

**Office of University Counsel
Annual Report**

July 1, 2011 to June 30, 2012

Submitted by K. Lee Peifer, Interim University Counsel

November 16, 2012

University Counsel is appointed by and reports to the President of the University, and serves as the University's chief legal officer. The function of the Office of University Counsel (OUC) is to help the University, including the Health Sciences Center, branches and affiliated organizations, carry out the mission of teaching, research, and service in compliance with federal and state law and University policies and procedures. The OUC provides legal advice to the President, to the Regents as appropriate, and to the University's Vice Presidents, Chancellor, Vice Chancellors, Deans and Directors or employees holding equivalent positions.

In addition to K. Lee Peifer, who serves as the Interim University Counsel, the office includes 29 full-time employees, including 14 attorneys, 5 paraprofessionals, and 10 staff. Within their areas of expertise, attorneys anticipate and assess legal problems and potential liabilities; draft legal opinions; prepare pleadings and other documents; review policies; negotiate agreements; help resolve disputes; advocate on behalf of the University in various forums; and educate and train the campus community on legal issues. The OUC is responsible for reviewing requests to engage outside counsel and making recommendations to the President; monitoring and managing litigation and other legal affairs undertaken on behalf of the University by outside counsel; and advising the University's Custodian of Public Records regarding public access to the University's documents and written records.

The attorney serving as University Counsel oversees the provision of legal services and works closely with the President, the Regents as appropriate, and Vice Presidents, Chancellor, Vice Chancellors, Deans and Directors on selected matters, often involving issues of great complexity and immediacy, and potential risk. A Senior Program Manager oversees administrative aspects of the office, maintains the budget, develops office policies and procedures, and facilitates work flow. The OUC has two locations: lawyers on Main campus, who continue to serve both Main and HSC clients, and lawyers on the HSC campus who serve primarily the HSC and its components.

SIGNIFICANT DEVELOPMENTS

Administrative/Operations:

In January 2012, Pamina Deutsch, Sponsored Research Project Specialist, accepted a position as Manager, University Policies with UNM's Policy Office.

We designed and launched the new OUC website (<http://counsel.unm.edu>), including revising the immigration law section to provide clearer guidance on policy and procedure. The site is designed to efficiently guide clients to relevant information about attorneys and their practice areas, and to provide answers to frequently asked questions for clients and the broader University community.

In response to Internal Audit findings on business agreements processing and signature authority policies, we designed and launched a training module for Contract Review Officers.

Substantive Legal Matters:

The following is a list of the major highlights from our office in the past year.

Negotiated and executed an Educational Partnership Agreement with Air Force Research Laboratory to expand research collaboration between UNM faculty/students in directed energy and space vehicles.

Worked with Lobo Energy, Inc. to obtain a \$10,000,000 loan from Bank of America for the purchase and installation of cogeneration equipment.

Participated in an EPA pilot program to establish a watershed-based storm water permit involving numerous governmental entities in the Middle Rio Grande Valley, including working with other co-permittees on cost sharing mechanisms and compliance strategies.

Worked to develop state regulations that encourage governmental entities to build and own renewables in order to reduce electric rates.

Saved the University approximately \$1,000,000 (the cost of retrofitting the Athletic Department's Indoor Practice Facility) and tens of thousands of dollars in outside legal fees by effectively resolving the construction and design disputes with Jaynes Corp in-house.

Successfully counseled a diverse group of University constituents through the (un)occupy movement to avoid First Amendment constitutional challenges and potential personal lawsuits filed by participants.

Won a significant victory in long-standing an employment case (jury trial). Received numerous “no probable cause” findings from the Human Rights Bureau and Equal Opportunity Employment Commission.

Obtained a total management award in a labor arbitration involving the Hospital.

Obtained dismissal by the Department of Justice of its Equal Pay Act/Lilly Ledbetter Act pay equity investigation regarding staff salaries.

Assisted UNM's Sandoval Regional Medical Center (SRMC) to open on time and within budget, including preparing Medical Staff Bylaws, reviewing and drafting contracts, reviewing policies, advising management and SRMC Board on bond, HUD, and legal issues affecting construction, licensure and accreditation. In addition, supported the School of Medicine and UNM's Medical Group in their efforts to provide clinical support at SRMC.

Emphasized Clery Act compliance with training for branch campuses and provided legal support to UNM police department in drafting annual security report.

Provided education and guidance to UNM leadership on the Freeh report recommendations for Penn State in the areas of governance, organizational structure and reporting obligations.

PLANS FOR THE FUTURE

We continue to work with key constituent groups to identify opportunities for training on matters of legal importance. We are focused on performance-based management and maintaining cost efficiencies. In addition, OUC continues work to better integrate the office, and create redundancy in practice areas and support functions to more effectively advance our mission and facilitate workflow.

We have increased our efforts to identify litigation work that can be done in-house, thereby saving outside counsel fees on smaller, less complex matters to the benefit of our clients. We have also worked to improve how OUC handles litigation when the University is being represented in court by counsel appointed by the Risk Management Division.

COMINGS AND GOINGS

Appointments to Staff

None

Separations of Staff

Pamina Deutsch (2012)