

OFFICE OF GENERAL COUNSEL ANNUAL REPORT 2022-2023

This report summarizes the Office of General Counsel's (OGC) work during FY 22-23. It reflects the office's efforts to support many of the strategic goals of the Wolfpack 2030: Powering the Extraordinary Strategic Plan, and also summarizes significant matters that reflect the Office of General Counsel's collective contributions to the mission of the University.

I. Overview and Overall Highlights and Accomplishments for FY 22-23

This has been another busy and very productive year for the Office of General Counsel. We obtained significant and positive results for our clients in legal matters. We continue to maintain strong partnerships with our campus clients, and the attorneys and staff have the opportunity to engage in meaningful, challenging work. OGC attorneys and staff make a collective effort to stay on top of the trends and focus of the higher education industry, both in the state of North Carolina but also nationwide. We have filled our University Compliance and Ethics Officer position as well as a newly created position, Director of Legal Operations and Policy and Compliance Administration. OGC is leading the ongoing comprehensive PRR review process. We remain guided by the university's land-grant mission, and our focus as an office and in our individual practices continues to be on providing mission-oriented advice and counsel.

OGC continues to use the matter management software program Clio. OGC also now uses two additional software products. NextRequest is an online portal to manage requests and responses for public records. Relativity is an e-discovery online platform that allows for our attorneys to handle, process, and respond to discovery and other litigation requests in a timely and efficient manner.

II. OGC Staff Updates and Professional Development

- Anna Szamosi joined OGC as the University Compliance and Ethics Officer on June 14, 2023.

- Kathryn Bogle joined OGC as Director of Legal Operations and Policy and Compliance Administration on June 30, 2023.
- John Waldrop joined OGC as Paralegal on July 28, 2023.
- OGC is currently recruiting for a Senior Associate General Counsel position.

III. Representative Legal Matters for 2022-2023

As the unit responsible for providing legal services to the University community, OGC has a broad portfolio of work across the University. Below are some examples of the significant and important legal matters that OGC has handled over the past fiscal year.¹ They are organized according to the University's goals set forth in the new strategic plan: "Wolfpack 2030: Powering the Extraordinary."

Goal 1: Empower students for a lifetime of success and impact.

- Legislative Services Internship Program
- Advice/Counsel to Admissions Offices for Undergraduates/Graduates/College of Vet Medicine
Board of Governors Policy Changes

Goal 2: Ensure preeminence in research, scholarship, innovation and collaboration.

- OIT working groups, including the Data Governance Working Group and Information Security Advisory Group

Goal 3: Expand and advance our engagement with and service to North Carolina and beyond, defining the standard for a 21st-century land-grant university.

- Esports Steering Committee and the Esports External Partnerships & Facility Use Subcommittee
- Centennial Campus

¹ Each attorney was asked to summarize the three most significant projects they worked on. The examples in this section reflect those highlights. A full and complete list of every matter that attorneys in the office worked on can be made available upon request.

Goal 4: Champion a culture of equality, diversity, inclusion, belonging and well-being in all we do.

- Student Mental Health Issues/Task Force
- Advise/Counsel OIED, Office of Student Conduct, and DASA

Goal 5: Improve university effectiveness through transformative technologies, cutting-edge processes and actionable data.

- UNC Code and Policy Manual Update Project from the System Office
- Drug and Alcohol Free Workplace NCSU REG 04.10.01
- Ongoing University Wide PRR Review Project

Goal 6: Lead in developing innovative partnerships, entrepreneurial thinking and applied problem-solving.

- University Towers Lease and Dining Agreement
- North Shore Development on Centennial Campus
- Innovation District Development

Goal 7: Elevate the national and global reputation and visibility of NC State.

- NHL Stadium Series at Carter-Finley Stadium

Significant Supreme Court Decision: *SFFA v. Harvard* and *SFFA v. UNC*

On June 29, 2023, the U.S. Supreme Court issued its decision in *Students for Fair Admissions v. UNC and Students for Fair Admissions v. Harvard*. The decision substantively overruled the Court's prior precedent and substantially changed the law on the use of race (and possibly other protected classes) in admissions. The critical impact of the decision is that race cannot be used as a factor in admissions decisions. The impact of the decision may also extend to financial aid and scholarship programs and recruitment programs.

To prepare for the potential impact of the decision, OGC (Allison Newhart, Betsy Lanzen, and Leslie Mize, assisted by others on the team) spent the past year leading a group of stakeholders in collecting information and discussing the possible impact with the current undergraduate and graduate admissions processes. OGC is now working closely with the Provost's Office and all admissions officers to understand the impact of the decision and ensure admissions processes are compliant.

