

**From:** Wyatt Massey [wmassey@spotlightpa.org](mailto:wmassey@spotlightpa.org)  
**Subject:** Re: Penn State general counsel (Deadline 9/22)  
**Date:** September 27, 2023 at 5:01 PM  
**To:** Mediarelations [mediarelations@psu.edu](mailto:mediarelations@psu.edu)



Received. Thank you for clarifying.

On Wed, Sep 27, 2023 at 4:32 PM Mediarelations <[mediarelations@psu.edu](mailto:mediarelations@psu.edu)> wrote:

You are correct. This is the wording used in the summary to describe the perception of some of those surveyed.

---

**From:** Wyatt Massey <[wmassey@spotlightpa.org](mailto:wmassey@spotlightpa.org)>  
**Sent:** Monday, September 25, 2023 11:31 AM  
**To:** Mediarelations <[mediarelations@psu.edu](mailto:mediarelations@psu.edu)>  
**Subject:** Re: Penn State general counsel (Deadline 9/22)

Received.

I will be sure to note that it's the percentage of people who responded to the university survey. However, could you direct me to the exact wording of the question regarding rewarding those who violate policies?

On Pg. 58 of the data table, the prompt reads, "Integrity Practiced: Those Who Violate Policies Still Get Rewarded."  
<https://universityethics.psu.edu/assets/uploads/documents/PS-2022-Data-Tables-14Aug2023.pdf>

I am basing the wording of the survey results off of the headline for that particular data table. If there is a better phrase, or if the university could please provide the underlying question asked, then I can update it.

Wyatt

**Wyatt Massey**  
Reporter, Spotlight PA  
Cell/Signal: 445-236-0562  
Here are ways you can [share information securely](#).

On Sep 22, 2023, at 3:30 PM, Mediarelations <[mediarelations@psu.edu](mailto:mediarelations@psu.edu)> wrote:

See below

---

**From:** Wyatt Massey <[wmassey@spotlightpa.org](mailto:wmassey@spotlightpa.org)>  
**Sent:** Monday, September 18, 2023 1:52 PM  
**To:** Mediarelations <[mediarelations@psu.edu](mailto:mediarelations@psu.edu)>; Powers, Lisa Marie <[lmr8@psu.edu](mailto:lmr8@psu.edu)>; DuBois, Wyatt <[wed112@psu.edu](mailto:wed112@psu.edu)>; Pell, Rachel A <[rpell@psu.edu](mailto:rpell@psu.edu)>  
**Subject:** Penn State general counsel (Deadline 9/22)

Good afternoon,

I'm finishing up our story on the appointment of Tabitha Oman as vice president and general counsel at Penn State.

As part of the reporting process, I'm providing Penn State the opportunity to comment on all, none, or some of the findings that will be included in the piece. If the university feels something is incorrect or needs to be clarified, please

My deadline is Friday, Sept. 22, 2023 at 4 p.m. ET. If the university feels that it cannot meet this deadline, please notify me ahead of time and we can see if the deadline can be adjusted. Thank you.

- In August 2023, President Neeli Bendapudi recommended that Tabitha Oman become the university's vice president and general counsel following what was described search. The university's announcement of the appointment noted that Oman will continue as the university's chief ethics and compliance officer until a replacement is hired.

**There is currently a national search under way.**

- Penn State's Office of General Counsel provides "legal advice and representation to the Board of Trustees, the President and other administrators in their capacity as a University business," according to the university's website.

As provided to you previously, General Counsel also is responsible for management of the University's legal function under the Vice President and General Counsel. With 24 campuses, 90,000 students, and nearly 35,000 employees, the services provided by the Office of General Counsel are critical to operations. Universities across the nation, as an example, Penn State's Office of General Counsel deals with a wide range of legal matters, including licensing, agreements, insurance, real estate, zoning and land use, intellectual property rights, affirmative action, employment, safety, research, hospital facilities licensure, accreditation, federal contracts, ADA compliance, conflicts of interest, airport regulations and environmental concerns -- to name just a few.

- Penn State's Office of Ethics and Compliance was created a decade ago in the wake of the Sandusky child sex abuse scandal. In recent years, the university's former chief compliance officer was accused of misconduct and retaliation. Concerns were reported through the university's official hotline, to then-president Eric Barron, and members of the board of trustees.

To reiterate what we have said previously, all hotline complaints are taken seriously and fully investigated. Members of the Penn State community are encouraged to [report potential issues and concerns and raise questions](#) if they learn of something that might not be consistent with the Penn State Values.

- Last summer, a former ethics office employee (Denise Shivery) sued the university for discrimination. That case was settled out of court. Last month, another former ethics office employee (Emme Devonish) notified the university that she intends to sue for discrimination. Because the complaint has not been filed as of Sept. 18, 2023, the specific allegations are unknown.

**Oman did not join Penn State in her role as Chief Ethics and Compliance Officer until after these two individuals worked in that office.**

- Campus surveys promoted by Penn State University have shown widespread distrust in the university's misconduct reporting systems. The 2022 version of the survey found that 40% of Penn State employees believe people who violate university policies get rewarded and less than half of faculty and staff believe that Penn State does not retaliate against those who report misconduct.

It is not "40% of employees." It is 40% of employees who responded to the survey.

