



Policy Title:	University Legal Opinions
Policy Number:	UNIV-474
Revision Date:	December 2019
Policies Superseded:	PRES-121
Policy Management Area(s):	University Counsel

SUMMARY:

The purpose of this policy is to explain the conditions under which legal advice can be given and legal documents prepared and by whom as it regards the University and its employees.

POLICY:

I. DEFINITIONS

- A. Formal Opinion – a binding opinion, in writing, issued by the Office of University Counsel on a real or hypothetical set of facts or circumstances that has been submitted to University counsel’s office for consideration.
- B. Informal Opinion – a nonbinding opinion issued by the Office of University Counsel on a real or hypothetical set of facts or circumstances that has not been formally submitted for consideration.
- C. Legal Advice – any form of guidance, assistance, or opinion on the applicability, meaning, or consequences of any law, regulation, statute, action, or inaction of any body politic, its agents, employees, directors, or officers acting on behalf of the body politic.
- D. Legal Documents – any executed, written document that records and formally expresses a legally enforceable act, process or contractual duty, obligation or right, and, therefore, evidences that act, process, or agreement.

II. POLICY

- A. Who can render legal advice on behalf of the University?
 - 1. Legal advice regarding Coastal Carolina University, its position, its policies, or its practices may only be rendered by the Office of University Counsel.

2. Legal documents relating to Coastal Carolina University may only be drafted in consultation with and upon the approval of the Office of University Counsel.
3. The president, or designee, is the only person with signatory authority for the University; no other person may sign any legal document relating to Coastal Carolina University.
4. The rendering of legal advice or preparation of legal documents on behalf of the University by one who is not a member of the South Carolina Bar constitutes the unauthorized practice of law. The unauthorized practice of law is a felony punishable by a fine of up to \$5,000.00 and/or imprisonment for up to five years.¹

B. How to Request a Formal Legal Opinion from the Office of University Counsel

*The Office of University Counsel can only issue opinions related to official University business as they represent the institution as an entity, not the individuals it employs.*²

Any employee of the University may request a formal opinion from the Office of University Counsel. A request for an opinion must include:

- The signature of the submitter.
- The submitter's contact information.
- The submitter's relationship to the University.
- The complete set of facts and circumstances giving rise to the request.
Failure to provide the complete set of facts and circumstances giving rise to the request may void the opinion, as the analysis needed for legal opinions are fact-specific.

Requests for a formal opinion must be submitted to the Office of University Counsel. If being submitted via email, please reference "University Legal Opinion" in the subject line and send the request to carlosj@coastal.edu. A formal response will be given within 30 days of receipt of the formal request.

C. Attorneys Occupying Full-Time Equivalent (FTE) Positions Practicing Law

1. Those attorneys who occupy full-time slotted positions with the University and who possess a license to practice law in the state of South Carolina may not engage in the private practice of law for fees that constitutes a conflict of interest for the University. Coastal Carolina University reserves the right

¹ South Carolina Code of Laws §40-5-310 (2009).

² Rule 1.13, RPC, Rule 407, SCACR - Organization as a Client.

to determine if a conflict of interest exists between the attorney's position at the University and the outside practice of law.³

2. Employee/attorneys may not represent students or a student's immediate family in any legal capacity, including providing legal advice, nor may they participate in any case where the Coastal Carolina University Department of Public Safety is the principal investigative agency.

Exception: Should there be a pre-existing attorney-client relationship with the student or immediate family, the attorney-employee can request through their supervisor or faculty chair that an exception be granted. A decision to grant the exception shall be made in consultation with the appropriate vice president, dean, and University counsel.

3. All state and federal laws, the South Carolina Rules of Professional Conduct, University policies, and other related guidance, including the American Bar Association rules, mandates and Model Rules of Professional Conduct for those who are members, are applicable to this form of outside employment and must be followed at all times. Violation of these standards by an employee/attorney may result in notification of said violation to the appropriate agency.

³ Memorandum Att'y General (Feb. 10, 2011).