



A. STRUCTURE OF OFFICE OF GENERAL COUNSEL

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A. STRUCTURE OF OFFICE OF GENERAL COUNSEL

1. Mission and Function Statement

The Equal Employment Opportunity Act of 1972 amended Title VII of the Civil Rights Act of 1964 (Title VII) to provide for a General Counsel, appointed by the President and confirmed by the Senate for a 4-year term, with responsibility for conducting the Commission's litigation program. Following transfer of enforcement functions from the U.S. Department of Labor to the Commission under a 1978 Presidential Reorganization Plan, the General Counsel was also given responsibility for conducting Commission litigation under the Equal Pay Act of 1963 (EPA) and the Age Discrimination in Employment Act of 1967 (ADEA). With the enactment of the Americans with Disabilities Act of 1990 (ADA), the General Counsel was given responsibility for conducting Commission litigation under the employment provisions of that statute (Title 1; effective July 1992).

The mission of EEOC's Office of General Counsel (OGC) is to conduct litigation on behalf of the Commission to obtain relief for victims of employment discrimination and to ensure compliance with the statutes that EEOC is charged with enforcing. Under Title VII and the ADA, the Commission can sue nongovernment employers with 15 or more employees. The Commission's suit authority under the ADEA (20 or more employees) and the EPA (no employee minimum) includes state and local governmental employers as well as private employers. Title VII, the ADA, and the ADEA also cover labor organizations and employment agencies, and the EPA prohibits labor organizations from attempting to cause an employer to violate the statute. OGC also represents the Commission on administrative claims and litigation brought by agency applicants and employees, and provides legal advice to the agency on employee-related matters.

2. Responsibilities of the General Counsel

The General Counsel is responsible for managing, coordinating, and directing the Commission's enforcement litigation program. He or she also provides overall guidance and management to all the components of OGC, including field office legal units. In directing the litigation program, the General Counsel is responsible for developing litigation strategies designed to attain maximum compliance with federal laws prohibiting discrimination in employment. The General Counsel recommends cases for litigation to the Commission and approves other cases for filing under



authority delegated to the General Counsel under the Commission's 1996 National Enforcement Plan. (The General Counsel has redelegated some of his delegated litigation authority to the Regional Attorneys in charge of the field legal units; see section IV. of Part 2 of the *Manual*.) The General Counsel also reports regularly to the Commission on litigation activities, including issues raised in litigation which may affect Commission policy, and advises the Chair and Commissioners on litigation strategy, agency policies, and other matters affecting the enforcement of the statutes within the Commission's authority.

3. Headquarters Program Areas and Functions

a. Deputy General Counsel

The Deputy General Counsel serves as the alter ego of the General Counsel and as such is charged with the daily operations of OGC. The Deputy is responsible for supervising and managing all programmatic and administrative functions of OGC, including overseeing the litigation program. OGC functions are carried out through the operational program and service areas described below, which report to or through the Deputy.

b. Litigation Management Services

Litigation Management Services (LMS) oversees and supports the Commission's court enforcement program in the Commission's field legal units. Also, in conjunction with the Office of Field Programs (OFP), LMS oversees the integration of field legal units into the investigative enforcement structure of the field offices.

LMS is directed by an Associate General Counsel. There are three Assistant General Counsels assigned to LMS for field oversight. Each Assistant General Counsel directs a staff of one or more attorneys and is responsible for the field office legal units within one of OGC's three geographic divisions, overseeing cases in litigation and the legal units' interaction with investigative enforcement units. The Assistant General Counsels' litigation oversight responsibilities include reviewing proposed suit filings under Regional Attorneys' redelegated litigation authority, providing advice and guidance on ongoing litigation, and, in complex cases, matters such as reviewing expert procurements and evaluating proposed settlements. Oversight of legal/enforcement interaction includes discussions with OFP staff and visits to field offices.



In addition to its oversight of field legal unit litigation and office operations, LMS provides ongoing support to the field's litigation activities. LMS staff members provide direct litigation assistance to field legal units as needed, draft guidance, develop training programs and materials, and maintain litigation materials on the Commission's internal Web site. LMS is also responsible for maintaining and updating the *Regional Attorneys' Manual*. LMS prepares and distributes a monthly report summarizing all court decisions on the merits, trials conducted, and significant settlements.

