

# Annual Report

## Part 1

### Section A

#### Unit Information

**Unit:**General Counsel

#### **Mission Statement:**

The Office of the General Counsel's mission is to provide the timely delivery of high quality legal services to Florida Gulf Coast University, the Florida Gulf Coast University Foundation, Inc., and the Florida Gulf Coast University Financing Corporation, and in so doing to educate our clients regarding the legal implications of policy and operational decisions, to solve legal problems and to facilitate transactions in accordance with the highest standards of integrity and ethics (adopted January 2003).

### Section B

#### Unit goals set within last year's (2003-2004) Annual Report

<u>Strategic Plan Goal</u>	Unit Goal
<b>With which 1 or 2 goals from the 8 current strategic plan goals does your 2004-2005 goal best align?</b>	<b>What were your unit level goals for 2004-2005 as contained in your <a href="#">2003-2004 annual report?</a></b>
Strategic Plan Item 8 - Ongoing Quality Improvement	Attend professional development training
<b>What action did you undertake to achieve this goal?</b>	
The General Counsel attended training related to leadership, management and team-building for senior managers in higher education at the Harvard University College of Education's Institute for Higher Education Administrators in Summer 2004. The General Counsel also attended two meetings of the State University System Council of Counsels.	
<b>By what means did you assess goal achievement?</b>	
The seminar was attended and a certificate of completion received.	
<b>Describe the assessment results and the conclusions about goal attainment you inferred from them.</b>	
Based on information received at the seminar, the goal was attained.	
<b>What continuous improvement resulted from the use of the assessment data?</b>	
The General Counsel learned additional skills related to university governance and team-	

building such as team-building and problem-solving skills amongst executive cabinet members. The General Counsel also was apprised of updates and recent changes in laws affecting higher education.

**Strategic Plan Goal**

**Unit Goal**

**With which 1 or 2 goals from the 8 current strategic plan goals does your 2004-2005 goal best align?**

**What were your unit level goals for 2004-2005 as contained in your [2003-2004 annual report?](#)**

Strategic Plan Goal 8 - Ongoing Quality Improvement

Maintain Title IX compliance on campus

**What action did you undertake to achieve this goal?**

Researched legal issues; attended meetings with the Office of Equal Opportunity Programs (EOP) and Department of Athletics staff; reviewed documents.

**By what means did you assess goal achievement?**

Goal achievement was assessed by whether the University received any determinations of non-compliance by external agencies relating to Title IX during 2004-05 year.

**Describe the assessment results and the conclusions about goal attainment you inferred from them.**

The University received no notices of non-compliance with Title IX during 2004-05 year

**What continuous improvement resulted from the use of the assessment data?**

The staff of the Department of Athletics, EOP and the General Counsel's Office are better educated as to the requirements of Title IX. University policies and procedures are in compliance with Title IX.

**Strategic Plan Goal**

**Unit Goal**

**With which 1 or 2 goals from the 8 current strategic plan goals does your 2004-2005 goal best align?**

**What were your unit level goals for 2004-2005 as contained in your [2003-2004 annual report?](#)**

Strategic Plan Goal 8 - Ongoing Quality Improvement

Update or Promulgate University Rules as needed

**What action did you undertake to achieve this goal?**

Researched legal issues surrounding the promulgation of rules in the areas of prompt payment

---

to vendors, tuition and fees, parking and non-discrimination. Wrote rule changes and new rule. Held meetings with staff representing these program areas to assess need for rule changes.

**By what means did you assess goal achievement?**

Assessment was determined by analyzing whether appropriate rule updates or revisions occurred and whether any required new rules or amendments were implemented.

**Describe the assessment results and the conclusions about goal attainment you inferred from them.**

The results of the assessment showed that a new prompt payment to vendors rule was approved by the Board of Trustees and implemented. The assessment also showed that the University's tuition and fee rules were revised and updated for 2004-05 in accordance with changes in the law. The assessment showed that changes to parking and non-discrimination rules were postponed due to operational needs.