IV. Additional Functions of OGC

The Office of General Counsel is the university's legal representative, and is responsible for providing all legal services to the University, senior leadership, Board of Trustees, and other members of the University community. Consistent with the University's mission and in furtherance of the objective of organizational excellence, the Office of General Counsel also has additional functions and responsibilities within the University. These are listed as follows:

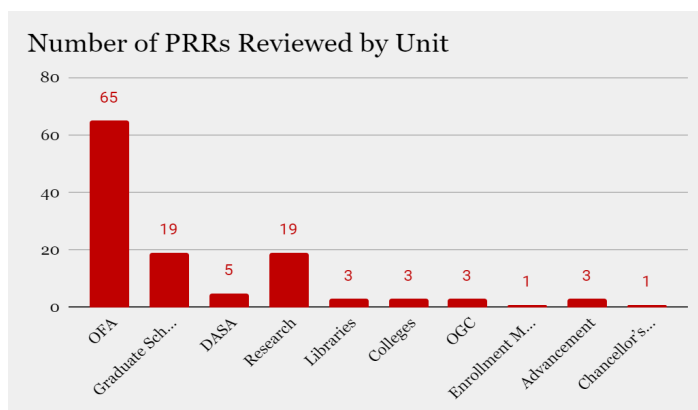
A. Training

OGC presents specialized training to many campus units. This training has included topics such as records retention and disposition, FERPA, faculty grievances and mediation, information security, minors on campus, privacy in cyberspace, political activities, computer use as well as first amendment, freedom of speech and the Clery Act to name a few.

B. Policies, Regulations and Rules

Policies, Regulations and Rules ("PRR"s) are the internal "law" of the university. They reflect regulatory and institutional requirements, clarify responsibilities, and set expectations for conducting University operations. PRRs are made available through the University's PRR website which is managed by OGC. OGC helps facilitate the review and revision of the University's PRRs, in collaboration with the offices and units having responsibility and authority over the PRR. This past year, as part of implementing NC State's strategic plan "Wolfpack 2030: Powering the Extraordinary", OGC initiated a comprehensive review of all PRRs. The review began in summer 2022.

The review and revision process is underway and will continue next year. To date, as a result of this process, a total of 123 PRRs have been reviewed this past year. Of those reviewed, 92 PRRs were either revised, repealed, or newly created. 5 PRRs were created, 67 were revised (15 non-substantive revisions, 52 substantive revisions) and 20 were repealed. The number of PRRs reviewed over the past year reflects a dramatic increase of over 700% reviewed from the previous year (21-22'). OGC plans to continue advancing the PRR review process over the summer and into the fall. As shown below, the Office of Finance & Administration (“OFA”) reviewed the most PRRs this past year (65), followed by the Graduate School and Office of Research and Innovation (both with 19). Changes to the PRR process will also likely be considered.

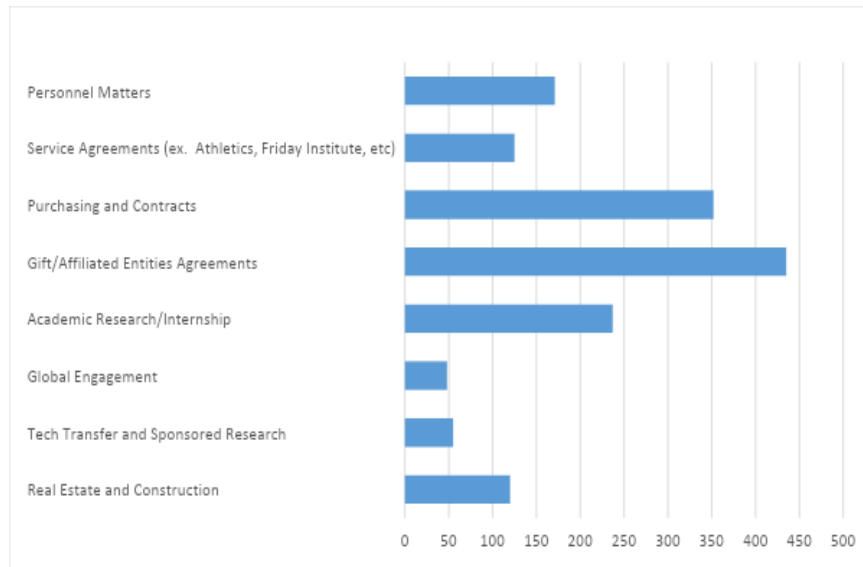


C. Public Records

As a state agency, NC State University is subject to the Public Records Act. Another key function of OGC is the advice and management of the University’s responses to requests for public records. Lynda Mottershead is the University’s Public Records Officer. This year Lynda provided guidance regarding revisions to the Public Records section of the Computer Use Regulation (REG 08.00.02) as well as revisions to the UPD’s Policy Report Records Management Policy. For fiscal year 22-23 (as of June 1, 2023), the University received over 308 public records requests and more than 12 subpoenas. In addition, REG 01.25.12-- University Record Retention and Disposition Regulation, was revised to reflect changes imposed by the North Carolina Department of Natural and Cultural Resources (NCDNCR).

