

March 18, 2015

MEMORANDUM

TO: State Board of Regents

FROM: David L. Buhler

SUBJECT: Salt Lake Community College – Request for Approval to Create the Position of General Counsel

Issue

Salt Lake Community College (SLCC) is currently represented in all legal matters by the Utah Attorney General's office. The volume of legal work required by SLCC is exceeding the staff availability of the Attorney General's office. Given the size and complexity of SLCC, 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."

SLCC Vice President for Business Services Dennis Klaus and the Assistant Attorney General assigned to SLCC, Morris Haggerty, met with Civil Division Chief Brian Tarbet of the Attorney General's office to advise him of SLCC's intention to create the General Counsel position. I independently confirmed the Attorney General's support. The Attorney General's office will retain the responsibility to represent the College in all litigation matters. SLCC anticipates dividing legal responsibilities between the Attorney General's office and the College General Counsel as permitted by policy.

Commissioner's Recommendation

The Commissioner recommends that the Regents review the Salt Lake Community College 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



March 6, 2015

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,

Salt Lake Community College requests approval to create the position of General Counsel.

Salt Lake Community College is one of the largest community colleges in the United States and one of the largest USHE institutions in the state of Utah. The College 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.

All of the larger USHE institutions currently have (or are in the hiring process) 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 College Board of Trustees and the State Board of Regents.

The amount of legal work needed by Salt Lake Community College is exceeding the amount of staff the attorney general's office is able to provide. The College 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 College in all litigation matters of the college. The College's administration anticipates dividing legal responsibilities between the attorney general's office and college general counsel.

Morris Haggerty (SLCC's assigned AAG) and I have met with Brian Tarbet, Civil Division Chief, Attorney General's Office State of Utah, and David Jones, Director, Education Division, Assistant Attorney General, Attorney General's Office State of Utah, to advise them of our intent to proceed in hiring a general counsel position for the College.

Sincerely,

A handwritten signature in black ink, appearing to read "D R Klaus".

Dennis R. Klaus
Vice President
Business Services

cc: President Huftalin, Greg Stauffer, Ralph Hardy, Loreen Olney, Morris Haggerty