



Louisiana State University System

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Office of the President

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January 24, 2008

Permanent Memorandum

Subject: PM-72 (New)

Reference: Obtaining Legal Services

Policy: The appropriate obtaining and proper use of legal services by University personnel requires responsible management. To control costs, increase efficiencies, and insure quality and proper representation of LSU and each of its institutions, the following policies are to be followed prior to the use of any legal services by any campus or institution. The System Office of General Counsel shall issue Guidelines to implement this policy and to establish appropriate billing, invoicing, and other policies and procedures to be followed by lawyers and law firms representing LSU. Each chancellor or equivalent shall ensure compliance with this policy.

1. Contracts for Legal Services

- 1.1 All contracts for legal services must be signed by (i) the President after review by the System general counsel, or (ii) by the System general counsel, if authorized by the President. Any contract with any law firm licensed to practice law either within or outside the state shall be considered a contract for legal services, regardless of the nature of the services to be performed.
- 1.2 No contract for legal services should be for a term longer than 3 years (see R.S. 39:1514). If the hourly rate provided in the contract exceeds the standard rates set by the Attorney General, the contract itself must include particularized and specific provisions to assure that legal issues are properly focused *prior* to the rendering of such services. The System Office of General Counsel ("Office of General Counsel"), in consultation with appropriate campus officials, will evaluate performance and the on-going needs of the System and its institutions.
- 1.3 "Legal services" shall mean all services contracted for or provided by a lawyer (whether or not admitted to practice in Louisiana), by a law firm (whether or not its members are admitted to practice in Louisiana), or by any other person or entity for the provision of any services relating to any aspect of the practice of law, legal work associated with the issuance of bonds, or the provision of regulatory or governmental relations services.

2. Requests for Legal Services for Specific Matters

- 2.1 Each Chancellor or equivalent, within thirty days of this date, shall designate in writing those employees or positions at their campus or institution authorized to make a Request for Legal Services ("Request"). The number of employees or positions so authorized should be kept to the minimum necessary for the efficient operation of the campus or institution, and should normally be

no more than six in number. This authority shall not be further delegated (e.g. the vice-chancellor or provost may not further delegate to all deans).

2.2 No work shall be performed under any contract for legal services except pursuant to a Request from an LSU employee authorized pursuant to section 2.1 to make such Requests.

2.3 All Requests must be made in writing (including e-mail) to a lawyer with an existing contract for legal services with LSU pursuant to section 1.1. A copy of the Request shall be simultaneously transmitted to the Office of General Counsel. Where legal services are desired from a lawyer or law firm which does not have an existing contract for legal services, the Chancellor or equivalent may recommend to the President and the System general counsel that a new contract be entered into under the provisions of section 1.2.

2.4 The following information must be included in the Request submitted to the lawyer, or if not then feasible, a separate writing within 72 hours of the Request, a copy of which shall also be sent to the Office of General Counsel:

2.4.1 Campus name.

2.4.2 Name of the individual authorized pursuant to section 2.1 making the Request.

2.4.3 A description of the matter for which the Request is being made, including a clear and concise explanation of why legal work is believed necessary.

2.4.4 The name of the lawyer and law firm, if applicable, expected to perform the legal services specified in the Request, which selection should be made after consulting with the subject-matter list of authorized firms and lawyers maintained by the Office of General Counsel.

2.4.5 The name of the LSU employee who will be the primary point of contact ("Contact Employee") for the lawyer for the matter for which the Request is made. This employee will be responsible for certifying receipt of the legal services and reviewing all invoices for legal services submitted pursuant to the Request, subject to the supervision of the Office of General Counsel. At the discretion of each campus, the Contact Employee may be the same person as the authorized employee making the Request.

2.4.6 A unique file name or number generated by the campus or institution to identify the matter, which shall be used to identify all legal services performed pursuant to the Request. Together with the initials of the campus or institution, this shall be the Request Identifier (e.g., LSUA&M-23, UNO-17). At the discretion of each campus, the Request Identifier may also include a reference to the authorized employee or administrative office making the Request (e.g., LSUA&M-Property&Facilities-23).

2.4.7 Classification of the matter in one or more of the following categories. If uncertain, this classification may be provided separately by the lawyer, pursuant to the Guidelines.

