



UNIVERSITY OF LAVERNE

Office of General Counsel Delivery of Legal Services

Vision:

The Office of General Counsel will support the University Mission, strategic initiatives and goals through the efficient delivery of legal services to effect ethical and legal compliance of business functions and minimum legal risks.

OGC Mission Statement:

The Office of General Counsel works collaboratively with University constituents to advance the University's commitment to its core values by providing proactive counsel, timely response and ethical representation.

Role OGC and General Counsel:

The General Counsel represents the University of La Verne as an educational institution. While General Counsel from time to time may also advise and represent University administrators, faculty, and staff acting within the course and scope of employment, such representation is secondary to the duty of representation owed to the University. The Office of the General Counsel ("OGC") does not represent or advise University employees on personal affairs or any other matters unrelated to University business. OGC does not represent or advise students on any matters.

Procedures and Protocol for Requesting Legal Services:

Members of the BOT and PEC are encouraged to contact OGC to discuss to legal concerns related to University affairs. Other University employees who believe they require legal assistance related to University business should first discuss the matter with the supervisor, manager or PEC member charged with oversight of the particular administrative unit. If, in consultation with the responsible PEC member, it is determined the matter is of a legal nature and requires the services of OGC, the responsible PEC member or his/her designated member of the University Management Council will initiate contact with OGC to request legal assistance. Notwithstanding the foregoing, with the prior approval of the responsible PEC member, UMC members with oversight of the following types of routine matters may initiate contact with OGC to request legal assistance with such matters without going through the responsible PEC member:

- Contracts in which the service provider or vendor requests modifications to an approved University template.
- Inquiries regarding University and/or employee obligations arising out of alleged incidents of campus sexual assaults, dating violence, domestic violence or stalking.

Retention of Outside Counsel for Legal Services:

University employees who believe they require legal assistance related to University business should first discuss the matter with the supervisor, manager or PEC member charged with oversight of the particular administrative unit. If, in consultation with the responsible PEC member, it is determined the matter is of a legal nature, the responsible PEC member or his/her designated member of the University Management Council will initiate contact with OGC. When appropriate, OGC will consult with the responsible PEC member and other members of the PEC for a determination of whether the matter should be handled in-house or by an outside attorney with expertise in the subject matter. If it is determined that the matter should be handled by an outside attorney, OGC will further consult with the pertinent PEC members on selection of the outside attorney to handle the matter. Only OGC is authorized to hire or retain outside counsel to perform legal services related to University business.

Protocol for Common Administrative Issues:

1. Employee/Human Resources matters:

All issues involving human resources and employee relations should be directed to the Human Resources Department. Such matters include, but are not limited to, employee performance, discipline, leave entitlement, job reclassification, department reorganization, etc. Any and all legal inquiries to OGC related to such matters will be initiated by the Chief Human Resources Officer.

2. Contracts:

a. General Requirement of OGC Approval.

Except as specifically outlined below, any contractual documents binding the University must be reviewed and approved in writing by OGC prior to execution by authorized University personnel. This includes but is not limited to contracts, agreements and memoranda of understanding (MOUs). The following types of documents always require OGC review and approval prior to execution by the authorized University signer:

- deeds;
- real estate purchase and sales contracts;
- construction agreements;

- contracts for the permanent improvement of real property owned or leased by the university;
- real property leases, easements, licenses, and other agreements concerning interest in real property;
- contracts for professional consulting services, including but not limited to accounting, civil engineering, architectural services, and legal services;
- international agreements:
 - ✓ between University and an international company/party
 - ✓ involving international travel or study programs
- contracts between the University and a University employee or a family member of such employee when the contract is unrelated to employment;
- contracts between the University and a University trustee or a family member of a trustee, or an entity owned in whole or in part by a trustee or a family member of a trustee;
- any other contracts not using OGC-approved templates, including revisions to OGC templates that:
 - ✓ obligate the University to provide payment in excess of \$25,000. Or
 - ✓ obligate the University to a period in excess of one year;
- any amendment or revision to an existing contract that required OGC approval.

b. Exceptions to OGC Approval.

The following categories of contractual agreements generally are exempt from OGC review only (not necessarily Risk Management, Finance, as described in Section 2.d, below):

1. Academic Appointments. Academic appointments are subject to prior review by the Provost's Office, in consultation with the Department of Human Resources, and, therefore, do not require OGC review.
2. Employment Agreements. Standard employee offer letters or employment agreements approved by Human Resources.
3. Clinical placement or internship agreements. Clinical placement and internship agreements using OGC-approved templates do not require OGC review or approval, provided that the approved template remains materially unchanged (i.e. changes are limited to filling in blanks, where applicable).

4. Research Agreements. Research agreements administered by the Office of Sponsored Research are subject to the contract protocol developed for that office in consultation with the OGC. Research contracts that are not administered through the Office of Sponsored Research are subject to OGC review unless such contracts do not materially deviate from OGC-approved templates or terms.

5. Purchases of Goods/Services through Procurement. The Purchasing and Procurement Department will process procurement requests on OGC-approved Purchase Order forms without OGC approval. When procurement requests involve proposed contracts with revisions to OGC templates or non-approved forms, University Procurement will review the requests to ensure that the proposed contracts have been approved by OGC prior to processing where required.

