

Complete Policy Title: <b>Office of Legal Services &amp; Access to External Legal Counsel</b>	Policy Number: <b>N/A</b>
Approved by: <b>President and Vice-Presidents</b>	Date of Most Recent Approval: <b>September 9, 2014</b>
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Responsible Executive: <b>Vice-President (Administration)</b>	Enquiries: <a href="#">University Secretariat</a>
<b>DISCLAIMER:</b> <i>If there is a discrepancy between this electronic policy and the written copy held by the policy owner, the written copy prevails.</i>	

## Purpose and Scope

This Policy sets out the co-ordination of legal services to McMaster University, including:

- the role and responsibilities of the University's Office of Legal Services;
- the process for retention of external counsel for University legal matters; and
- the administrative and financial oversight of the University's external counsel.

## Policy

### 1. Roles and Responsibilities of the Office of Legal Services

- Provide general oversight and have overall responsibility for all legal matters at the University;
- Provide general legal advice and services to McMaster's Board of Governors, Senate, senior administration, Faculties, Departments and administrative units engaged in University activities;
- Subject to paragraph 8, maintain responsibility for the retention and monitoring of the use of external counsel in accordance with this Policy, including management of legal costs;
- Maintain a summary and status report of open legal matters; and
- Provide annual and as-requested reporting on legal matters and budget to senior administration, the Audit Committee of the Board of Governors and other appropriate University authorities.

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## **2. Referral of University Legal Matters**

Except as provided in paragraph 8 of this Policy, all requests for legal services will be initially referred to the Office of Legal Services for action, which may include referral to external counsel. All legal processes, such as a Summons, Order for Document Discovery, File Disclosure Request, Garnishment, Statement of Claim, Tribunal Application or otherwise, will be forwarded to the Office of Legal Services for action or further referral.

## **3. Assessment of University Legal Matters**

The University Counsel, his or her designate, or the Corporate Counsel, in consultation with the internal University client, shall determine whether a legal issue can appropriately be dealt with by internal counsel or will be referred to external counsel given issues related to complexity, high risk, the possibility of substantial liability, time commitment, conflict of interest or urgency.

## **4. Legal Matters to be Handled Internally**

In cases where the matter is to be handled by internal counsel, the matter will be assigned by the University Counsel to the appropriate representative of the Office of Legal Services who will work with the internal University client.

## **5. Process for Engagement of External Legal Counsel**

For matters referred to external counsel, the Office of Legal Services, in consultation with the internal University client, will determine which external counsel is most appropriate to retain on any particular matter. In making the selection of external counsel, the Office of Legal Services will consider the interests of the internal University client, the estimated cost, general subject matter expertise, prior experience with the matter at issue, and any conflict of interest.

## **6. External Counsel Retainers**

To promote quality, efficiency and value, the Office of Legal Services will maintain a General Retainer agreement with each of the University's pre-approved external counsel who, it is expected, will be retained for the majority of ordinary or recurring matters requiring external counsel. Once a selection of external counsel has been made, and particularly in the case of retaining external counsel not party to a General Retainer agreement, the Office of Legal Services will establish a Specific Retainer agreement confirming initial instructions, the scope of the work, estimated cost and a reporting/communication protocol involving the internal University client and Office of Legal Services.

## **7. Management of External Legal Counsel**

During the course of external counsel's Specific Retainer agreement, representatives of the Office of Legal Services shall perform a variety of oversight functions including, without limitation, the following:

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- Providing relevant documents to external counsel;
  - Maintaining ongoing communications with external counsel and the internal client, as may be necessary;
  - Co-ordinating necessary opinions, responses and education activities;
  - Monitoring legal fees and disbursements;
  - Approving invoices, subject to the Execution of Instruments Policy;
  - Obtaining internal University client feedback.

## **8. Direct Access to External Legal Counsel**

Independent from the Office of Legal Services, the following office holders may directly retain external counsel whether or not such external counsel are party to a General Retainer agreement with the University:

- Chair of the Board of Governors
- President & Vice-Chancellor
- University Secretary
- Any Vice-President

The following office holders may directly retain external counsel following discussion with their supervising office holder:

- Faculty Deans
- Associate & Assistant Vice-Presidents
- Director of Human Rights & Equity Services

The office holder retaining external counsel is responsible for negotiating the costs of such legal services with external counsel and executing a Specific Retainer agreement with external counsel, subject to all applicable University policies.

Normally, the office holder will provide a copy of the Specific Retainer agreement to the Office of Legal Services for record-keeping purposes.

## **9. McMaster Industry Liaison Office**

The Executive Director, McMaster Industry Liaison Office (MILO) may retain external counsel with respect to matters related to the management of the University's intellectual property portfolio. General and Specific Retainer agreements should be completed with such external counsel as appropriate. The Executive Director, MILO shall provide an annual summary of external counsel matters and expenses to the Office of Legal Services for inclusion in their annual reporting.

## **Related Procedures or Documents**

- n/a