**What continuous improvement resulted from the use of the assessment data?**

The prompt payment rule establishes a clear policy for the Department of Procurement Services and University vendors as to when payments for services and commodities are timely and other related procurement payment policies. The tuition and fees rules establish a clear policy for University Departments, students and members of the public as to the cost of attendance at the University. Improving clarity in these processes reduces legal risk to the University and provide clear guidance.

**Strategic Plan Goal**

**Unit Goal**

**With which 1 or 2 goals from the 8 current strategic plan goals does your 2004-2005 goal best align?**

**What were your unit level goals for 2004-2005 as contained in your 2003-2004 annual report?**

Strategic Plan Goal 8 - Ongoing Quality Improvement

Develop intellectual property policy

**What action did you undertake to achieve this goal?**

Researched legal issues related to intellectual property (IP) and labor relations; held meetings with relevant staff from the Office of Sponsored Research, Provost's Office, and Office of Human Resources; provided legal advice to administrators with respect to IP issues; developed an interim IP policy for University employees and students who are outside the faculty bargaining unit.

**By what means did you assess goal achievement?**

Assessment was determined by analyzing whether the University implemented an intellectual property policy.

**Describe the assessment results and the conclusions about goal attainment you**

---

**inferred from them.**

The University was able to attain this goal partially by establishing an interim IP policy for out of unit employees. The University was not able to establish an IP policy for in unit faculty due to the fact that collective bargaining agreement between the faculty union and the University has not been ratified. An agreement will be ratified no later than the June 2005 Board of Trustees meeting, after which point the University can establish an umbrella IP policy covering all University employees and students .

**What continuous improvement resulted from the use of the assessment data?**

Having an IP policy for out of unit employees provides clear guidance to those employees and to administrators as to the rights and responsibilities of both parties.

The University continues to move towards developing an IP policy to cover all University employees and students no later than the 2005-06 year. This helps ensure that employees are treated equitably, students are not exploited, and the university can benefit from the creation of new knowledge and its applications in furtherance of the university's mission.

**Strategic Plan Goal**

**Unit Goal**

**With which 1 or 2 goals from the 8 current strategic plan goals does your 2004-2005 goal best align?**

**What were your unit level goals for 2004-2005 as contained in your 2003-2004 annual report?**

Strategic Plan Goal 8 - Ongoing Quality Improvement

Maintain and expand the General Counsel's Office web page

**What action did you undertake to achieve this goal?**

General Counsel's Office staff researched web pages from other University legal offices; researched legal issues; collected delegations of authority from around the campus.

**By what means did you assess goal achievement?**

Goal achievement was assessed by determining whether the website provided additional educational material to the campus community and whether the website remained current in the information presented.

**Describe the assessment results and the conclusions about goal attainment you inferred from them.**

The General Counsel's Office website now provides an indexed list of all delegations of authority relating to the Board of Trustees, President and direct reports to the President. The website also provides a listing of all policies and rules promulgated during this current year.

**What continuous improvement resulted from the use of the assessment data?**

The campus community is provided with a current library of all rules, policies, delegations of authority and other important documents relating to University governance. This will assist

---

students, employees and faculty in knowing their rights and responsibilities as they carry out their duties or educational opportunities.

**Strategic Plan Goal**

**Unit Goal**

**With which 1 or 2 goals from the 8 current strategic plan goals does your 2004-2005 goal best align?**

**What were your unit level goals for 2004-2005 as contained in your 2003-2004 annual report?**

Strategic Plan Goal 8 - Ongoing Quality Improvement

Implement "Time Matters" legal office software

**What action did you undertake to achieve this goal?**

The General Counsel's Office purchased the "Time Matters" software and an update to the software. The Office has researched staff training opportunities relating to the software.

**By what means did you assess goal achievement?**

Goal achievement was assessed as to whether the software was operational and in use by General Counsel's Office staff.

