

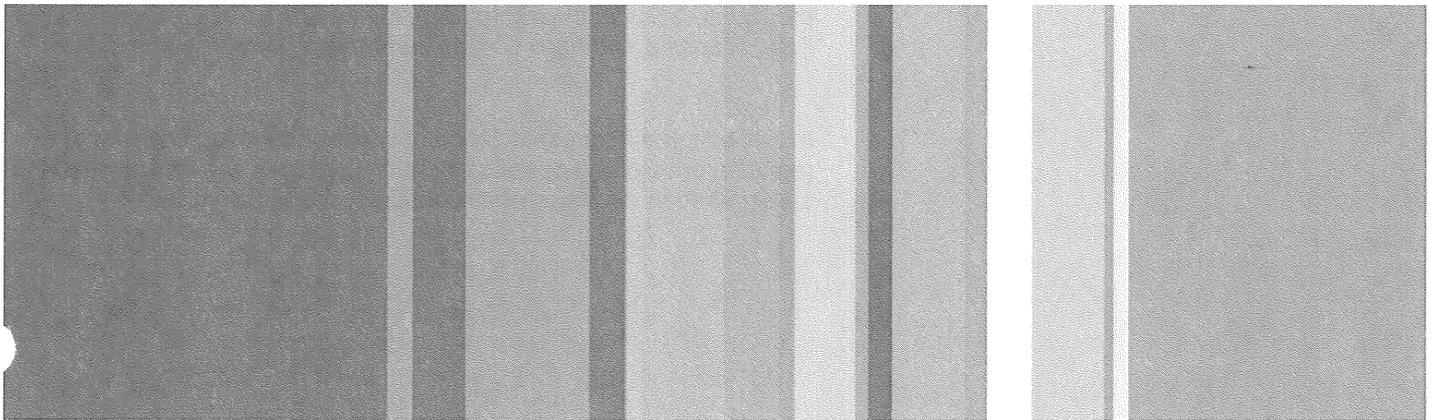
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January 15, 2013



Report on Graduate For-Profit Colleges and Universities in Minnesota

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About the Minnesota Office of Higher Education

The Minnesota Office of Higher Education is a cabinet-level state agency providing students with financial aid programs and information to help them gain access to postsecondary education. The agency also serves as the state's clearinghouse for data, research and analysis on postsecondary enrollment, financial aid, finance and trends.

The Minnesota State Grant Program is the largest financial aid program administered by the Office of Higher Education, awarding up to \$150 million in need-based grants to Minnesota residents attending eligible colleges, universities and career schools in Minnesota. The agency oversees other state scholarship programs, tuition reciprocity programs, a student loan program, Minnesota's 529 College Savings Plan, licensing and early college awareness programs for youth.

In addition, the Minnesota Office of Higher Education licenses and registers private and out-of-state public colleges and universities and career schools as a part of its consumer protection mission.

Minnesota Office of Higher Education

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Introduction

The Office of Higher Education (OHE) was directed by the Minnesota State Legislature to report on graduate for-profit colleges and universities regarding graduate student rights and responsibilities*. The following four topics were examined at Minnesota's graduate for-profit institutions:

- A. Graduate Students Intellectual Property Rights
- B. Graduate Student Disciplinary Processes
- C. Guidelines Addressing Academic Freedom of Inquiry for Students
- D. Administrative Processes in Place to Address Disputes

Method of Collecting Information

OHE sent letters requesting copies of institutional policies relating to the four topics of the study to graduate for-profit colleges and universities in the state, including national for-profit corporations headquartered outside of Minnesota with a physical campus in Minnesota. All institutions were willing to provide their documentation and OHE thanks them for their prompt responses. For-profit institutions that offer graduate degrees with a campus in Minnesota include:

- American Academy of Acupuncture and Oriental Medicine (Local, one campus)
- Argosy University (National, headquartered out of state)
- Capella University (National, headquartered in MN)
- DeVry University (National, headquartered out of state)
- Globe University (Regional, operates in some neighboring states, headquartered in MN)
- Herzing University (National, headquartered out of state)
- McNally Smith College of Music (Local, one campus)
- National American University (National, headquartered out of state)
- University of Phoenix (National, headquartered out of state)
- Vesper College (Local, one campus)
- Walden University (National, headquartered in MN)