(i) Public Regulatory Issues: *Public records, open meetings, governmental ethics, environmental compliance, police and public safety, audits*

(ii) Faculty & Staff: *Appointment/reappointment, tenure, administration, employee conduct, civil service employment, employee benefits*

(iii) Athletics: *Coaches, athletic staff, student athletes, NCAA compliance, related contracts*

(iv) Students: *Grades, academic standing, admissions decisions, conduct and discipline, residential life issues*

- (v) Major Contracts: *Cooperative endeavor agreements, affiliation agreements, major university contracts*
- (vi) Bond Review or Issuance: *All matters related to the issuance of bonds by the university or any affiliated entities*
- (vii) Immovable Property: *Acquisitions and sales, leases, mineral rights, servitudes*
- (viii) Claims and Litigation: *Suits or written demands for damages or other torts, employment or other discrimination, breach of contract, risk management, accident investigation*
- (ix) Procurement: *Unique procurement issues, compliance, contested awards*
- (x) Intellectual Property: *Patents, copyrights, trademarks, licenses, contract administration*
- (xi) Healthcare: *Hospitals, regulatory compliance*
- (xii) Immigration: *LSU's interests and responsibilities in faculty, staff, and student immigration matters*
- (xiii) Government Relations: *Review of relevant legislation, drafting of amendments, position papers, local, state or federal government relations activity by a lawyer or lawyers*
(Any Requests in this category must be approved by the Office of General Counsel)
- (xiv) Other

2.4.8 An expected time frame for resolving the matter.

2.4.9 A statement as to whether any potential liability by LSU is covered by the Office of Risk Management (ORM) or insurance. If uncertain, this statement may be provided separately by the lawyer, pursuant to the Guidelines.

- 2.5 Each person authorized to make Requests pursuant to section 2.1 may make a general Request for consultations and advice on minor matters, which are reasonably expected to require no more than two hours of billable attorney time each. Except as authorized in writing by System general counsel, no more than 20 hours of billable attorney time each year shall be charged to each general Request made pursuant to the provisions of this section. If any individual matter exceeds two hours of billable attorney time, a separate Request shall be made for that matter.
- 2.6 Where the lawyer receiving the Request reasonably expects that the Request will require 10 hours or more of billable attorney time, the lawyer or law firm will prepare an estimated budget, which shall be provided to the Contact Employee and the Office of General Counsel. The Contact Employee and the authorized individual making the Request shall consult with the lawyer or law firm as necessary in preparing the estimated budget and any other preliminary evaluations required by the Guidelines.
- 2.7 Campuses shall promptly notify the Office of General Counsel of any reasonably likely or impending legal action by making an appropriate Request. No civil action (lawsuit) shall be filed on behalf of LSU or any of its campuses or institutions without approval of the Office of General Counsel. Absent exigent circumstances, defensive actions are subject to notice and approval of the Office of General Counsel in accordance with the Guidelines.
- 2.8 Whenever any human resources matter (i.e., a matter dealing with the employment status or employment conditions of an employee or prospective employee) appears reasonably likely to result in a lawsuit being filed, a Request regarding the matter shall be made prior to taking any contemplated employment action. This includes issues involving tenure, reappointment and claims of illegal discrimination, harassment or retaliation.

3. Standardization

- 3.1 Requests should be made only for matters which require original *legal* work and assistance of counsel. Routine, repetitive matters should be administratively standardized insofar as practicable.
- 3.2 All leases, employment agreements, procurement contracts, and other agreements or contracts which are regularly entered into by a campus and have been previously reviewed by legal counsel should be standardized insofar as practicable. No Request should normally be made which involves work on a contract or other agreement unless the authorized employee making the Request reasonably determines and explains, in writing, that one of the following applies:
 - 3.2.1 the proposed agreement is to address a unique circumstance not previously addressed and reviewed by legal counsel,
 - 3.2.2 the proposed agreement will require substantial modification to a standardized contract,
 - 3.2.3 The amount of legal work required is minimal and does not involve alterations to the standardized portions of the proposed contract or agreement (e.g., drafting a "scope of services" section for inclusion in a standardized contract), or
 - 3.2.4 The Request is approved in writing by the Office of General Counsel based on other compelling reasons, which should be set forth in the Request, prior to obtaining services.
 - 3.2.5 Where no standardized contract or agreement currently exists, a Request may be made for legal services to assist in the development of such a standardized contract. In such case, the lawyer and the campus will work closely with the Office of General Counsel in order to avoid duplication of effort across the campuses, as well as to achieve reasonable uniformity.