**Describe the assessment results and the conclusions about goal attainment you inferred from them.**

The General Counsel's Office was not able to attain this goal during the fiscal year. This goal will be carried over to the next fiscal year and allocation of staff resources will be requested if necessary.

**What continuous improvement resulted from the use of the assessment data?**

The continuous improvement will be evident after implementation of the software next year.

---

**Section C**

**Program or Service Specific Assessments**

**What program or service specific assessment occurred in the current academic year?**

During the 2004-05 year, the workload in the General Counsel's Office was assessed by reviewing the number of requests for services in areas such as contract review, personnel actions, collective bargaining processes, and rule and policy review or creation. The President, Vice Presidents and General Counsel determined that due to increases in workload the position

---

of Assistant General Counsel should be created. The General Counsel conducted a search during the Spring 2005 semester and the prevailing candidate will start on June 13, 2005.

#### **How were the results of the assessment used to improve programs or services?**

The expansion of the General Counsel's Office will enable the office to provide additional and more timely legal services to academic and administrative units, faculty members, the Board of Trustees, the direct support organizations and the President's Executive staff. This will assist the University to reach its mission and strategic plan goals.

### **Section D**

#### **Unit Contribution to President's Performance Measures**

**Please review the President's Performance Measures for 2004-2005. Did your unit contribute to any specific performance goals for the President?** (If so, please indicate whether the measure set was attained and to what degree.)

President's Goal 2 speaks to diversification of student enrollment. During this past year, the General Counsel's Office (GCO) worked with the Office of Enrollment Services and the FGCU Foundation staff to develop procedures for attracting and retaining a diverse student body in a legal fashion. These efforts focused mainly on defining scholarship criteria in a legal manner. Goal number 2 also speaks to attracting and retaining international students. Periodically through the year, the General Counsel's Office assisted the Office of International Services with immigration-related questions and other legal issues related to international student status.

President's Goal 5 speaks to construction of seven new facilities and master plan updates. The GCO reviewed all of the legal documents and contracts related to the construction of these facilities and the master planning consultants' contract. The General Counsel also reviewed pending legislation during the 2005 Legislative Session to update the State of Florida's master plan statute and provided feedback to UCF counsel who was handling the matter for the Council of Counsels. The General Counsel also handled all legal matters related to the University's acquisition of 47 acres in the surrounding conservation easement area.

President's Goal 6 speaks to increasing non-state funding support (Capital Campaign). The General Counsel's Office participated in this campaign by reviewing non-standard gift agreements stemming from the campaign and answering legal questions related to the campaign such as gift matching questions.

President's Goal 7 speaks to increasing and improving Academic and Community Outreach. The General Counsel's Office supported attainment of this goal by reviewing contracts and providing legal advice and risk assessment related to articulation with Edison College and other educational institutions, the Naples Botanical Garden gift and affiliation, the land acquisition from Charlotte County, the lease of space from Edison College's Charlotte Campus for the FGCU Charlotte Center, and the Rookery Bay leases and potential gifts.

President's Goal 8 speaks to the development of a Research Park on properties near the FGCU campus. The General Counsel has researched and advised administrators with respect to the

statutory requirements for formation of a research park under state law and with respect to acquisition of particular real properties under consideration as sites.

President's Goal 9 speaks to the development of a Charter School. The General Counsel has researched and provided advice with respect to possible funding models and legal structures for establishing a charter school.

President's Goal 10 speaks to supporting the growth of Intercollegiate Athletics. The General Counsel has researched Title IX issues and advised the Department of Athletics and EOP Office on various Title IX issues and questions.

President's Goal 13 speaks to implementing the educational governance transition in higher education. During the past year, the General Counsel's Office has supported this goal by updating rules and policies and by advising the Board of Trustees, President and others with respect to the various court challenges related to governance at the state level. The updating of Human Resources Rules for out of unit employees will roll over to FY 2005-06. Due to workload and other demands, this goal was not able to be accomplished during 2004-05.

President's Goal 14 speaks to establishing a new strategic plan. The General Counsel's Office supported this goal by researching and answering legal questions related to the plan and by reviewing the plan.

