

**MEMORANDUM OF UNDERSTANDING  
BETWEEN THE ATTORNEY GENERAL  
AND THE  
BOARD OF TRUSTEES OF THE UNIVERSITY OF AKRON  
REGARDING PROVISION OF LEGAL SERVICES TO THE UNIVERSITY**

**I. PURPOSE**

This Memorandum of Understanding is entered into by the Board of Trustees of the University of Akron ("University") and by the Ohio Attorney General [the "Attorney General"] for the purpose of formalizing a pre-existing relationship between the Attorney General of Ohio and the University of Akron regarding the provision of legal services and representation to the University and of defining the relationship and responsibilities between the parties in their joint effort to provide legal services and representation to the University.

The goals of this Memorandum of Understanding are to: (1) set forth the structure and organization for the provision of legal services at and for the University; (2) define the responsibilities each of the parties shall have for the provision and maintenance of legal services within that structure and organization; and (3) thereby advance the coordination of legal service for the University and the cooperative efforts of the University and the Attorney General.

**II. OFFICE OF THE ATTORNEY GENERAL**

Pursuant to Sections 109.02 and 3345.15 of the Ohio Revised Code, the Attorney General is the chief law officer for The University of Akron, and the legal representation of the University remains within the direction and control of the Attorney General. The Attorney General has ultimate responsibility for rendering legal services to the University and for the selection of counsel to provide representation for the University.

In furtherance of this statutory function, the Attorney General has established the Education Section within the Office of the Attorney General. Included within the responsibilities of the Education Section is the legal representation of The University of Akron.

The Chief of the Education Section shall have the responsibility within the Attorney General's Office for the management and supervision of legal matters of the University and shall maintain a close working relationship with the University's General Counsel, who shall have the responsibility within the University's administration for the management and supervision of legal matters of the University.

**III. ORGANIZATION OF THE OFFICE OF GENERAL COUNSEL AT THE UNIVERSITY OF AKRON**

**A. GENERAL COUNSEL**

In furtherance of the need to facilitate the provision of legal services and representation of the University of Akron, there has been created by University rules, with the approval and consent of the Attorney General, the position of General Counsel. [Attachment A]. This position currently carries the additional title of Vice President and Secretary of the Board of Trustees at the discretion of the University. The person holding this position was chosen by the Board of Trustees of the University of Akron, with the approval of the Attorney General then in Office. The person currently holding this position was appointed an Assistant Attorney General on November 1, 1983, and has continuously thereafter exercised the functions of that position [Attachment B]. The person currently holding this position of General Counsel, and any successor as provided herein, shall also be appointed an Assistant Attorney General. The General Counsel shall be an attorney-at-law, eligible to practice in the State of Ohio.

**1. Method of Selection and Term in Office**

The General Counsel shall be chosen jointly by the Attorney General and the Board of Trustees of the University and shall cease to serve if either the Attorney General or the Board of Trustees so requests. When a vacancy occurs in the position of General Counsel, the University's usual search process for such senior officials of the University shall be used, except that the Attorney General shall be appropriately represented in the process, including but not limited to, being represented on the Search Committee and having an opportunity to interview candidates. The Board of Trustees of the University and the Attorney General may, in appropriate circumstances, agree to an appointment to this position without a full search process.

The General Counsel's authority to exercise the functions of the Office of General Counsel derives both from the Attorney General and the Board of Trustees, and may be withdrawn by either. This authority to act as General Counsel of the University may be terminated by the Attorney General or the Board of Trustees only after appropriate notice to the other party and adequate consultation concerning the reason for the termination.

In the event a vacancy occurs in the Office of the General Counsel as the result of such a request, the University may, at its discretion, continue this individual in service to the University in some other position provided that: 1) the individual does not practice law in any way on behalf of the University, 2) the legal representation of the University remains within the control of the Attorney General as provided by law, 3) the terms of this

Memorandum of Understanding remain in all other respects effective and operational, and 4) the selection process for a new General Counsel is immediately commenced.

## **2. Salaries and Budget Matters**

The General Counsel's salary and all expenses of the office, including staff assistants and support staff shall be under the direct authority of the Board of Trustees and shall be set and paid by the University and included in the University budget.

## **3. Job Responsibilities and Coordination with The Attorney General's Office**

The General Counsel shall be responsible under the general supervision of the Attorney General, for the coordination and supervision of all assigned legal matters at The University of Akron, including labor and employment law matters, litigation, and others as assigned by the Board of Trustees, the President, or the Attorney General. In carrying out these responsibilities, the General Counsel shall work closely with the Chief of the Education Section within the Office of the Attorney General. All legal business relationships between the University and the Attorney General's Office shall be handled through the General Counsel and the Chief of the Education Section, except that the Board of Trustees may at any time approach the Attorney General's Office directly to seek legal assistance, and the Attorney General may render legal services directly to the President or Board of Trustees, at her discretion. The General Counsel shall keep the Chief of the Education Section of the Attorney General's Office fully informed of all pending legal matters at the University. This may occur via regular memos and/or regular meetings, special counsel reports, telephone conferences, and other means as mutually determined by the Chief of the Education Section and the General Counsel. Specifically, the General Counsel shall be responsible for providing upon request by the Chief of the Education Section case status reports and copies of significant legal memoranda prepared by or on behalf of the University. The Attorney General may establish special protocols to manage the flow of such information to protect disclosure where a conflict of interest might exist. The Chief of the Education Section shall from time to time inform the General Counsel of significant pending legal matters or concerns affecting higher education institutions in Ohio.

