



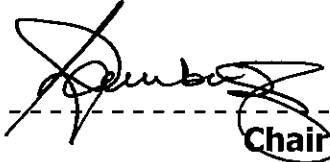
**WALTER SISULU UNIVERSITY
POLICY ON UNIVERSITY LEGAL
MATTERS**

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Policy on University Legal Matters

Sponsor division	Registrar's Division
Responsible Department	Legal Services Division
Related WSU policies	
Delegation of Authority Policy	Policy on Policy Development
Related Legislation	
Constitution of the Republic of South Africa, (Act No. 108 of 1996)	Higher Education Act, (Act No. 101 of 1997) as amended
Change History	
Approval authority	Council
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Effective date	Immediately
 ----- Chairperson of Council	

<i>TITLE: POLICY ON UNIVERSITY LEGAL MATTERS</i>			
<i>POLICY NUMBER</i>		<i>APPROVED BY</i>	
<i>DATE</i>	03 October 2017	<i>MINUTE</i>	
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REFER QUESTIONS TO: Registrar			

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1. PREAMBLE:

There is no policy that exists that guides how legal matters should be dealt with at Walter Sisulu University.

This policy aims to fulfill this need, as the policy will provide guidance on how to deal with legal matters.

2. PURPOSE:

This policy seeks to:

Provide guidance on how to deal with legal matters, which includes legal opinions, contract reviews, drafting of contracts, matters involving students, matters involving service providers, and court matters.

Provide guidelines to be followed by all University divisions to minimize court matters, and enable cost savings by divisions in respect of legal matters.

3. SCOPE:

This policy applies to all staff and students at Walter Sisulu University, across all the sites of Walter Sisulu University.

4. DEFINITIONS OF KEY WORDS OR CONCEPTS

i) Legal Opinion

A written opinion on a legal matter.

ii) Summons, Notice of Motion

These documents indicate the initiation of a court process against the University. The relevant court will be indicated on these documents and the attorney who is dealing with the court matter will sign it.

iii) A legal matter

Includes legal opinions, contract review, drafting of contracts, matters involving students, matters involving service providers and court matters

5. LEGAL OPINIONS

5.1 All divisions should seek legal opinion on all matters with legal implications or matters, which have the potential of legal implications.

5.1.1 The relevant division should request their legal opinion by writing a letter to the Legal Services Division setting out in detail all the facts and indicating the nature of the legal opinion required.

5.1.2 Requests for legal opinions should be made by the relevant Campus Rector, or the relevant Executive Manager, who will sign such referral.

- 5.2 Requests for legal opinions can be in respect of:
 - 5.2.1 Disciplinary matters.
 - 5.2.2 Contracts.
 - 5.2.3 Tender Processes.
 - 5.2.4 Complaints by students and staff.
 - 5.2.5 Problems with suppliers, including poor performance.
- 5.3 The Legal Services Division must be contacted as soon as possible for a legal opinion before a division embarks on a course of action to ensure effective management of the matter.

6. REFERRALS

- 6.1 All legal matters must be referred to the Legal Services Division in writing. A legal matter may include a legal opinion, contract review, drafting of a contract, a tender process, complaints by students and suppliers of services, and court matters.
- 6.2 The Human Resources Division deals with all staff matters and handles its own matters in all forums including at court. The Human Resources Division will however, keep the Legal Services Division informed in respect of all human resources court matters.
- 6.3 All policies should be submitted to the Legal Services Division for review before approval is obtained.
- 6.4 Such referrals must be signed by the relevant Campus Rector or the relevant Executive Manager.
- 6.5 A referral can be a request for legal assistance in respect of a letter of demand, a court process such as a summons or a notice of motion, a contract for drafting or review, a complaint or a request for legal opinion.
- 6.6 Letters of demand from an attorney and a court process document such as summons or a notice of motion must be referred to the Legal Services Division immediately or within 24 hours of receipt. Should a court process document be received late on a Friday or after hours, this too should be referred to the Legal Services Division immediately or as

soon as is practically possible. The Registrar should be copied always.

- 6.7 Only the Vice Chancellor or his delegated authority, or the Registrar may sign for receipt of a court process document such as a summons or a notice of motion.
- 6.8 The referral should be accompanied by a written report providing as much information as possible with all the contact details, including a cell-phone number and contact number of the contact person who will liaise closely with the Legal Services Division in respect of the matter.
- 6.9 All supporting documents must be provided.
- 6.10 Details of witnesses must be provided.