6. OGC Templates. Generally, a transaction using OGC-approved templates does not require further review by the OGC, provided the transaction does not involve any of the matters identified in Section 2.a., above and the OGC-approved template remains materially unchanged (i.e. changes are limited to filling in blanks, where applicable).

Notwithstanding the exceptions outlined above, the OGC reserves the right to review any contract, agreement or MOU as it deems necessary and appropriate.

c. Use of OGC-Approved Templates.

When possible, all contracts between the University and service providers or vendors should be processed using contract templates approved by OGC and the University Risk Manager. Such contracts do not require OGC review prior to execution, provided they do not involve any of the matters identified in Section 2.a., above. However, it is the responsibility of university personnel within the department with oversight of the contract to ensure that no changes have been made to the OGC-approved contract template prior to execution by an authorized University signer.

The OGC will work with departments to develop such standard, approved forms upon request. Departments should contact the OGC for current templates that may not be available on the University website. If a template does not exist, OGC will either prepare a document for a department or OGC will review, comment on and/or edit a contract supplied by the other party/vendor. Since the terms in the other contracting party's agreement relating to legal issues will most likely be more favorable to the other party, staff should inform the other party that its form of agreement is only to be used as a starting point for negotiation of any legal issues.

Unless expressly exempt from OGC review under Section 2.b., above, all proposed contracts with revisions to OGC templates or using non-approved forms that obligate the University to provide payment in excess of \$25,000 or that obligate the University to a period in excess of one year MUST be approved by OGC prior to execution by an authorized University signer.

If the service provider or vendor requests modifications to the OGC-approved contract template or use of a non-approved form, such requests must be reviewed by the responsible PEC member prior to requesting OGC review. Requests for OGC review of proposed revisions to approved contract templates should be initiated by the responsible PEC member or designated UMC member. Request for OGC review of non-approved contract forms must be initiated by the responsible PEC member.

d. Additional Contracting Requirements.

1. Responsibility of Initiating Department. It is the responsibility of the PEC member charged with oversight of the department requesting approval of the contract to ensure that the contract documents accurately reflect the current state of negotiations on all substantive terms, the provisions are sufficiently clear and consistent, the proposed contract aligns with the University mission and is in the best interest of the University, and the proposed contract terms are in compliance with University policies and procedures.
2. Insurance and Indemnification Provisions. All contracts obligating the University to engage individual or corporate services, including those using OGC-approved templates, must be approved by the Risk Management Office for the sufficiency of insurance and indemnification provisions.
3. Contract Signing Authority. In addition to the requirements for OGC review and approval of contract documents, University policies require contracts to be signed by an authorized University signatory. For transactions involving the procurement of goods and services, please refer to latest version of the University's Purchasing and Procurement Department Policies and Procedures for specific contracting authority. For transactions other than the procurement of goods and services, please refer to the University of La Verne Bylaws or other documentation establishing the required signing authority. It is the responsibility of the PEC member charged with oversight of the department requesting approval of the contract to ensure that the contract is signed by an authorized University signer.
4. Review of matters involving Unrelated Business Income Tax Issues. Any contractual agreements that pertain to activities considered unrelated to the University's core mission of research and education may also be subject to taxation. This tax is called Unrelated Business Income Tax ("UBIT"). Such agreements must first be reviewed and approved by the University's Finance Office. Examples may include contracts where the University derives income from sources such as:
 - sales of merchandise or services;

- advertising and marketing of non-academic programs;
- renting or leasing of University space or facilities (such as buildings, auditoriums, meeting space, dorms, apartments and other facilities) to outside entities;
- operation of parking lots;
- memberships sold to the general public to University groups or clubs (such as the Recreation Center);
- research agreements where the results are not freely publishable or constitute “fee for service” types of arrangements;
- certain summer sports camps

These are common examples of where UBIT may arise and is not a comprehensive list. When in doubt as to what constitutes UBIT, please consult with the Finance Office.

3. Subpoenas:

If a process server attempts to serve a subpoena for University records, the person should be re-directed to the Office of General Counsel or Office of Risk Management. If the subpoena is addressed to a specific employee by name or job title and relates to University business, then personal service is required and the named person should accept service and immediately notify the Office of General Counsel in order to receive guidance on how to respond.

Please note this protocol does not apply to subpoenas addressed to a specific person and unrelated to a University matter. In such a case, the named person should seek the advice of private legal counsel at his or her expense.

4. Service of Process of Summons and Complaints:

OGC is authorized to accept service of process on behalf of the University, the Board of Trustees, individually named Trustees, and the University President. Other than as discussed below, University employees are not authorized to accept service of process of a summons and complaint on behalf of the University. Please refer the person attempting to serve such matters to OGC.

Other than the parties listed above, OGC is not authorized to accept service of a summons and complaint on behalf of individuals (including University employees) named as defendants. Such individuals must be served as provided by the appropriate statute. Any employee or other individual served as a named party (individual) in a matter related to University business should notify either Risk Management or Human Resources Employee Relations immediately upon receipt of the documents.