For comparison, OHE requested the same information from MnSCU, the University of Minnesota and a few private not-for-profit institutions. OHE selected not-for-profit institutions on the basis of their size and their ability to represent trends in the non-profit sector. This information was solicited to determine if policies at for-profits were different from those in the other sectors based on clarity, comprehensiveness or if the institution has enacted policies in regards to academic freedom and intellectual property. Submitting this information was not required of non-profit institution and OHE thanks them for their willingness to contribute to this report. The private not-for-profit institutions include:

- Augsburg College
- Bethel University
- Concordia College
- Northwestern College
- Saint Catherine's University
- Saint Marys University of Minnesota
- University of Saint Thomas

* This request initially stemmed from a complaint brought to the attention of the legislature by a former graduate student who claimed that intellectual property was misappropriated by an institution and /or a professor.

OHE reviewed the documentation provided by these institutions to look for substantive differences among institutions and to determine which policies were clear and comprehensive and thus, easily understood by students, faculty and other interested parties.

Copies of the letters sent to both for-profit and not-for-profit institutions are located in Appendix A and Appendix B.

General Findings

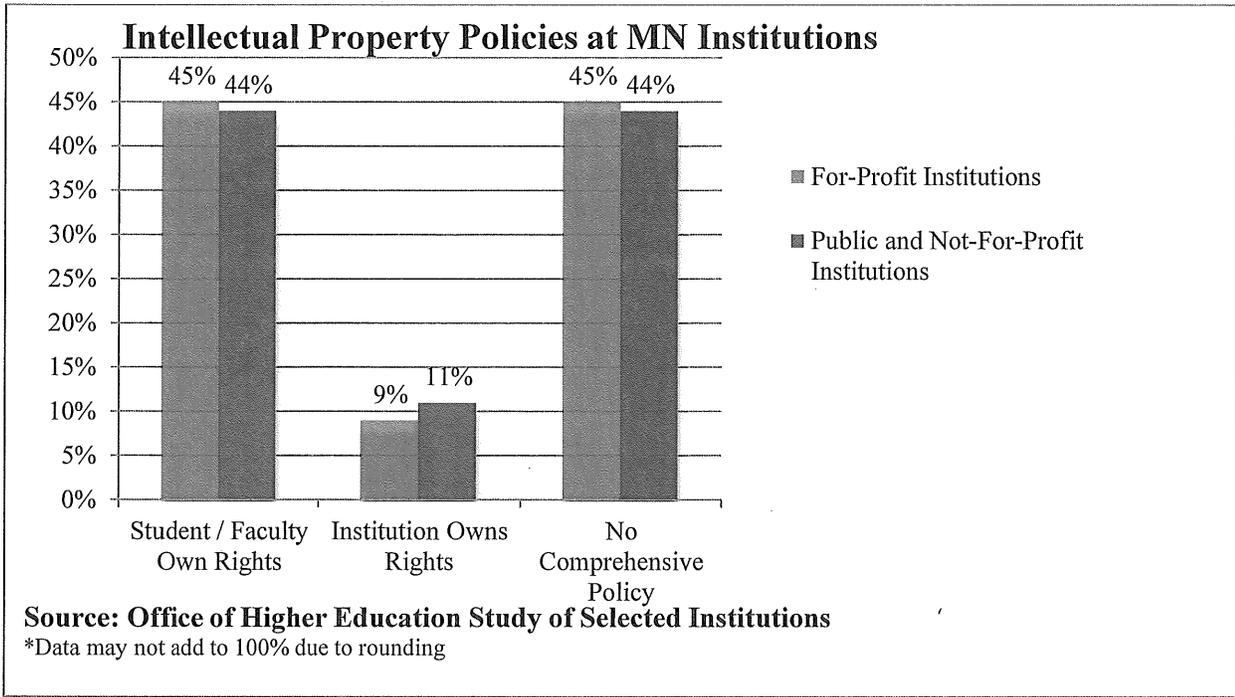
Overall, OHE observed a great deal of variation among responses from institutions in both for-profit and not-for-profit /public sectors in the areas pertaining to intellectual property and academic freedom of inquiry. Institutional policies regarding graduate student disciplinary processes and policies in place to address disputes were more uniform and comprehensive. In general, the for-profit sector as a whole has written policies that are similar to other sectors. Specifically, compared to the public and not-for profit sectors, the for-profit sector in Minnesota is neither unique nor deficient in regard to these policies.