7. COURT PROCESS

- 7.1 All court documents received from attorneys or the court and served by the sheriff to the University by hand, or sent to the University by e-mail, telefax, post, such as, inter alia, letters of demand, summons or warrants, should only be served to the Office of the Vice Chancellor, or his delegated authority, or the Registrar, and receipt of such document will be signed by the same office.
- 7.2 Should a court process be received at any other office by a staff member, such staff member must not accept the court document. The sheriff or party serving the document must be advised to serve the court document, to the Vice Chancellor's Office.
- 7.3 Should a staff member fail to refer a court process to the Office of the Vice Chancellor, the University will take disciplinary measures in respect of this breach, which has serious financial and reputational prejudice for the University.
- 7.4 Court documents must be referred to the Legal Services Division immediately, to enable the division to refer the court document to a practicing attorney immediately to ensure compliance with the periods required by law to deal with such court documents.

8. LEGAL COSTS

- 8.1 Legal matters emanate from divisions within the University; accordingly, the referring/relevant division will bear the legal costs of the legal matter.
- 8.2 The Legal Services Division will make payment of the legal costs but will recover such costs from the division from which the matter emanates.
- 8.3 The Finance division will provide reports that will indicate the legal costs per division.

9. RESOLUTION MECHANISMS

- 9.1 Every effort should be made to resolve a matter internally and amicably to ensure the matter does not become a legal matter. Even when a matter becomes a legal matter, every effort should be made to resolve a legal matter internally and amicably without resorting to court due to the high costs involved in litigation.
- 9.2 All internal processes should be exhausted regarding the matter and should involve a process inclusive of all levels of management, including the relevant Campus Rector, or relevant Executive Manager, who should objectively assess the matter with a view to seeking an amicable solution.
- 9.3 In certain court matters, the Legal Services Division will conduct an assessment of the matter and provide an opinion that is in the best interest of the University. This opinion may indicate that it is not advisable for a matter to proceed to court. This opinion can be used by the Vice Chancellor or his delegated authority to make a decision on how to proceed in a particular matter.

10. CONTRACT REVIEW

- 10.1 Contract review includes review of agreements, such as service level agreements, lease agreements, supplier agreements, Memoranda of Understanding and Memoranda of Agreements, drafting of Agreements, etc.

- 10.2 The relevant Campus Rector, or relevant Executive Manager, is the custodian of all contracts in his/her division. He/she must ensure then that every contract has legal and financial approval.
- 10.3 The Vice Chancellor, or his delegated authority, is the only authorised signatory on all Contracts. For the Vice Chancellor, or his delegated authority, to sign a contract he will require a written recommendation for the contract from the following staff members:
 - 10.3.1 The relevant Campus Rector or Executive Manager
 - 10.3.2 The Chief Financial Officer
 - 10.3.3 The Head of the Legal Services Division.
- 10.4 In respect of residence contracts which has a value of R 1.5 Million and below and which has a duration of 12 months, The relevant Campus Rector will be the authorised signatory.
- 10.5 The relevant Campus Rector, or Executive Manager, must in writing refer a contract to the Legal Services Division for review from a legal perspective.
- 10.6 The written referral must provide as much information as possible in terms of the contract and possible concerns.
- 10.7 The written referral must be accompanied by financial approval.
- 10.8 Only the Vice Chancellor or his/her delegated authority, is the authorised signatory on behalf of the University for all Contracts.
- 10.9 The contract will be reviewed within 14 days of receipt of the referral by the Legal Services Division.
- 10.10 The relevant Campus Rector, or relevant Executive Manager, will submit the contract for signature to the Vice Chancellor or his/her delegated authority.
- 10.11 The Vice Chancellor, or his delegated authority, will return a signed copy to the division and file the original for record purposes.

- 10.12 As the terms of a contract are negotiated, long before the terms are recorded in writing, at the negotiating stage, the Legal Services Division must be involved as early as possible at the negotiating phase to ensure WSU's interest is protected.

11. PRO ACTIVE ROLE OF THE LEGAL SERVICES DIVISION

The Legal Services Division will provide training to staff on various legal issues. This will include areas of concern identified by the division, arising out of legal matters dealt with by the division.

12. PANEL OF ATTORNEYS

The Legal Services Division will appoint a panel of five attorneys for use by the division in respect of legal matters, through the procurement process.

13. PROCESS FOR IMPLEMENTATION

- 13.1 Council will approve the policy.
- 13.2 The policy will be implemented by the relevant Campus Rector, or the relevant Executive Manager and the respective line managers.