President's Goal 15 speaks to supporting the EAP for recruitment and attainment of women and minority professionals. Throughout the year, the General Counsel's Office supports the EOP Office by providing legal advice with respect to the EAP report and by reviewing the draft report prior to presentation to the Board of Trustees. In addition, the General Counsel's Office recently hired a female minority professional as Assistant General Counsel to start on June 13, 2005.

President's Goal 16 speaks to advancing faculty development. The General Counsel's Office supported this goal by providing legal advice with respect to the collective bargaining process on campus. The General Counsel's Office provided training for Board of Trustees members and senior staff in executive sessions of the board with respect to their roles and responsibilities during the collective bargaining negotiations and ratification process. With respect to the implementation of a tuition voucher system, the General Counsel researched and provided legal advice regarding the matter and reviewed the written policy.

President's Goal 19 speaks to development of additional student housing (Phase VII). The General Counsel worked with the Executive Director of the FGCU Financing Corporation to review and submit the legal documents necessary to obtain bond financing and ground leases for the project. In addition, the General Counsel wrote the "opinion of counsel" legal opinion necessary for the financing.

President's Goal 21 speaks to attaining SACs reaffirmation. Throughout the reaffirmation process, the General Counsel provided legal advice and explanation, particularly with respect to governance matters. The General Counsel also supported this process by writing for the University's SACS focus report an explanation of the legal relationship between the University and its direct support organizations. This explanation resulted in SACs finding the University in compliance with this evaluation criteria.

President's Goal 27 speaks to increasing public and private funding initiatives. After the

---

President and Foundation staff identify and nurture donors, the General Counsel on certain projects researched and answered legal issues related to the development of donor gift agreements and state matching questions. The General Counsel also reviewed, negotiated or wrote several agreements related to University gifts involving real property.

---

## Part 2

### Section A

## Unit Goals for Coming Year (2005-2006)

**Strategic Plan Goal**  
**With which 1 or 2 goals from the 8 current strategic plan goals does your 2005-2006 goal best align?**

**Unit Goal**  
**Goal for 2005-2006**

Strategic Plan Goal 8 - Ongoing Quality Improvement  
Develop University-wide intellectual property policy

### **What action(s) will you undertake to achieve the goal?**

Meet with staff of the Office of Sponsored Research, Provost's Office, Human Resources Office, faculty members, staff and students to develop a permanent intellectual property policy to cover all faculty, staff, employees and students; research legal issues; research IP policies from other universities; review terms of ratified FGCU-UFF Collective Bargaining Agreement; review and comment on drafts of policy; brief President, Provost, Trustees and others on policy drafts.

### **By what means will you assess goal achievement?**

The approval progress of the policy will be tracked.

### **How will you know if you have successfully attained each goal?**

Goal achievement will be assessed by determining whether a University-wide IP policy has been approved and implemented that is generally well received by various campus constituents.

### **How will the results of the above assessments be used to improve student learning or services?**

Having an intellectual property policy will result in the University being in compliance with the SACs criteria. The IP policy will provide the campus community with clear direction as to their roles, rights and responsibilities in the area of IP. This helps ensure that employees are treated equitably, students are not exploited, and the university can benefit from the creation of new knowledge and its applications in furtherance of the university's mission.

---

**Strategic Plan Goal**

**With which 1 or 2 goals from the 8 current strategic plan goals does your 2005-2006 goal best align?**

**Unit Goal**

**Goal for 2005-2006**

Strategic Plan Goal 8 - Ongoing Quality Improvement Implement "Time Matters" legal office software

**What action(s) will you undertake to achieve the goal?**

The Executive Secretary for the GCO will attend training provided by the software manufacturer on software use. The staff of the GCO will enter the necessary case and legal issue information into the database.

**By what means will you assess goal achievement?**

The progress of the implementation will be tracked during the course of the year.

**How will you know if you have successfully attained each goal?**

Goal achievement will be assessed as to whether the "Time Matters" software is fully operational.

