



## PERMANENT MEMORANDUM 72

### Obtaining Legal Services and the Office of General Counsel

#### POLICY DIGEST

Monitoring Unit: Office of General Counsel

Last Revised: December 10, 2018

#### **I. PURPOSE**

The Office of General Counsel is responsible for all legal matters arising from or pertaining to the operations of the University, including each of its campus locations and facilities. To ensure quality and proper representation of the University, as well as to control costs and ensure appropriate coordination, the following policies are to be followed with respect to any legal services required of the University.

#### **II. LEGAL SERVICES AND THE OFFICE OF GENERAL COUNSEL**

The mission of the Office of the General Counsel is to act as legal counsel for any and all official business of the University. University officials and employees, while performing the official business of the University, are the clients of the Office of the General Counsel. In carrying out its work, the Office of General Counsel seeks to proactively manage legal affairs and solve legal problems to achieve the University's overall educational mission. To this end, emphasis is placed on early involvement in emerging issues.

- A. Only attorneys employed in or through the Office of General Counsel may represent the University on legal matters. University employees with legal degrees but working outside of the Office of General Counsel are not authorized to provide legal advice to or on behalf of the University.
- B. The Office of General Counsel is available to all units of the University on matters of official University business. Employees of the University are encouraged to seek legal guidance from the Office of General Counsel when appropriate. However the request must be routed through the appropriate campus administrative office. This in no way prevents an employee from directly reporting Title IX issues to the Title IX Coordinator under the President's Office or using the System Fraud Hotline.
- C. Any inquiry or correspondence by an attorney representing a party other than the University to any University unit or University employee on a matter of official University business must be referred to the Office of General Counsel.
- D. When considering revisions to University policies and procedures, all University units are encouraged to seek early participation and guidance from the Office of General Counsel. Requests must be routed through the appropriate campus administrative office.
- E. The Office of General Counsel will issue and maintain guidelines to be followed by outside counsel.

#### **III. SERVICE OF PROCESS, SUBPOENAS, COURT ORDERS, DEPOSITIONS, AND SEARCH WARRANTS**

- A. Only the President or the President's designee is authorized to receive service of process on behalf of the University. No other employee of the University is authorized to receive service of process for the University. A copy of any service of process must be promptly forwarded to the Office of General Counsel.

Service of process includes receipt of a lawsuit, subpoena, court order, deposition notice, search warrant or similar legal document, whether delivered by hand, mail, or other method.

- B. When an employee of the University becomes aware of a lawsuit or subpoena directed to the University or a University unit, or a deposition notice (in a case where the University is not a party), or a search warrant directed to any official business of the University, the Office of General Counsel must be notified immediately and provided all available information. No attempt should be made to respond to the document, or to discuss the matter, without first informing and seeking guidance from the Office of General Counsel.
- C. When an employee of the University is approached about testifying at a deposition or in a court proceeding related to any official business of the University, the employee must refer the inquiry to the Office of General Counsel.

#### **IV. LITIGATION**

- A. The Office of General Counsel must be notified promptly of any reasonably likely or impending legal action
- B. The Office of General Counsel will consult on and participate in litigation, and will manage outside counsel in matters where outside counsel is employed.
- C. No lawsuit may be filed on behalf of the University without written approval of the Office of General Counsel.
- D. Whenever a potential employment action appears reasonably likely to result in litigation, the Office of General Counsel should be consulted prior to taking the contemplated action. This includes, but is not limited to, matters involving tenure, reappointment, and claims of discrimination, harassment or retaliation under federal or state law.
- E. A University employee or agent must consult with the Office of General Counsel before making any public statement or comment concerning litigation (potential or actual) involving the University.

#### **V. SETTLEMENTS**

- A. No University employee or agent, and no outside counsel representing the University, is authorized to mediate, settle or agree to settle any action, matter, claim or dispute unless such settlement is approved by the President and/or the Office of General Counsel (if authorized by the President). Some settlements may require the approval of the Board of Supervisors.
- B. Outside counsel shall make recommendations to the Office of General Counsel for settlement in accordance with the Guidelines.

#### **VI. REQUESTS FOR LEGAL SERVICES**

- A. All requests for legal services related to any official business of the University shall be made to the Office of General Counsel. The Office of General Counsel will promptly respond to such requests and will determine whether the matter can be handled more effectively by in-house attorneys or by outside counsel.
- B. Only the Office of General Counsel is authorized to retain outside counsel on behalf of the University. All work by outside counsel shall be performed pursuant to a written contract for legal services between the Office of General Counsel and outside counsel.
- C. If the Office of General Counsel determines that outside counsel should be retained, the University unit will be required to submit a Request for Outside Counsel form ("Request"). The current version of the form

is available on the webpage of the Office of General Counsel or can be obtained from the Office of General Counsel. At a minimum, any Request must contain the following information:

1. The University unit for which outside counsel is sought and to which the fees and expenses for outside counsel will be charged;
  2. The designation of an individual within the University unit for communications with the Office of General Counsel and outside counsel;
  3. A description of the matter for which the Request is being made;
  4. The name of the requested attorney or law firm, if any, to serve as outside counsel; and
  5. Authorization by the Vice President, Dean or other equivalent University official authorized to financially bind the University unit requesting legal services.
- D. Although a University unit may suggest a specific attorney or law firm based on prior work or familiarity with the matter, the decision regarding retention of outside counsel will be made by the Office of General Counsel. The appointment of outside counsel may require the approval of the Attorney General in advance of any work.
- E. When the Office of General Counsel retains outside counsel, an attorney from the Office of General Counsel will be assigned to monitor the representation and to participate to the extent necessary to ensure proper representation of the University. The Office of General Counsel will determine the scope of outside counsel representation and will work collaboratively with outside counsel. Unless otherwise approved by the Office of General Counsel, all communications from outside counsel with University employees must be through or jointly with the Office of General Counsel. When outside counsel has been given permission to communicate directly with a University employee in a specific matter, the assigned Office of General Counsel attorney must be copied on all emails and correspondence. Periodic updates must be provided to the Office of General Counsel for all pending legal matters.

## **VII. INVOICING BY OUTSIDE COUNSEL**

- A. Once appointed, outside counsel are required to submit invoices on a monthly basis for services and expenses directly to the Office of General Counsel for approval. Invoices must be accompanied by an affidavit verifying the hours worked and work performed pursuant to La. R.S. 39:1618.
- B. Invoices will be monitored by the Office of General Counsel to confirm that any budgets are not exceeded, tasks are appropriate and hourly rates are accurate. After review, the invoices will be sent to the appropriate University unit for payment. Any discrepancies or issues identified by the University unit should be brought to the attention of the Office of General Counsel.
- C. All invoices and time entries must comply with the guidelines in Appendix I.