Special Assistant Attorney General (SAAG) Appointments

POLICY STATEMENT

When University of North Dakota's (UND) general counsel is not able to provide the legal services requested, departments must work with UND's legal counsel to determine if a special assistant attorney general (SAAG) appointment is necessary. SAAG appointments must be requested by the president, a vice president, or their designee, and approved by the North Dakota Office of Attorney General. Outside counsel cannot begin to work on a specific case/issue until UND has received confirmation of the SAAG appointment. All SAAG requests/appointments must be communicated to UND's Office of the Vice President for Finance & Operations/Chief Operating Officer (VPFO/COO) for reporting purposes.

REASON FOR POLICY

As per North Dakota Century Code (NDCC) Section 54-12-08, UND may not employ legal counsel except upon written appointment by the attorney general. Moreover, NDCC Section 54-12-13, requires UND to submit a monthly report of expenditures incurred by SAAG appointments (including, but not limited to paralegal, support staff and other expenses) to the North Dakota Office of Attorney General. The process outlined herein provides overall continuity in the request of SAAG appointments and consistency in bills received for services.

SCOPE OF POLICY

- President
- Vice Presidents
- Deans, Directors & Department Heads
- Area Managers & Supervisors
- Faculty
- Staff
- Students

DEFINITIONS

| SAAG | Special Assistant Attorney General - An attorney that has been retained or appointed by the North Dakota Attorney General to assist in the legal representation of the university. |
PRINCIPLES

Overview

When UND’s general counsel is not able to provide the legal services requested, departments must work with general counsel to determine if a special assistant attorney general (SAAG) appointment is necessary. SAAG appointments must be requested by the president, a vice president, or their designee, and approved by the North Dakota Office of Attorney General.

It is within the attorney general’s sole discretion whether an appointment will be given or continued for a SAAG who represents, either directly or through another member of the firm, a client in a matter in which the client’s interests are or may be adverse to the state. No SAAG or member of the firm of a SAAG may accept or continue representation of a client in a matter in which the client’s interests are adverse to any board, commission, or agency of the state which the SAAG is appointed to represent without first receiving
authorization from the attorney general.

Outside counsel cannot begin to work on a specific case/issue until UND has received confirmation of the SAAG appointment. All SAAG requests/appointments must be communicated to UND's Office of the Vice President for Finance & Operations/Chief Operating Officer (VPFO/COO) for reporting purposes.

UND must submit a monthly report of expenditures incurred by SAAG appointments to the North Dakota Office of Attorney General.

**PROCEDURES**

**Appointment Request**

When a department requests legal services and UND's general counsel is not able to provide those services, departments must work with general counsel to determine if a special assistant attorney general (SAAG) appointment is warranted. Upon verification by the UND's general counsel that outside legal services are necessary, departments - in consultation with UND's general counsel - may begin their search for qualified legal counsel. Initial communication with outside counsel generally involves a discussion of scope of services and expected fees and costs. The respective dean and/or vice president will determine if the projected cost/fees for outside counsel are appropriate and determine whether a SAAG appointment should be requested.

UND is responsible for the fees associated with outside counsel and therefore, it is imperative that each department work with the appropriate dean and vice president to determine how the fees will be paid. The vice president of the department’s division must approve the decision to request a SAAG appointment. The Office of General Counsel will assist with communication as needed or as requested by UND.

An appointment request must come from the president, a vice president, or their designee, and must be on UND letterhead. The request cannot be signed by an assistant attorney general (e.g., attorneys with the UND Office of General Counsel). The request must identify:

a. The attorney(s) requested;

b. An overview of the case or scope of work for which the appointment is being requested;

c. The specialized knowledge and experience which the attorney has to perform the legal work required;

d. A letter of good standing for the attorney from the highest court or State Bar of at least one jurisdiction where the attorney is admitted;

e. Confirmation of malpractice insurance for the attorney or firm under which the attorney is employed;

f. Whether the attorney has any conflicts, either directly or through a member of the attorney's law firm, that could affect the attorney's representation;

g. Any cases or matters in which the attorney, or a member of the attorney's firm, represents a party whose interest may be adverse to the state; and

h. Deadline (if necessary) by which the appointment is needed.

The department should obtain the letter of good standing and a copy of malpractice insurance coverage from the attorney for inclusion in the request. Moreover, the attorney should be able to provide notice of conflicts or cases that may be adverse to the state to the department at the time of the request.

The appointment request must be reviewed by the Office of General Counsel prior to submission. Once finalized, the appointment request can be sent via email to the Office of Attorney General (ndag@nd.gov) with a copy to the Office of the Vice President for Finance & Operations/Cheif Operating Officer.
Before appointing an attorney, the attorney general will consider the attorney's competence, honesty, reliability, timeliness, courtesy, reputation in the legal community, and whether the attorney has received any public discipline. Absent good cause, the attorney general will appoint the SAAG licensed attorneys as requested.

Upon receipt of the confirmation of SAAG appointment, departments must provide a copy of the appointment letter to the Office of the VPFO/COO.

The attorney general may revoke an appointment for good cause, or upon the request of UND, or the special assistant attorney general.

