

Office of the General Counsel

MIT's [Office of the General Counsel \(OGC\)](#) is responsible for advising the Institute on all legal issues arising out of the myriad activities at MIT. The OGC currently has the vice president and general counsel and 11 counsels (with three closely affiliated attorneys embedded in the Massachusetts Institute of Technology Investment Management Company [MITIMCo] organization). Each counsel works to fulfill OGC's mission:

- To educate as to the laws, policies, and procedures applicable to MIT's activities
- To prevent legal problems and solve those that occur
- To facilitate transactions
- To provide independent, timely, and thoughtful advice and representation to help MIT's faculty, staff, and students fulfill their goals in teaching, research, and service

The office is privileged to have MIT as its one client. MIT is an extraordinarily complicated, decentralized organization with bold ambitions and a mission that embraces informed risk taking. This dynamic environment, coupled with the rapidly changing legal, regulatory, and compliance environment, stretches the bandwidth of OGC's small office. But that challenge and the great variety found in the office's work enables us to attract and retain excellent attorneys.

Because we advise the Institute on all facets of its operations, we may be the only office to be able to observe MIT horizontally and vertically, across departments, laboratories, and centers (DLCs) and faculty, student, and staff communities. This allows us to be valuable thought partners to facilitate agreements and prevent and solve the variety of problems that face MIT. Our deep relationships across campus also enable us to convene relevant stakeholders to help MIT make better, more well-informed decisions.

Organizational Changes and Key Data

The office celebrated its tenth year in January 2017. The current head of the office, Mark C. DiVincenzo, is the second vice president and general counsel in MIT's history. Academic year 2017 was his second year as a member of President Reif's senior team; he has been leading OGC and working with OGC colleagues in providing legal services to MIT.

Although OGC has not increased the number of attorneys since it was created in 2007, five new lawyers have arrived in the past two years: Jason Baletsa (February 2016), Dahlia Fetouh (April 2016), Maya Khuri Plotkin (March 2017), Meghan McCollum Fenno (July 2017), and Lorry Spitzer (August 2017).

Jason Baletsa joined us from Suffolk University, where he served as the university's general counsel. Previously, he was an in-house lawyer at the Smithsonian. Baletsa's areas of focus include business agreements, data use and privacy, human subjects research, research misconduct, and investigations and disputes.

Dahlia Fetouh was a litigation partner at Goodwin Procter before joining us. Her practice includes managing disputes, litigation and other legal proceedings, and providing advice on a wide variety of matters concerning student life, intellectual property, employment, compliance, and risk.

Before joining OGC, Maya Khuri Plotkin was senior counsel at Citizens Bank. She provides legal advice to the Institute with a focus on real estate, advising on all aspects of its academic real estate holdings, including construction, renovation and renewal, and utilities. In addition, Maya collaborates with MITIMCo on real estate matters and provides advice on business matters, compliance, risk and other Institute affairs.

Meghan McCollum Fenno comes to us after serving as director of technology transactions in Harvard University's Office of Technology Development. In her current OGC position, Meghan advises the Institute on all aspects of intellectual property, including patent and copyright licenses, and on research collaborations. She also handles other business transactions and provides advice on policy matters.

The latest addition to OGC, Lorry Spitzer, came to the Institute from Ropes & Gray, where he was a partner specializing in the taxation of nonprofit organizations, especially colleges, universities, and health-care organizations. At MIT he handles a wide variety of tax, charitable giving, and corporate governance issues, including joint venture agreements, gift agreements, analysis of unrelated business taxable income issues, tax assistance for MITIMCo, and other internal tax issues.

In addition to those five new attorneys, OGC has an excellent team of experienced attorneys: Regina Dugan (contracts, student life); Suzanne Glassburn (business, conflicts of interest and commitment, governance, international activities); Richelle Nessralla (educational programs, governance, international activities); Allison Romantz (employment, benefits and labor relations, subpoenas and legal process); David Suski (Lincoln Laboratory); and Jay Wilcoxson (data and privacy, litigation, disputes and resolutions, student life). A bit of trivia: the average number of years an OGC attorney has practiced law is 21 years; combined, the staff has 97 years of service to MIT.