A) Intellectual Property

Institutions in the for-profit, not-for-profit and public sectors fell into one of three classifications in regards to their intellectual property policies. The classifications are:

1. The intellectual property policy clearly states that works created by students and/or faculty belong to the creator of that work.
2. The intellectual property policy clearly states that works created by students and/or faculty belong to the institution.
3. The institution lacks a comprehensive intellectual property policy.

The distribution among the three classifications is incredibly similar among public, not-for-profit, and for-profit institutions. Nearly 50% of institutions in the public, not-for-profit and for-profit sectors fell into the third classification, lacking a comprehensive intellectual property policy. The remaining institutions in the three sectors mostly had policies clearly stating that works created are the property of the individual who created that work. Only two institutions across all sectors had policies clearly stating any works created are the property of the institution. The impetus for the institution owning the work of the student or faculty member was not related to the institution's sector.



Intellectual Property is a complicated subject matter. Some institutions have separate policies for their students and their faculty. Others explained that students may pursue copyright protections for their work and still others denoted a list of exceptions to their rules. Some institutions with no comprehensive policy regarding intellectual property have vague statements that could be misinterpreted by students, faculty, and outside observers.

To be effective, these policies need to clearly articulate institutional positions on intellectual property to relevant participants. Language that is clear, easily understood, and effectively conveys where a student or faculty member stands in regards to any work they create is needed at all institutions, for-profit, not-for-profit and public. There are a few examples of policy that meet the criteria of being clear and easily understood. Here are examples of such policies:

“The [Name of Institution] student who creates intellectual property owns the intellectual property”

“In accordance with the law of copyright, faculty-assigned student writings, including answer material for tests, projects, research papers and business plans prepared in connection with any course, are the property of [Name of Institution] and may be used by the School for educational purposes.”

Finding:

Intellectual Property policies are most effective if they are located in an easily accessible place for students and faculty to access, such as in the student catalog or faculty handbook. Many institutions surveyed do not have easily accessed policies and still others have no policy whatsoever. Institutions that lack clearly defined statements may find themselves at risk of entering a legal dispute regarding intellectual property.

B) Graduate Student Disciplinary Processes

All institutions surveyed for this report provided descriptions of their disciplinary processes. They mentioned under what conditions a student shall be subject to disciplinary action. Examples of such disciplinary action include:

- Verbal Warning
- Written Warning
- Academic Probation
- Suspension
- Dismissal

While there is variation among institutions regarding the severity of certain graduate student transgressions, these policies are clear, easily understood, and located in an easily accessible document for students to access.

Finding:

Under the current Minnesota Private and Out-of-State Public Postsecondary Education Act (MnStat 136A.61-136A.71) institutions are required to publish their disciplinary process and procedures. All institutions surveyed are in compliance with this section of the statute.

C) Academic Freedom of Inquiry for Students

Academic Freedom is a central tenet of higher education in the United States. It refers to the right of students and faculty to express opinions without fear of disciplinary action or retribution from their institutions. The American Association of University Professors states:

“Students and student organizations should be free to examine and discuss all questions of interest to them and to express opinions publicly and privately. They should always be free to support causes by orderly means that do not disrupt the regular and essential operations of the institution. At the same time, it should be made clear to the academic and larger community that in their public expressions or demonstrations students or student organizations speak only for themselves.”

Many schools in this study provided statements that broadly express their commitment to academic freedom for their students. Here are a few examples:

“[Name of Institution] supports the development of autonomous thought and respect for the ideas of others”

“It is [Name of Institution] policy to safeguard the free exchange of ideas and to not limit the legal rights of any members of the community”

Some institutions had clear policies on academic freedom for faculty, but less specific or clear policies on academic freedom for students. These institutions did not have a policy specifically dedicated to the concept of academic freedom of inquiry but have statements regarding freedom of expression in other sections of their catalog or student handbook. These statements were embedded within other broader policies relating to education goals, instructional policies, and other institutional policies or goals.

Finding:

Minnesota Statute Chapter 136A.65 sub.4 (6) requires that each school have a policy on freedom or limitation of expression and inquiry for faculty and students. OHE recommends that institutions who do not have a policy on academic freedom revise their documents to specifically address academic freedom for both their students and faculty.

