

Working with the Office of General Counsel—A Primer

The Office of General Counsel (OGC) provides legal advice and representation to administrators, faculty, and staff regarding federal and state laws and regulations, and University policies and procedures, as well as other legal matters arising from the business operations of Illinois State University.

University policy and State law provide that an employee acting within the scope of his or her employment will be provided legal representation and indemnification in the event they are named as a defendant in a lawsuit arising from their employment. Very infrequently, the employee will not be provided representation if the lawsuit arose from personal activities or non-University employment, or if it is determined the employee was acting outside the scope of his/her employment, or was willfully negligent in the performance of his/her duties.

http://generalcounsel.illinoisstate.edu/downloads/FAQ_Insurance_and_Indemnification.pdf

The OGC cannot provide legal advice to students or employees about personal legal issues or to persons with claims adverse to the University. Students requiring legal advice should be referred to the Student's Attorney located in the Dean of Student's Office.

Legal Services

The OGC assists the University community by providing a wide variety of legal services. These include:

- Advising University administrators, faculty, and staff on regulatory compliance and other legal aspects of their professional duties
- Representing the University in litigation before federal and state courts and administrative agencies
- Drafting, reviewing, and negotiating contracts between the University and other entities
- Reviewing legal documents and correspondence
- Monitoring University compliance with federal and state regulatory requirements, facilitating the University Compliance Committee (see <http://compliance.illinoisstate.edu/>)
- Representing the University in real estate and other commercial transactions
- Working with outside counsel representing the University in legal proceedings
- Providing training on applicable legal issues
- Assisting in formulating and/or reviewing University policies and procedures

Common topics facing Chairs where consultation with the OGC may be useful include:

- Employment matters (generally in collaboration with HR and/or the Office of the Provost)
 - Managing conflict and other problematic work behavior
 - FMLA, disability, and related matters
 - Federal Fair Labor Standards Act and State Civil Service requirements
 - Union contracts
- Academic freedom and other faculty rights and responsibilities
- Higher education policy interpretation and implementation
- Contracts (e.g., with community partners)
- Intellectual property/copyright issues
- Student concerns
- Information requests

The OGC reports directly to the President and maintains close collaborative relationships with the Office of the Provost, Human Resources, Risk Management, Office of Equal Opportunity Ethics and Access, Research and Sponsored Programs, Research Ethics and Compliance, the Dean of Students, and Internal Auditing, among others.

FAQ

When should I contact the Office of General Counsel?

Whenever you have a question or concern that might involve a legal issue, broadly defined. It is better to call early on and find out you really don't need much consultation than it is to wait and discover later that earlier consultation might have prevented problems from escalating. We would much rather be included and find it later unnecessary than be included late, or not at all.

Whenever you are served with a subpoena or other legal document. Many legal documents have strict deadlines for responding and/or appearing. Contact the OGC promptly upon receiving any document you believe is legal in nature.

What is the best way to contact the Office of General Counsel?

As a general rule, a phone call is the best way to share sensitive information and begin the process of consultation. You may also email, however, an email to the office may not be confidential so be careful what you share in email initially, if it includes sensitive information. When in doubt, call. You may also use Outlook to request a meeting.

On e-mails and meeting requests, please include the member(s) of the Provost's leadership team who may facilitate the solution for the issue at hand.

What can I expect from the Office of General Counsel?

You will have an opportunity to explain the problems as you see them, put them in context, and identify the outcomes you wish to see happen. We will work with you to ensure that we understand the situation, review any available documentation, and help you find solutions. We also are available to provide assistance with documentation, formal, and informal communications. Our approach is to provide advice, manage risk, and facilitate good decisions.

What can I do to help the Office of General Counsel help me?

There are several ways that you can help General Counsel help you:

- *Seek consultation sooner rather than later*
- *Keep thorough and well-organized documentation of your concerns*
- *Think about risks in terms of students, the individual(s) involved, colleagues, external stakeholders, reputation, and legal or contractual liability*
- *Think about managing risks when they cannot be eliminated, and what trade-offs might be acceptable given that some risks cannot be eliminated*
- *Have a clear idea of the desired outcomes*
- *Be ready to communicate any internal political concerns you might have*
- *Remember we are here to facilitate your leadership in support of the University's mission!*

For more information, please visit our website at:

<http://generalcounsel.illinoisstate.edu>