D. Contracts/Agreements Review

OGC continues to play a significant role in reviewing and providing guidance on University contracts and agreements. OGC attorneys review all manner of agreements in support of Procurement & Business Services, Advancement Services, University Real Estate and Development, the Provost’s Office, Athletics, Technology Transfer and Sponsored Research, Employment/Personnel Matters, Global Engagement, SPARCS, Facilities, Fraternity and Sorority Life, the Office of Research Commercialization, the Endowment Fund, various affiliated foundations and other associated entities, and service agreements performed by our centers, institutes, and College and non-College service centers. Given the varying degrees of contract and agreement consultation it is difficult to obtain a precise number but OGC estimates that it has collectively reviewed 1,000+ contracts in the 2022-2023 fiscal year. The chart below provides a breakdown of contracts by transaction type.



E. Tort Claims/State Property Incident Reports

In accordance with state law, OGC handles tort claims and state property incident reports involving claims of damage or injury on University property. OGC works closely with the Director of Insurance and Risk Management and the NC Department of Justice. This year OGC processed 9 tort claims, 1 motor vehicle complaint. No state property incidents were reported.

F. Compliance and Enterprise Risk Management

OGC is responsible for the University's Compliance and Integrity Program and Enterprise Risk Management (ERM) Initiative. Due to staff turnover, the University Compliance and Ethics Officer (UCEO) position has been vacant much of this fiscal year. However, Shawn Troxler has served in the role of the Compliance and Ethics Officer on an interim basis. Recruitment for the Compliance and Ethics Officer position took place during spring semester and we are pleased to welcome Anna Szamosi into the position as of June 14, 2023. The following are some of the critical accomplishments from this year.

Compliance

- Facilitated the review, and drafting, and revision, and drafting of the charter and operating guidelines for both the University Compliance Steering Committee (UCSC) and Compliance Officials Working Group (COWG).
- Supported the following specific compliance efforts:
 - Coordinated the University's Foreign Gifts and Contracts Reporting process under Section 117 of the Higher Education Act.
 - Support DELTA with implementing compliance processes to fulfill regulatory requirements regarding professional licensure programs.
 - Supported the Office of Research and Innovation with its assessment of NC State's preparedness for meeting the requirements of National Security Presidential Memorandum 33.
 - Supported Sponsored Programs and Research Compliance with developing a compliance initiative and plan to match the requirements of FAR 52.222-50, Combating Trafficking in Persons.
 - Supported the Academic Visitors Working Group and HR on the introduction and implementation of the Research Visitor pilot program and reducing and identifying the job codes that visiting researchers may be identified as in the university's systems; identifying unique arrangements and developing process solutions, and educating the

campus community about the updated research visitor processes and procedures for Academic visitors.

- Updated the Compliance and Integrity Program 's website
- Administration of EthicsPoint Hotline
- Coordination of the efforts of the UCSC and the COWG

Service

The UCEO participates in several committees and working groups that meet on a periodic basis, which provide opportunities for compliance communication. The UCEO's committee and working group service over the past year include:

- Insider Threat Working Group
- Research Security Working Group
- IT Risk Management Working Group
- Data Governance Working Group
- Youth Programs And Compliance Advisory Group
- Research Data Compliance Steering Committee
- HIPAA Security Assessment Working Group
- Professional Licensure Compliance Working Group
- Academic Visitors Working Group

Chancellor's Annual Compliance Memo: The Chancellor's Annual Compliance Notices memo email was delivered to 52,488 members of the campus community. The email received 32,295 unique opens (an open rate of 64.5%) and 819 unique clicks (a click rate of 1.6%).

Compliance Program Annual Report: Shawn Troxler and the COWG prepared a report of the Compliance Program's annual activities, program goals, and assessment. The report is linked [here](#).

Enterprise Risk Management:

- Led the Cabinet through the regular risk assessment and prioritization exercise
- Reported and updated the Audit, Risk Management and Finance Committee of the Board of Trustees
- Gathered detail on monitoring and mitigation.