

8 Steps to Better Manage the College and University Law Department

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Executive Summary

There is no legal practice exactly like that of the college or university law department.

Whether you serve in a public or private institution, a two-year or a four-year school, a small liberal arts college or a large research university, as an attorney or administrator you face a myriad of legal matters that are unique to higher education, and perhaps are limited to just your institution.

Yes, you likely deal with many of the same issues handled by traditional corporate legal departments, such as contracts, litigation, personnel, advice and opinions, intellectual property/trademark/copyright, etc. However, the university law department may also address matters relating to campus safety, diversity, athletics, Title IX, fundraising and others issues that are specific to running a school. And you need to make sure your institution is in compliance with an ever-growing number of laws and regulations which directly affect higher education.

Your clients may include every department or division at the school, one campus or many widely dispersed campuses, a specific reporting area or all of them. You work with—and handle legal matters relating to—presidents, chancellors, regents, trustees, board members, provosts, vice presidents, deans, department heads, administrators, faculty, staff, students, parents and alumni. Not what one would call typical corporate legal department fare.

Nearly every college or university law department must deal with a fast-paced environment that encompasses great variability, great diversity and great change. How can you handle it all?

This white paper describes the steps other college and university legal departments have taken to successfully implement a matter management system that helps them to identify, organize and work on issues, projects, constituents, emails, documents, requests, etc., in a streamlined and consistent manner.

Those eight steps are:

Step #1: Make Your “What Matters” List.

Step #2: Uncover and Eliminate “Hidden Factory” Activities.

Step #3: Break the Spreadsheet Habit.

Step #4: Put Email in its Place.

Step #5: Be Consistent...All the Time!

Step #6: Know What You Spend, But Don't Overspend.

Step #7: Be like Goldilocks: Get what's “just right” for your needs.

Step #8: Measure What's Important to You.

Although I am listed as the author of this document, the information below represents the combined insight and expertise of several Legal Files project managers, as well as the real-life problems and successes experienced by many of our higher education clients.

Step #1: Make Your “What Matters” List.

To design an effective law department management system, you first want to survey all the types of issues and matters for which **your** law department is responsible.

I put emphasis on the word “your” for good reason.

While it’s true that most college and university law departments track many similar types of matters, over the past 25 years we have found that no two institutions are exactly the same. Therefore, when looking to develop your office’s management system, it’s OK to see and ask what others have done. But you should not feel compelled to follow another institution’s design. Only track and manage what matters to your school. Do your own thing.

Having worked with dozens of colleges and universities to implement their legal office management systems, we know that by starting with a comprehensive list of matter and case types you will be:

- A. Less likely to miss something important (like legal holds, board committees, diversity and equity issues, estates/trusts, and information requests—let’s not forget those); and
- B. More likely to see groupings and subgroupings of topics, which will help you organize long lists into more manageable chunks.

For example:

- Contracts could possibly be subcategorized as vendor contracts, employment contracts, real estate, etc. And vendor contracts could be further broken down into software, service, etc.
- Grievances as a primary topic or type could be categorized as faculty, staff or student grievances.
- You might want to also identify all issues by campus, department, office, etc.

In some organizations, it’s also common for different attorneys to work on specific issues for certain departments. That’s why it’s a good idea to get input from all department staff when compiling your master matter/type list.

You get the idea. Be as inclusive as you can. But don't worry if a topic or category is overlooked during this "list-making" step. If you have identified and organized the majority of issues your department handles, it should be easy to add any missed item(s) to the appropriate categories.

Step #2: Uncover and Eliminate “Hidden Factory” Activities.

Six Sigma, the popular set of process improvement techniques, defines the “Hidden Factory” as:

“Activities that reduce the quality or efficiency of a business process, but are not initially known to managers or others seeking to improve the process.”

Basically, the Hidden Factory means the tools and processes that people use to get their jobs done (which is an admirable objective), but no one else in your law department knows about or has access to those tools or information (which can be counterproductive to your goal of effectively managing ALL of the university’s issues and matters).

In the college or university law department, examples of the Hidden Factory might be:

- An attorney, wanting to be better organized, uses a spreadsheet or document to track the matters, projects phone calls, emails, etc. that she or he has handled.
- Form letters or templates kept on local hard drives or password-protected folders
- Paper calendars
- Handwritten phone messages and other notes
- Note and task apps on an attorney’s phone/tablet
- Important contract renewal deadlines kept on a piece of paper taped to the desk under someone’s keyboard (and I am NOT making this up!)