In addition, the phrase "people who violate university policies get rewarded" is your wording and was not how the survey question was phrased. We would not make conclusory statements of this nature as if that was the actual question posed or response received.

- Penn State's Board of Trustees approved Oman for the vice president and general counsel position during a special, virtual meeting on August 15, 2023 that lasted less than 30 minutes.

The meeting on August 15, 2023 was to consider a recommendation from President Bendapudi on the appointment of the University's Vice President and General Counsel. Trustees were provided in advance a summary of the finalists and Dr. Bendapudi and the search committee's recommendation. Trustees were

**with the full application materials of the recommended candidate – since the only individual that the Trustees are charged with hiring is the president**

- In September, alumni-elected trustee Barry Fenchak wrote in a newsletter that he voted against the appointment because “Prior to this meeting, I, and the vast majority of the Board, were not given the opportunity to meet with any candidates. We were also not given the opportunity to provide input on the qualifications and expertise w in our next General Counsel.”

**Again, it is not the charge of Trustees to hire or appoint general counsel. The only individual that the Trustees hire within the administration is the u president.**

- Whether an organization’s top legal officer should also serve as its top compliance officer is a question of wide debate in industry circles. Some argue it improves comm efficiency, on top of saving money. Others say the set up creates a conflict of interest given that the two roles have competing objectives.

**As already noted, there is a national search under way and Vice President Oman is serving in a temporary capacity until that hire is made, which is no ordinary when people move into other roles and a knowledgeable replacement is needed to allow operations to continue.**

- For example, the Association of Corporate Counsel believes that such a structure does not create a conflict of interest. However, the HHS Office of Inspector General, in integrity agreements with health care providers, often requires that an agency’s compliance officer neither be, nor be subordinate to, the agency’s top legal officer. The D Justice, in March 2023 guidance to prosecutors looking into corporations, advised prosecutors to consider whether a compliance unit has “sufficient autonomy from man **See above**

- In an email to Spotlight PA, an unnamed university spokesperson said Penn State’s decision to have Oman temporarily serve as general counsel and chief ethics and cor does not create a conflict of interest. “In both cases the interests of the university are paramount,” the spokesperson wrote.

**As noted, this is a temporary measure and we ask that you not draw conclusions or speculate when this arrangement covers a temporary time period**

- Penn State did not provide an expected timeline for hiring a new chief ethics officer.

**The position has posted and the process is moving forward aggressively.**

Thank you.  
Wyatt

**Wyatt Massey**  
Reporter, Spotlight PA  
Cell/Signal: 445-236-0562  
Here are ways you can [share information securely](#).

**From:** Mediarelations mediarelations@psu.edu  
**Subject:** Re: General Counsel change  
**Date:** August 17, 2023 at 9:28 PM  
**To:** Wyatt Massey wmassey@spotlightpa.org  
**Cc:** Mediarelations mediarelations@psu.edu



Wyatt,

Apologies for the response after your deadline. Please see answers below in red.

---

**From:** Wyatt Massey <wmassey@spotlightpa.org>  
**Date:** Wednesday, August 16, 2023 at 10:01 AM  
**To:** Mediarelations <mediarelations@psu.edu>, Powers, Lisa Marie <lmr8@psu.edu>, Pell, Rachel A <rpell@psu.edu>, DuBois, Wyatt <wed112@psu.edu>  
**Subject:** General Counsel change

Good morning,

I am seeking information from the university related to the appointment of Tabitha Oman as general counsel. Please see below:

1. The university's press release states, "Oman also will continue to have leadership oversight of a new chief ethics and compliance officer and the Office of Ethics and Compliance." Can you please define what "leadership oversight" means and clarify whether the reporting lines of the Office of Ethics and Compliance are changing?

The chief ethics and compliance officer currently reports to the interim vice president and general counsel for administrative purposes and also reports to the Board of Trustees through its Legal and Compliance Committee. The chief ethics and compliance officer also has regular and scheduled communication with the president.

2. Under the university's previous compliance plan the chief ethics officer was "directly accountable to the Board of Trustees Committee on Legal and Compliance and administratively to the Senior Vice President for Finance and Business." With the general counsel having "leadership oversight" of the ethics office, is this reporting set-up changing?

This is outdated. The administrative reporting line was changed in August 2020 from the senior vice president for Finance and Business to the vice president for administration, who was Frank Guadagnino at the time. When Guadagnino became interim vice president and general counsel, he retained reporting line responsibility for the Office of Ethics and Compliance. That reporting structure will remain in place.

3. Does the university believe a set-up in which the general counsel and the chief ethics officer are the same person does not create a potential conflict of interest? I ask because the general counsel explicitly represents the interests of Penn State, its trustees, and administrators, among others, while the Office of Ethics and Compliance operates the

university's misconduct reporting hotline, among other responsibilities.

No. In both cases the interests of the university are paramount.

4. When does the university expect to hire a new chief ethics officer?

The university intends to fill the chief ethics and compliance officer position as soon as possible.

My deadline is Thursday, August 17, 2023 at 4 p.m. ET. Thank you.  
Wyatt

---

**Wyatt Massey**

Reporter, Spotlight PA

Cell/Signal: 445-236-0562

Here are ways you can [share information securely](#).