

September 17, 2014

MEMORANDUM

TO: State Board of Regents

FROM: David L Buhler

SUBJECT: Utah Valley University - Request for approval to create the position of General Counsel

Issue

Utah Valley University (UVU) is currently represented in all legal matters by the Utah Attorney General's office. The volume of legal work required by UVU is exceeding the staff availability of the Attorney General's Office. Given the size and complexity of UVU, it is in need of additional legal assistance to provide legal advice, contract review, policy review, and compliance.

Background

Utah State Code §53B-2-106, Duties and Responsibilities of the President of each Institution: Approval by Boards of Trustees and R220, Supplement, Reference to Responsibilities allows for the appointment of attorneys at USHE institutions. Relevant policy language indicates that a USHE president may "...appoint attorneys to provide legal advice to the institution's administration and to coordinate legal affairs" following approval by the Board of Trustees and the Board of Regents. Additional policy language makes it clear that, "these appointed attorneys may not conduct litigation, settle claims covered by the State Risk Management Fund, or issue formal legal opinions but shall, in all respects, cooperate with the Office of the Attorney General in providing legal representation to the institution."

Civil Division Chief Brian Tarbet of the Attorney General's Office has indicated his support for the creation of a General Counsel position at UVU. The Attorney General's Office will retain the responsibility to represent the University in all litigation matters of the University. UVU anticipates dividing legal responsibilities between the Attorney General's Office and the University General Counsel as permitted by policy.

Commissioner's Recommendation

The Commissioner recommends that the Regents review the Utah Valley University request to create the position of General Counsel and if in agreement, approve the request, effective immediately.

David L. Buhler
Commissioner of Higher Education

DLB/GLS/CRW
Attachment



UTAH VALLEY UNIVERSITY
VICE PRESIDENT *for* FINANCE & ADMINISTRATION

August 1, 2014

Commissioner David Buhler
Utah System of Higher Education
Board of Regents Building, The Gateway
60 South 400 West
Salt Lake City, Utah 84101-1284

Dear Commissioner Buhler,

Utah Valley University requests approval to create the position of General Counsel.

Utah Valley University is the second largest public university in the state of Utah. The University is currently represented in all legal issues by the attorney general's office. The attorney general's office is constitutionally given the responsibility to represent the State of Utah in all legal issues

The majority of universities have a general counsel. The Utah Code (53B-2-106 Duties and Responsibilities of the President of each Institution: Approval by Board of Trustees) and Board of Regent Policy (R220 Supplement, Reference to Responsibilities) provides for the position of general counsel. This position can be created with approval of the Attorney General and the State Board of Regents.

R220 Supplement, References to Responsibilities states,

(ii) subject to the authority of, policy established by, and the approval of the board of regents, and recognizing the status of the institutions within the state system of higher education as bodies politic and corporate, appoint attorneys to provide legal advice to the institution's administration and to coordinate legal affairs within the institution. The board of regents shall coordinate activities of attorneys at the institutions of higher education. The institutions shall provide an annual report to the board of regents on the activities of appointed attorneys. These appointed attorneys may not conduct litigation, settle claims covered by the State Risk Management Fund, or issue formal legal opinions but shall, in all respects, cooperate with the Office of the Attorney General in providing legal representation to the institution;

The amount of legal work needed by Utah Valley University is exceeding the amount of staff the attorney general's office is able to provide. The University has need of general counsel to provide advice, contract review, policy review, and compliance.

The attorney general's office retains the responsibility to represent the University in all litigation matters of the university. The University's administration anticipates dividing legal responsibilities between the attorney general's office and university general counsel.

President Holland has met with Brian Tarbet, Civil Division Chief, Attorney General's Office State of Utah, who gave approval for UVU to create a general counsel position for the University.

Sincerely,

A handwritten signature in black ink, appearing to read 'Val Peterson', with a large, stylized initial 'V' and a horizontal line extending to the right.

Val L. Peterson
Vice President
Finance and Administration

cc: President Holland, Greg Stauffer