LMS also has an Assistant General Counsel for Technology who is responsible for providing technical guidance and oversight to OGC headquarters and field offices on the use of technology in litigation, the development of OGC's computer systems, and the operation of the Commission's Integrated Mission System. The Assistant General Counsel for Technology also serves as OGC's representative to the agency's Technology Steering Committee, consults with field staff on statistical and technical issues in litigation, and conducts field training on matters such as data analysis, statistics, and use of computers.

c. Internal Litigation Services

Internal Litigation Services (ILS), represents the Commission and its officials on administrative claims and litigation brought by applicants and Commission employees, and provides legal advice to the Commission and agency management on employee-related matters. ILS has two divisions, each under the direction of an Assistant General Counsel who reports to the Deputy General Counsel.

d. Litigation Advisory Services

Litigation Advisory Services (LAS) is headed by an Assistant General Counsel who reports to the Deputy General Counsel. LAS evaluates litigation proposals in cases that must be approved by the General Counsel or the Commission and drafts recommendations to the General Counsel for approval or submission to the Commission. LAS also represents OGC during Commission meetings on cases under consideration for litigation. In addition, LAS responds to Commissioner inquiries on cases under consideration for litigation, acting as OGC's liaison and contact point between the Commissioners and the field legal units. Lastly, LAS performs special assignments as requested by the General Counsel.



e. Appellate Services

Appellate Services is responsible for conducting all appellate litigation where the Commission is a party, and participates as OGC amicus curiae in both appellate and district court cases involving novel issues or developing areas of the law. Appellate Services also represents the Commission in the United States Supreme Court through the Solicitor General. (See Part 3, section V. of the *Manual* for a detailed description of Appellate Services' appeal procedures.)

In every case in which the EEOC receives an adverse judgment, Appellate Services submits a written analysis and recommendation to the General Counsel, who makes the decision on whether to appeal. In amicus cases, Appellate Services drafts a memorandum recommending Commission participation which, if approved by the General Counsel, is submitted to the Commission for authorization under a notice and hold procedure.

Appellate Services also makes recommendations, subject to General Counsel approval, to the Department of Justice in cases where the Department is defending other federal agencies on claims arising under the statutes the Commission enforces. In addition, Appellate Services reviews EEOC policy materials, such as proposed regulations and enforcement guidance drafted by the Office of Legal Counsel, prior to their issuance by the agency.

Appellate Services is directed by an Associate General Counsel. Appellate Services has three Assistant General Counsels, each of whom supervises a team of attorneys.

f. Research and Analytic Services

Research and Analytic Services (RAS) is headed by a Director who reports to the Deputy General Counsel. RAS is the major source inside the EEOC of expert and analytical services for cases in litigation, and also assists EEOC attorneys in obtaining expert services from outside the agency. (See Part 4, section I.B. of the *Manual* for a detailed description of services provided by RAS.) RAS has a professional staff with backgrounds in the social sciences, economics, statistics, and psychology who serve as testifying and consulting experts on cases in litigation. RAS also provides expert and analytic support to field staff investigating charges in the administrative process, and performs special research projects for other agency offices. Other important functions of RAS include providing expert and technical advice in implementing the Uniform Guidelines on Employee Selection Procedures (UGESP); creating EEO-1 databases



and making them available to headquarters and field staff; developing and maintaining special census files by geography, race/ethnicity and sex, and detailed occupations; developing labor market availability estimates; constructing large employer personnel data files and work history records by coding and converting paper records into computer files; and conducting statistical analyses of complex employment practices.

g. **Administrative and Technical Services Staff**

The Administrative and Technical Services Staff (ATSS) is headed by a Program Analysis Officer/Director, who reports to the Deputy General Counsel. ATSS provides administrative and technical services to all headquarters components of OGC. It acts as the liaison between OGC and the EEOC's service organizations such as the Office of the Chief Financial Officer and Administrative Services on financial concerns and the Office of Human Resources for personnel matters. ATSS is also responsible for preparing the OGC budget request to the Chair for the Office of Management and Budget and Congress as well as for handling various budget execution duties such as transferring funds to field offices and monitoring expenditures.

ATSS's technical unit maintains files on all OGC litigation and verifies data entered by field offices into the litigation component of the agency's Integrated Mission System. To enable OGC managers to assess various aspects of EEOC's nationwide litigation activity, ATSS prepares periodic and ad hoc reports and studies on the number and types of lawsuits filed and resolved as well as on the monetary and injunctive relief obtained through litigation. Additionally, ATSS provides litigation reports to the Office of Research, Information and Planning and responds to inquiries from OGC managers and other offices within EEOC. ATSS prepares responses to inquiries from Congress, other governmental agencies, and the media for information on Commission litigation. ATSS, through the Office of Legal Counsel, also prepares responses to Freedom of Information Act requests for litigation data.

4. **Field Legal Units**

Legal units are under the direction of Regional Attorneys, who report to the General Counsel through the Associate General Counsel for Litigation Management Services. Regional Attorneys manage staffs consisting of supervisory trial attorneys, trial attorneys, paralegals, and support personnel. Legal unit attorneys conduct Commission litigation in the geographic area covered by the field office and provide legal advice and other support to the field enforcement unit staff responsible for investigating charges of discrimination. Legal unit attorneys also participate in outreach



efforts, and in most offices the legal unit is responsible for responding to Freedom of Information Act requests.