The full job description for the position of General Counsel is more fully identified as Rule 3359-7-01 of the Ohio Administrative Code and attached in Appendix A. This Appendix may be amended by the University at any time with the approval of the Attorney General, so long as the changes do not alter the provisions contained in this Memorandum of Understanding.

#### **4. Supervision of Litigation and Appointment of Special Counsel**

The General Counsel shall be responsible, under the general supervision of the Attorney General, for the management of litigation involving the University. The Attorney General shall appoint special counsel, when needed, to carry out the University's legal business. The General Counsel shall work with the Attorney General's Office in securing legal services assistance from the Attorney General's Office and the appointment of special counsel. The General Counsel shall be the primary contact person on behalf of the University with counsel within the Attorney General's Office performing legal work for the University and with special counsel, except that special counsel should also report to the Attorney General's Office as set forth in their retention agreement. The General Counsel shall have the responsibility for coordination and supervision of such representation on behalf of the University.

#### **B. OTHER UNIVERSITY ATTORNEYS**

The University may employ and has employed such other attorneys with approval of the Attorney General, as it deems necessary and appropriate to carry out university business. The Attorney General must first approve such appointments, and the Attorney General shall appoint such attorneys as Assistant Attorneys General, with appropriate conditions on limitations of appointment as deemed necessary by either the Attorney General or General Counsel. A list of persons currently holding deputy, associate or assistant General Counsel positions and exercising those functions of assistant attorneys general in those positions is attached in Attachment C. The person currently holding the position of Associate Vice President and Deputy General Counsel was appointed an Assistant Attorney General on November 1, 1983, and has continuously thereafter exercised the functions of that position [Attachment D]. The conditions of appointment may include the authority to make appearances in courts and agencies on behalf of the University under the limitation outlined subsequently in this Memorandum. The appointments may be withdrawn or changed at any time by the Attorney General when either the Attorney General or General Counsel determines that such action is called for in the best interest of the conduct of the University's legal affairs. All university attorneys practicing law on behalf of the University shall report to the General Counsel. No attorney shall be authorized to render legal advice and counsel or otherwise to practice law on behalf of the University of Akron except those who are authorized by the Attorney General as assistant attorney's general, special counsel or Assistant Attorneys General within the Attorney General's Office. All rights and conditions of employment for university attorneys designated as Assistant Attorneys General shall be determined exclusively by the University with the exception of those set forth in this Memorandum of Understanding.

As set forth above, the salaries of all other University attorneys shall be determined and paid by the University and all office expenses for the attorneys shall likewise be the responsibility of the University.

#### **IV. LEGAL REPRESENTATION**

##### **A. IN GENERAL**

The Attorney General has the ultimate authority to represent the University in all matters, and no attorney except as expressly authorized by the Attorney General may represent the University in any legal proceeding commenced, defended or prosecuted by the University. The commencement of litigation by the University shall require both the prior express authorization of the General Counsel and the Board of Trustees and the prior express authorization of the Attorney General. Legal representation may be assigned to special counsel or Assistant Attorneys General in the Office of the Attorney General as determined by the Attorney General. The funding for all special counsel appointed to represent the University shall be provided by the University, notwithstanding the provisions of R.C. 109.07. The cost of legal services rendered to the University by the Assistant Attorneys General shall be paid by the Attorney General's Office, except as explicitly agreed to by the University. However, the General Counsel and the Attorney General's Office shall explore the reduction of the cost of legal services, where appropriate. If this is accomplished by increasing the use of assistant attorneys general within the Attorney General's Office, appropriate compensation will be negotiated with the Attorney General's Office to cover the cost entailed in the use of additional Assistant Attorneys General.

##### **B. SETTLEMENTS**

All settlements of claims or lawsuits will be recommended and approved by the General Counsel, and approved by others as deemed necessary by the University Board of Trustees.

The General Counsel shall obtain the prior approval of all settlements in advance with the Attorney General's Office as required by law, and will not represent to the parties that a matter has been settled until approved by the Attorney General.

##### **C. APPEARANCES IN COURTS OR AGENCIES**

The General Counsel or any Assistant or Associate General Counsel, with appropriate authority from the Attorney General, may appear in legal forums on behalf of

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*Ohio Attorney General*  
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the University, when such appearance would not be disruptive of normal representational relationships, would deal with relatively routine or simple matters and would save the University money. All such appearances shall be reported in advance to the Chief of the Education Section unless otherwise agreed by the University and the Attorney General, and shall be at the discretion of the Attorney General.


**V. DURATION**

This Memorandum of Understanding shall govern the relationship between the University and the Attorney General regarding the provision of legal services to the University effective upon execution by both signatories. It shall continue in effect so long as neither the Attorney General, then in office, nor the Board of Trustees of the University withdraws consent, in writing. This Memorandum of Understanding may be amended only by the mutual consent, in writing, of the Attorney General and the Board of Trustees.


Financial obligations under this Memorandum of Understanding shall continue in effect for the present biennial subject to appropriation of sufficient funds by the General Assembly. With respect to financial obligations under the Memorandum of Understanding, the parties represent that it is their intention to renew those obligations for each subsequent biennial period, subject to the appropriation of sufficient funds by the General Assembly and budget priorities as established by the University.

Nothing in this Memorandum of Understanding shall be deemed to reduce, enlarge, change or modify the authority conferred by law upon the Attorney General or the Board of Trustees of the University of Akron.

APPROVED BY:

  
ALEX R. ARSHINKOFF  
Chairman, Board of Trustees  
The University of Akron  
302 E. Buchtel Avenue  
Akron, Ohio 44325

9-18-00  
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DATE

  
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10.11.00  
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DATE