By identifying “hidden factory” activities, you can get a better understanding of how people work and what aspects of a legal management system might be most beneficial to them. Plus, you’ll be in a better position to explain to them that what they do—or don’t do—in their daily tasks has an impact on the department’s overall performance and responsiveness.

Sometimes, however, people may be reluctant to divulge their secret tools. To help with this, provide an amnesty period, free from judging or repercussions, when attorneys and staff show and explain to you what they have been using and why.

Step #3: Break the Spreadsheet Habit.

I love Excel. It's an extremely powerful and helpful tool.

But as a legal department data tracking system, it has some significant shortcomings:

1. Excel is a one-at-a-time program, and that means that you can't update a spreadsheet if someone else has it open.
2. A single Excel spreadsheet or workbook only provides a piece of the puzzle. For example, you may have different spreadsheets to track the details of different matters (EEOC, litigation, policies, etc.). That approach is good for entering data and running reports on those specific areas. But what if you want to look at or run reports on all open matters? Or, what if you want to review all files relating to a certain faculty member or department? In order to accomplish those cross-matter or more complex searches, you'd have to be an Excel guru or perform significant, duplicate data entry. And that defeats our "let's get streamlined" objective.
3. It's very difficult to link documents, contacts, emails, phone messages, calendar events, deadlines and other work product using an Excel file. And without those, you will not realize an accurate picture of the information and communication relating to your matters.

What you really need is a collaborative, multi-user system that efficiently handles matter, email, document, deadline and data management AND includes reporting capabilities (with easy exports to Excel).

That way, you have something that provides complete, real-time information, and your reports are only a few clicks away.

Step #4: Put Email in its Place.

It's not uncommon for the university attorney or legal department administrator to receive 100-200 emails a day, and the nature and complexity of those emails vary dramatically.

Some emails are "one-offs" that you can reply to with quick advice (e.g., clarification of your school's student event policy). Some are related to ongoing items (i.e., a software contract renewal, a complaint filed against or by a faculty member, new policies, etc.). Still others can be initially uncertain, but may escalate into larger issues (i.e., the first notice of a campus incident, a board member's request, etc.).

We have found that when attorneys and staff manage and store email separately or independently, it's most often because they are not sure what to save and where to save it. As a result, a situation is created where important information and requests get "lost" in any number of places, such as personal Outlook folders, local/network drives or (gasp!) printed and placed in a paper file.

What you need is a simple "touch it once" method directly from within Outlook (or Gmail, IBM Notes, etc.) that allows you to quickly organize by matter. Then, important emails can be accessed, searched and responded to, from a location that's easily shared with others, or kept private when appropriate.

Here are three university-tested ways to organize your emails in a matter management system:

- 1. General Advice.**

This can be one, all-purpose matter/file or any number of individual files categorized by attorney, topic or date range.

- 2. Matter Specific.**

These are ongoing issues or projects for which each has its own electronic "folder" or matter. Name the matter just as you might label a physical, paper file folder.

- 3. Review Required.**

This is where you put those "to be determined" items that need further review or discussion.

In planning conversations with your staff, you might develop other categories that are better suited for your department's needs. One logical approach is to make them coincide with the same matter classifications you chose in Step #1.

Once implemented, the matter-centric email repository will give you the best method for saving, finding and sharing email with the greatest consistency.

Step #5: Be Consistent...All the Time!

OK, the title for Step #5 is probably redundant. But I wanted to make a point.

In addition to email, it's just as vital to maintain consistency in all areas of communication, where substantive "back-and-forth" information may reside.

These include:

- Documents (sent and received, including email attachments)
- Phone messages (handwritten or voice)
- Memos and notes
- Meetings and other events

Applying categories and matter-centric principles to each of these areas will give you a complete picture of all the activities related to an issue or project.

Effective document management is worthy of its own white paper to do the topic justice. But imagine if you also used your law department matter system as a contract/document management tool, you could:

- Have at your fingertips the latest version of any contract, policy, form, handbook, correspondence, etc.
- Find all documents drafted by any staff member, in any matter, by subject area, date range, etc.
- Locate documents (or emails) by searching the text in that communication.
- Create an instant knowledge bank/repository of all agreements, forms, request responses, templates, etc.
- Know when a new contract arises if your school has ever done business with a particular vendor or if you've ever approved a similar type of agreement.