**Work Performed by SAAG Appointees**

An attorney must have a SAAG appointment in place in order to provide legal advice to, represent, or act on behalf of UND. Outside counsel cannot begin to work on a specific case/issue until UND has received confirmation of the SAAG appointment. Additionally, departments must complete a service contract with the appointed attorney to formalize scope of work and fee/rate structure.

Depending on the issue, the SAAG may work directly with the department or in conjunction with the Office of General Counsel.

Once the specific case/issue is concluded, the department must notify the Office of the VPFO/COO which will, in turn, notify the Office of the Attorney General. The SAAG appointment will then be terminated.

**Invoice for Services Performed by SAAG Appointees**

Attorneys associated with a SAAG appointment (e.g., within the same firm or organization) may provide services to UND but in every instance the SAAG must act as the responsible billing attorney and should be identified as such on attorney invoices. Non-SAAG attorneys who become primary on any matter must be appointed pursuant to this policy.

A copy of the associated SAAG appointment letter obtained from the Office of Attorney General must be included with the invoice. Additionally, items that must be on an attorney's invoice include:

- a. Full names and initials of each timekeeper who has billed time on the invoice;
- b. Status of each timekeeper (partner, associate, paralegal, law clerk, etc.);
- c. Each individual timekeeper's hourly rate;
- d. Total time of each timekeeper; and
- e. Claims for reimbursable expenses must reflect actual expenditures without markup.

**Travel Expenses**

Reimbursement billing of travel expenses listed below must include supporting documentation as identified, including copies of all receipts itemizing expenses to be reimbursed.

**Meals**

SAAG attorneys on overnight travel status will be reimbursed on a per diem basis (see Related Information). Per diem is not intended to fully cover these expenses.
**Mileage**

SAAG attorneys may be reimbursed vehicle mileage based on the lower of the GSA or IRS rate (see Related Information).

**Lodging**

SAAG attorneys may be reimbursed lodging for business travel on temporary assignment. Expenditures are expected to align with GSA or North Dakota state rate provisions. Any hotel expenses considered excessive or unreasonable will not be reimbursed. A receipt for lodging must be included with the invoice.

**Air Travel**

UND does not allow reimbursement for first class or business class travel. SAAG attorneys should use sound judgment in determining the best discounted fare for travel. Change fees are allowable with a justifiable business purpose or personal emergency. A passenger coupon or electronic ticket invoice must be included with the invoice.

**Rental Cars**

SAAG attorneys may be reimbursed for rental cars when other transportation is not available or when a cost savings is realized. A receipt for the rental car and associated expenses must be included with the invoice.

**Taxi, Shuttle, or Other Ride Services**

SAAG attorneys may be reimbursed for taxis, shuttle or other ride services while on official business travel for the University. A receipt for fare (if more than $10) must be included with the invoice.

**Non-Reimbursable Expenses**

Examples of expenses that will not be reimbursed include the following:

a. Charges for miscellaneous office supplies, office operations and telecommunication charges;

b. Charges incurred because of indirect travel for personal reasons;

c. Alcohol;

d. Entertainment;

e. First Class or business class airfare;

f. Hotel expenses considered excessive or unreasonable;

g. Parking permits on campus;

h. File set up/closure charges;

i. Clerical charges (non-attorney and non-paralegal time);

j. Block billing; and

k. Vague time entries.

**Reporting Requirements**

Each month, UND must submit a report of expenditures incurred from SAAG appointments to the Office of Attorney General. This report of expenditures breaks down the legal fees and expenses associated with SAAGs.
Attorneys appointed as SAAGs will be directed to submit legal invoices to the department with whom they are working. If an invoice is sent to the Office of General Counsel, it will be forwarded to the relevant department. The department is responsible for reviewing each invoice for accuracy and compliance with this policy, and ensuring that it is paid using the legal account code of 623100.

The Office of the VPFO/COO compiles a monthly report of expenditures using information found in UND’s financial management solutions and contract management softwares. These reports are reviewed by the vice president for finance and operations/chief operating officer and submitted to the Office of Attorney General.

**RESPONSIBILITIES**

| Department | • Work with general counsel to determine if a special assistant attorney general (SAAG) appointment is necessary.  
| • Inform Office of the Vice President for Finance & Operations/Chief Operating Officer of requested/confirmed SAAG appointments.  
| • Complete contract for services with appointed SAAG.  
| • Review bills and process payments for work conducted by appointed SAAG.  
| • Notify the Office of the VPFO/COO when legal work has been concluded. |

| General Counsel | • Work with departments to determine if a special assistant attorney general (SAAG) appointment is necessary.  
| • Provide departments with recommendations for qualified legal counsel. |

| Vice Presidents | • Submit SAAG appointment requests to North Dakota Office of Attorney General.  
| • Inform Office of the Vice President for Finance & Operations/Chief Operating Officer of requested/confirmed SAAG appointments. |

| Office of the Vice President for Finance & Operations/Chief Operating Officer | • Prepare and submit a monthly report of expenditures incurred by SAAG appointments to the North Dakota Office of Attorney General.  
| • Notify the North Dakota Office of Attorney General when SAAG appointments should be terminated. |

**FORMS**

There are no forms associated with this policy.

**APPENDICES**

Appendix 1 - North Dakota Office of Attorney General Policy Regarding Special Assistant Attorney General Appointments

**Attachments:**

## Approval Signatures

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