

## **09.04.01 Legal Counsel and Attorney General Opinion Requests**

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Revised September 3, 1998  
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### **Regulation Statement**

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The Office of General Counsel (OGC) of The Texas A&M University System (system) is responsible for providing legal services to the system and its members.

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### **Reason for Regulation**

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This regulation provides minimum procedures to be used by system members when requesting legal services and opinions from the OGC.

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### **Procedures and Responsibilities**

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#### **1. LEGAL COUNSEL**

It is the responsibility of the OGC to provide legal services to the system and its members.

- 1.1 "Legal Services" means the representation of the system, its members or of any employee, on matters arising from that employee's official duties, before any court or administrative body; and the giving of advice or the rendering of any service, requiring the use of legal skill or knowledge, regarding a specific matter or situation. The term "Legal Services" does not include a presentation to a group of employees of the system regarding general legal topics and in which no attempt is made to address a specific matter or situation.
- 1.2 Any contract under which Legal Services are provided by a private law firm or an attorney or paraprofessional who is not employed by the system, regardless of the amount of Legal Services provided in relation to other services, will be deemed an Outside Counsel contract.

- 1.3 In most cases, requests for legal advice and assistance should be directed to the OGC by the system member chief executive officer (CEO), or by such offices as may be designated by the CEO in writing. It is the responsibility of the CEO to provide written designations of authorized requestors to the OGC.
- 1.4 The above-stated definition of Legal Services does not deprive the OGC of the authority to determine whether other services and acts not enumerated above may constitute Legal Services. In the event of any doubt regarding whether a contract may be for the provision of Legal Services, the OGC must be consulted.
- 1.5 Requests for opinions and other legal assistance should be made in writing whenever reasonably possible.

## 2. OFFICE OF THE ATTORNEY GENERAL OF THE STATE OF TEXAS

- 2.1 State law provides that the Attorney General shall provide legal representation for state agencies in litigation. The OGC shall coordinate such representation, and all communications with the Attorney General's Office shall be made through the OGC.
- 2.2 It is the responsibility of the Attorney General to determine if individuals acting in their official capacity will be represented by the Attorney General's Office.
- 2.3 All requests for Attorney General Opinions, including requests made under the Texas Public Information Act (Chapter 552, Texas Government Code) shall be submitted through the OGC.

## 3. OUTSIDE COUNSEL

- 3.1 All requests to retain outside counsel shall be submitted in writing to the OGC. All Outside Counsel contracts shall be prepared by the OGC and submitted by the OGC to the Attorney General for approval.
- 3.2 State agencies may not initiate the process of selecting outside counsel to be paid with appropriated funds prior to receiving the approval of the Attorney General. No outside counsel may be retained without the prior written approval of the Attorney General's Office.
- 3.3 Payment for legal services rendered by outside counsel shall be in accordance with the approved Outside Counsel contract.
- 3.4 All system members and system offices that use outside counsel services must provide reports to the OGC as required by the general counsel.
- 3.5 Appropriated funds may not be used to contract with an attorney or law firm who represents clients before the contracting state agency, or who has, during a six month period preceding the initiation of a contract for Legal Services and a six month period following the termination of the contract, represented clients before the state agency.

- 3.6 Appropriated funds may not be expended to pay legal fees or expenses of a lawyer or law firm that represents the State or any of its agencies in a contested matter if the lawyer or law firm is representing a plaintiff in a proceeding seeking monetary damages from the State or any of its agencies.
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## **Related Statutes, Policies, or Requirements**

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Tex. Gov't Code §§ 402.021, 402.0212

<http://tlo2.tlc.state.tx.us/statutes/docs/GV/content/htm/gv.004.00.000402.00.htm#402.021.00>

System Policy *09.04, Litigation*

<http://tamus.edu/offices/policy/policies/pdf/09-04.pdf>

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## **Contact Office**

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The System Office of General Counsel  
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