Step #6: Know What You Spend, But Don't Overspend.

It's important to know how much your law department has spent or reserved to spend on outside counsel fees, litigation costs and other expenses related to risk management. Therefore, look for a matter management system that also offers an expense tracking or e-billing component. This will also help you toss that spreadsheet you're currently using (see Step #3).

However, many matter management systems cannot be implemented without their e-billing component which, in some cases, can be a complex and costly add-on. There's no point in paying for functionality you will not use.

The bottom line: be sure the solution you select provides e-billing as an option, not as a requirement.

Step #7: Be like Goldilocks: Get what’s “just right” for your needs.

When looking for a university law department system, be sure to get what you need. But it’s important that you don’t “over-buy” or “under-buy” functionality.

In our experience, systems that are too rigid or complex become overkill for most law departments. You want a system that people can easily learn and use. That’s why you need to be like Goldilocks and find something that fits your department “just right.”

What you really want to buy is flexibility. Look for a system that can handle all your department’s matters, from general advice to litigation, and from subpoenas to new board member orientation. And if that general advice issue escalates into a litigation case, your system should be able to “transform” the file, without starting from scratch, maintaining an accurate historical record, with a listing of all involved parties and related documents in an accessible, central location.

Most often, a flexible system offers the best value. For example, wouldn’t it be nice to know that the same legal management application that handles all your contract details and deadlines can also help you handle all those open records requests you receive? No need for multiple, single-function systems, and the expense or maintenance that comes with each one.

If the system you choose is easy for the non-technical person to configure, you could track whatever level of detail is desired for those records requests, retain all correspondence from requestors, review the response documents that were generated by that same system AND measure response times.

On the flip side, a system that’s too simple may not have enough flexibility to handle different matter types or provide the capability to grow as your needs and requirements evolve.

The best system will offer the flexibility to grow as the university grows, and the flexibility to change as policies and procedures change. Things are going to change, and the software must be able to adjust and adapt to fit your department’s requirements, terminology and procedures.

Step #8: Measure What's Important to You.

The higher education law department has unique reporting needs—both for internal and external purposes. To provide value, your reports must be easy to access, insightful and substantive.

Some examples of these reports might include:

- Matter workloads for internal planning purposes.
- Reports to other departments, boards, president, etc.
- Governmental and regulatory, Title IX, etc.
- Pending or active litigation.
- Freedom of Information Requests, by requestor, date, department, etc.

When considering your matter type requirements in Step #1, don't forget to include the information that you will need or want in various reports. Start with whatever reports you currently use, whether assembled manually, via spreadsheets or some other means.

That way, with proper planning your matter management system can house all the data points needed for your departmental reporting. When you have new reporting requirements (like some new rule takes effect July 1), all that's necessary is a quick modification to your customized data windows to reflect the reporting changes.

Summary

This white paper has illustrated the eight key steps you can take to better manage the issues, matters and priorities encountered by today's higher education legal department.

Following these steps used by other colleges and universities can transform your law department and help you:

- Achieve a better-organized, more-efficient operation.
- Establish and maintain one central location for all information related to each matter—even with widely dispersed legal teams or campuses.
- Retain institutional knowledge.
- Easily view workloads, and proactively identify if caseload shuffling is required.
- Spot trends. Is litigation increasing? If so, in what area? If litigation is decreasing, is our advice paying off?
- Work toward a paperless office, with easier access to documents and eliminating the ongoing cost of storing paper documents.
- Maintain consistency of procedures, service and reporting.

Given our extensive experience with the higher education segment, we can also provide additional examples and case studies of how other schools have successfully implemented and are currently using Legal Files. If you'd like to know more, please feel free to contact us.

About Legal Files Software, Inc.

Legal Files Software, Inc. develops case and matter management software applications. Legal Files matter management software has undergone thorough, hands-on testing to produce peerless, real-world matter management and workflow management applications. Thousands of users across many industries and around the world rely on Legal Files to store case information and track office workflow. Legal Files is designed to work seamlessly in legal departments, law firms, insurance companies, public sector agencies and legal aid organizations. For more information, visit LegalFiles.com.