D) Administrative Processes to Solve Disputes

A typical institution explains that disputes not resolved between the student and relevant parties are taken to either a dean, other administrator, or are subject to committee review. If these processes fail, the student may elect binding arbitration or further their complaints to the university's accreditor, OHE, or seek legal redress for their claims.

Finding:

The documentation provided to OHE addressing dispute resolution is largely comprehensive and easily understood and accessible. Minnesota Statute Chapter 141.25 sub.9 (15) requires licensed institutions to list the address of OHE in their catalog so that students are aware that they can take their complaints to OHE. It is recommended that the legislature consider adding this requirement to the Minnesota Private and Out-of-State Postsecondary Education Act.

Recommendations

Recommendations resulting from this report are intended for all institutions that offer graduate education in Minnesota including public, not-for-profit and for-profit institutions.

A large number of institutions lack policies regarding A) intellectual property and C) academic freedom of inquiry. OHE sees the potential for these institutions to be subject to legal action similar to the situation legislators observed that prompted the request for this report. OHE recommends the legislature consider the following action:

Amending the Minnesota Private and Out-of State Public Postsecondary Education Act (MnStat 136A.65 sub.4(6) to include the following:

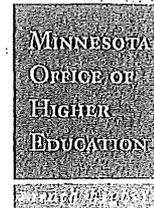
1. Requiring a clear, easily understood, and accessible policy with regards to intellectual property created by a student or faculty member. (Topic A)
2. Requiring that a policy specifically addressing academic freedom for students be written in each institution's catalog, brochure, or electronic display. (Topic C)
3. Requiring that institutions registered with OHE clearly publicize OHE's name, address and website in their catalog, brochure, or electronic display as a resource for addressing student complaints. (Topic D)

Appendix A: Letter to For-Profits

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August 15, 2012

Dear:

The 2011 Minnesota Legislature has directed the Minnesota Office of Higher Education to conduct a study of for-profit institutions with a physical presence in Minnesota that offer graduate level degrees. Specifically, the statutory language requires the following:

The study must examine the rights and responsibilities of graduate students attending those institutions. At a minimum, the study must include:

1. An analysis of graduate student disciplinary processes.
2. Process and policies adopted for the protection of graduate students' intellectual property rights.
3. Policies and guidelines addressing academic freedom of inquiry for students.
4. Administrative processes in place to address disputes.

The office must report on the findings of this study by January 15, 2013.

Most of the required areas of review are a part of the Private Institution Registration (PIR) process and are therefore already included in your catalogs, student handbooks, or other publications.

We are requesting that you provide this office with copies of your institution's policies and/or procedures relating to the four items mentioned above to assist us with the study. We are particularly interested in the information concerning intellectual property which is not a part of the PIR process. Please deliver this information to the Minnesota Office of Higher Education no later than September 7, 2012.

If you should have any questions about this matter, please feel free to call me at 651-259-3975 at your convenience.

Yours truly,

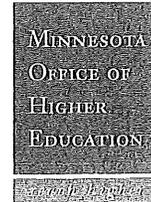
George R. Røedler, Jr.
Manager, Institutional Registration & Licensing

Appendix B: Letter to Not-For-Profits

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August 15, 2012

Dear:

The 2011 Minnesota Legislature has directed the Minnesota Office of Higher Education to conduct a study of not for-profit institutions with a physical presence in Minnesota that offer graduate level degrees. Specifically, the statutory language requires the following:

The study must examine the rights and responsibilities of graduate students attending those institutions. At a minimum, the study must include:

1. An analysis of graduate student disciplinary processes.
2. Process and policies adopted for the protection of graduate students' intellectual property rights.
3. Policies and guidelines addressing academic freedom of inquiry for students.
4. Administrative processes in place to address disputes.

The office must report on the findings of this study by January 15, 2013. This information will be used for comparison purposes.

Most of the required areas of review are a part of the Private Institution Registration (PIR) process and are therefore already included in your catalogs, student handbooks, or other publications.

We are requesting that you provide this office with copies of your institution's policies and/or procedures relating to the four items mentioned above to assist us with the study. We are particularly interested in the information concerning intellectual property which is not a part of the PIR process. Please deliver this information to the Minnesota Office of Higher Education no later than September 7, 2012.

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