**How will the results of the above assessments be used to improve student learning or services?**

The General Counsel's Office will operate more efficiently, thereby containing costs. The status of legal matters such as cases, grievances, lawsuits and issues will be more easily located and tracked and legal files will be more easily located and cross-referenced.

**Strategic Plan Goal**

**With which 1 or 2 goals from the 8 current strategic plan goals does your 2005-2006 goal best align?**

**Unit Goal**

**Goal for 2005-2006**

Strategic Plan Goal 8 - Ongoing Quality Improvement Provide high quality and prompt legal review for contracts and other legal documents

**What action(s) will you undertake to achieve the goal?**

The GCO will make an effort to have a turnaround time of no longer than five (5) work days for legal review of contracts.

**By what means will you assess goal achievement?**

The length of time to conduct legal review will be monitored by virtue of expanding the office's

---

contract log.

**How will you know if you have successfully attained each goal?**

The GCO will have achieved its goal if 95% of contracts are returned to the submitter within five (5) work days of a request for legal review.

**How will the results of the above assessments be used to improve student learning or services?**

The General Counsel's Office will function more efficiently. A more rapid response means that University business can be transacted in a shorter period of time. For example, the University will be able to form clinical affiliation agreements and articulation agreements more quickly thereby assisting students in obtaining their clinical placements of choice.

**Section B**

**Resources**

**What additional resources have you requested and received a commitment for during 2005-2006 from your area VP or the President that is based on your analysis of assessment data for 2004-2005?**

The General Counsel's Office has received the additional position of Assistant General Counsel which will have a significant focus in the area of reviewing legal documents. While the General Counsel's Office was able to meet nearly all of the goals set for the 2004-05 fiscal year, certain University needs were unmet due to insufficient legal resources. In the area of contract drafting, review and negotiation, for example, the University enters into hundreds of academic and business contracts per year and conducts dozens of competitive solicitations in the procurement area. These legal documents fall within many substantive areas to include but not be limited to releases of liability, academic affiliation and partnership agreements, purchase of commodities and services, international agreements, gift agreements, material transfer agreements, software and other license agreements, agreements related to grants, agreements for the construction or renovation of real property, leases, subleases, and employment agreements. During the 2004-05 year, the GCO had to devote an overwhelming amount of time to contract review, thereby crowding out the provision of legal services in other critical areas of responsibility.

For example, as to Goal #2 above, the EOP Director had requested that the General Counsel's Office provide Title IX training for the University's Title IX Committee in Spring 2005. The GCO was unable to provide this necessary training due to competing demands on her time.

Similarly, as to Goal #3 above and President's Goal #13, the General Counsel's Office accomplished updating and promulgating new rules. However, the GCO was unable to work with the staff of the Office of Human Resources during the 2004-05 year to update the University's Human Resources Rules for out of unit employees due to workload and competing demands for legal advice.

The establishment of a second attorney position will enable the GCO to handle the review of hundreds of the University's routine legal documents such as contracts, agreements and releases while also taking care of legal needs in other areas. The new position also will handle

routine matters such as advising with respect to public records requests, subpoenas and risk management issues. This reallocation of routine matters within the GCO from the GC to the AGC will enable the GC to spend more time on policy matters such as board of trustees issues, issues related to the University's direct support organizations, rule promulgations, policy promulgations, non-discrimination matters, personnel actions and collective bargaining issues.

**What additional resource needs do you have for fulfillment of your goals that you wish for consideration from your area VP or the President that is based on your analysis of assessment data for 2004-2005?**

None.

---

### Section C

## Assessment Plans

**What assessments are you planning to conduct during 2005-2006?**

The GCO will assess the length of the contract review turnaround time to determine whether the Office is achieving its goal of providing a turnaround time of five (5) workdays as to 95% of contracts submitted for legal review.

---

### Section D

## Coming Year - Strategic Plan Contributions

Strategic Plan Goal 8 - Ongoing Quality Improvement.

---