages or mailing lists have sex themes.

"Thirty of the newsgroups we carry have the word 'sex' in the name, but some are like 'clari.news.crime.sex,' which is about sex crimes, the same as you'd hear on radio or TV," Miller said.

Not only is there no way to ascertain how many sex-related newgroups, web pages or mailing lists there are, the University has no way to measure what is being accessed.

McDonald agrees there probably is little that can be done right now to comply with the new law. But as one of the University's legal advisers, he is concerned about liability.

"If the law holds up in court and is ever enforced, under the current language, we will responsible for what is on our own system," McDonald said. "The biggest concern is the 'alt.sex' and other sex newsgroups on Usenet because they flow in and sit on our own system, so we might have to do something there."

"Theoretically we could monitor and make a decision about every single thing that comes across, but we'd have to hire an army to do that. Instead we might have to block access to some of Usenet, set some stringent guidelines and impose sanctions for anyone who violates them."

For the time being, McDonald said the University will take a wait-and-see approach while it considers its options.

"If the courts say we are strictly liable, we'll have to make a serious choice," he said. "We'll have to act promptly. We don't yet have any contingency plans, but there are no easy answers short of pulling the plug on the Internet, which we don't want to do."
University adds to legal staff
Associate counsel to work on select contracts, claims

COLUMBUS – Virginia M. Trethewey, general counsel and executive assistant to the president, today announced the appointment of Anneliese Bohm as an associate legal counsel. Bohm, a native of Worthington, Ohio, replaces Steven J. McDonald, who left the university in June to become the general counsel at the Rhode Island School of Design in Providence.

Trethewey said Bohm’s training in business and contract law will add to the university’s expertise in a key area.

“Every unit in the university has some involvement with contracts and multi-party transactions,” Trethewey said. “Anneliese’s experience will strengthen the services we can provide to colleges and support units.”

Bohm joins the university from Baker & Hostetler, where she had been an associate since 1999 in the areas of business, real estate and securities law. Her experience also includes work with the New York State Supreme Court.

At the university, Bohm will work on select contracts as well as administrative claims, and will provide legal counsel to University Libraries, the John Glenn Institute for Public Service and Public Policy, the Wexner Center for the Arts and the WOSU stations. She also will work with Purchasing and Traffic and Parking.

A 1999 graduate of the Fordham University School of Law, Bohm earned a bachelor’s degree in English from Bucknell University in 1995.

Bohm is a member of The Wellington School Board of Trustees and is chairperson of its alumni association. Additionally, she serves as a trustee to Opera Columbus and is a museum associate of the Columbus Museum of Art.

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GOOD MORNING!

WELCOME TO OSUToday, the latest news and information from The Ohio State University for the week of Monday, Aug. 9.

MITCHELL JOINS LEGAL AFFAIRS AS ASSOCIATE COUNSEL

-- Michael A. Mitchell has joined the Office of Legal Affairs as a new legal counsel. Mitchell comes to Ohio State from the law offices of Calfee, Halter and Griswold LLP, where he was head of the technology practice group for the firm's Columbus office. He also has served as general counsel for WHM Enterprises Inc., of counsel at Masters and Jesse Co. LPA, and an associate at John A. Demer and Associates. He earned his bachelor's degree at the University of Wisconsin and his juris doctor at Case Western Reserve University School of Law. At Ohio State, Mitchell will provide advice and representation in areas of general higher education law relating to research practices, integrity and misconduct, conflicts of interest, human subjects research, federal regulatory compliance, intellectual property, entrepreneurial initiatives and contract issues.