4. Settlements

- 4.1 No LSU employee or agent, and no lawyer representing LSU, shall settle or agree to settle any action, claim, or other matter unless such settlement is approved, in writing, by the President or the System general counsel, if authorized to do so by the President. Some settlements will require approval by the Board of Supervisors pursuant to the Board Bylaws. Lawyers for LSU shall make any recommendations for settlement in accordance with the Guidelines.
- 4.2 When a lawyer, during the course of representing LSU, learns of circumstances which would suggest the need for institutional remedial action (e.g., an employee who has committed misconduct, an unsafe physical condition on LSU property, inadequate administrative safeguards which contribute to liability, or negligent or substandard conduct by an employee or contractor), this shall be reported in writing to the Office of General Counsel, along with a brief statement of suggested remedial steps.
- 4.3 When the authorized employee making the Request or the Contact Employee will be a central fact witness or their conduct is likely to be called into question if the matter is litigated, counsel shall communicate those facts to the Office of General Counsel, which will take steps to assure that the fact-finding process is not adversely affected.

5. Invoices

- 5.1 Invoices shall be submitted in conformity with the contract for legal services and the Guidelines, whether specified in the contract or not.
- 5.2 Each campus or institution shall develop a procedure to insure that the Contact Employee promptly reviews the invoices and recommends them (or not) for payment, in addition to any other approvals

normally required by the campus or institution for payment of vendor invoices. Copies of such reviews and recommendations shall be transmitted to the Office of General Counsel.

6. Monthly Reports and Other Communications

- 6.1 Monthly reports shall be submitted to the Office of General Counsel on all Requests, and to the Contact Employees and the employees authorized to make Requests on the Requests for which they are responsible, in conformity with the Guidelines.
- 6.2 Once a Request has been fulfilled or resolved and no further legal work is needed, the lawyer or law firm shall submit a brief final report to the Contact Employee, the authorized employee who made the Request, and the Office of General Counsel indicating the basis for the resolution.
- 6.3 A copy of all communications by a lawyer representing LSU addressed to the President, any chancellor or equivalent, or other System officers (i.e., officials employed at the LSU System level rather than at any particular campus) shall be sent to the Office of General Counsel.

7. Employed (“in house”) Counsel

- 7.1 Employed counsel are those individuals who are licensed to practice law and who are employed by (rather than contracted with) LSU for the *primary* purpose of providing legal services to the university. It does not include LSU employees who are lawyers but whose primary duty does not involve providing legal services (e.g., compliance officers, auditors, administrators and teachers).
- 7.2 To the fullest extent practicable, employed counsel shall use standardized contracts and other legal documents. When requested by the Office of General Counsel, employed counsel shall assist in the development and adoption of appropriate standardized legal documents for repetitive matters.
- 7.3 While employed counsel, unless specifically stated otherwise, remain employees of their respective campus or institution, they should cooperate with the Office of General Counsel to foster the policies and goals of this Memorandum.

8. Miscellaneous

- 8.1 Where a report, invoice, or other document is required to be provided to the Office of General Counsel, it should be sent either by e-mail to GeneralCounsel@lsu.edu or by mail to: Office of General Counsel, Louisiana State University System, 3810 West Lakeshore Dr., Baton Rouge, LA 70808.
- 8.2 Where a provision of this Memorandum is in conflict with an express provision of a contract between LSU and another person or entity, the provisions of the contract shall control. For example, if an intellectual property licensing agreement authorizes the licensee, or a co-licensor, to take action to protect the intellectual property, the provisions of this Memorandum would not apply to any legal services obtained by the licensee or co-licensor. Even in these circumstances, however, where LSU is named as a plaintiff or a defendant in any lawsuit, or where further authorization or approval of the proceedings by LSU is required, the Office of General Counsel shall be promptly notified.
- 8.3 This Memorandum is not intended to and does not create any rights in third parties.

John V. Lombardi
President