

May 3, 2018

To: University Senate
From: Office of the General Counsel
Re: ORS 352.226(9) and (10)

The following relates to [ORS 352.226\(9\)](#) and (10) insofar as those provisions pertain to the protection of students' identities in classroom survey evaluations.

Oregon Revised Statutes 352.226 governs access to personnel records. The relevant statutory provisions read as follows:

ORS 352.226(9): Classroom survey evaluation by students of a faculty member's classroom or laboratory performance shall be anonymous. The record of tabulated reports shall be placed in at least one of the files designated in subsection (4) of this section. All survey instruments used to obtain evaluation data shall be returned to the faculty member.

ORS 352.226(10): A public university listed in ORS 352.002 and, after July 1, 1975, but before the date on which the public university obtained a governing board, the State Board of Higher Education and its public universities, offices, departments or activities, when evaluating its employed faculty members, may not solicit or accept letters, documents or other materials, given orally or in written form, from individuals or groups who wish their identity kept anonymous or the information they provide kept confidential.

Under Subsection 9, all classroom survey evaluations by students of a faculty's classroom or lab performance "shall be anonymous." The statute provides no exceptions to this requirement. Subsection 9's protection of students' identities in classroom survey evaluations is therefore an express limit on the faculty access rights set forth in Subsection 10.

It is important to note what is *not* included in the foregoing statutory scheme. First, ORS 352.226 says nothing about whether the classroom survey evaluations must be statistical versus narrative. They could be either statistical or narrative, or a combination of both. Next, ORS 352.226(9) does not *require* student survey evaluations of a faculty member's classroom or laboratory performance. Rather, as described above, it just requires that if they are conducted, they must be anonymous. Moreover, ORS 352.226(9) does not prohibit the University, college, or department from separately soliciting or accepting identifiable written evaluations of faculty by students (per ORS 352.226(10)), so long as they are not part of a student's survey evaluation of the faculty's classroom or lab performance. In other words, the statute does not prohibit the University, college, or department from seeking a student's evaluation of a professor's performance other than in the class or lab wherein the professor taught that student.

In sum, ORS 352.226 neither requires nor prohibits students' survey evaluations of a faculty member's classroom or lab performance—it just provides that if they exist, they must be anonymous.

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