The office also enjoys strong support from its administrative and support staff, who are dedicated to the efficient operation of the office so our lawyers can do what they do best: practice law. The OGC's attorneys have expertise in 18 practice areas:

- Business
- Conflicts of interest and commitment
- Construction and design/real estate
- Contracts/waivers, indemnification, and releases
- Data and privacy/internet
- Educational programs and activities
- Employment, benefits, and labor relations

- Environment, health, and safety
- Gifts/investments/finance/tax
- Governance
- Intellectual property/technology transfer
- International activities and transactions
- Litigation, disputes, and resolutions
- Policies and procedures
- Research
- Research and academic misconduct
- Student life
- Subpoenas, third-party requests, and legal process

Over the past year, OGC attorneys supported 134 separate administrative and DLC clients in approximately 750 separate active matters. Although the office was not created as a cost-saving measure, over time OGC has proven to be a sound investment for the Institute; despite the Institute's embarking on more bold initiatives and facing increased regulation and compliance obligations, this year OGC spent less in outside counsel legal fees than in the prior year and remained under budget.

Educating the Community on Law and MIT Policy

The office improved the OGC website, which now is updated monthly with an article describing a legal development that OGC believes will be of interest to the community. Suggestions are always welcome. The office hopes this will lead to a legal updates piece that OGC can send to its internal clients. Many of the members of OGC presented to a variety of MIT audiences on various laws, Institute policy, and practice and process, such as the Family Educational Rights and Privacy Act, immigration laws, Title IX, sexual harassment, and discrimination and civility in the workplace and educational environment.

The OGC staff also spoke at many smaller education sessions to inform the MIT community on specific policies and processes. A number of OGC attorneys served on and advised several standing and ad hoc committees, for example, the Chancellor's Committee on Medical Leave and Hospitalization Policies and Procedures and the Committee on Intellectual Property. The office also led groups of peers in filing several amicus briefs in legal cases whose outcome could affect MIT.

Preventing and Solving Legal Problems

Each OGC attorney spends most of his or her time advising the various offices of MIT on options in making decisions, the risks associated with those options, how to communicate those decisions, and how to document those decisions. The office's best

measure of success is largely to make sure that problems do not surface; for those that do, OGC works hard to solve them so they do not interfere with the central work of the administration and the faculty in supporting MIT's mission. This past year, OGC worked closely to prevent and solve problems with the Provost and his office, the Chancellor's team, the Title IX and Bias Response Office, deans, department heads and laboratory directors, the Executive Vice President and Treasurer's organization, and DLC administrators. The OGC also worked to support faculty on faculty-centric problems such as publication disputes. Finally, the office tries to assist MIT's student leaders in assessing and managing risks by providing general guidance on legal topics.

Facilitating Transactions

Several OGC attorneys focus their practice on assisting various offices on structuring and negotiating agreements. This past year, OGC was integrally involved in the structuring of The Engine and drafting operating and other agreements in connection with this Institute initiative. The OGC advised and supported the myriad transactions for the Department of Facilities, the Office of Resource Development, the Office of the Vice President for Finance, the Office of Sponsored Programs, the Office of Major Agreements, and the Technology Licensing Office.

The OGC also supported the Office of Digital Learning, Information Systems and Technology, and the Media Lab on various business matters. Several OGC attorneys worked on drafting and negotiating a variety of agreements for educational programs, facilities use, services, consortia, and visiting student programs.

Providing Timely, Independent Advice

This is the heart of OGC's work—helping with small, reoccurring, or large problems early and often. In the past year, OGC staff

- Increased the scope of the office's involvement at Lincoln Laboratory
- Advised MIT leadership on various changes caused by the change in the US presidential administration
- Enhanced support of the Office of Resource Development
- Provided regular support to central and DLCs' human resource professionals

Representing MIT in Legal Proceedings

This past year, OGC represented MIT and MIT faculty and staff directly, or closely managed outside counsel, in state and federal litigation, both as plaintiffs (those who file lawsuits) and defendants (those being sued). The claims were varied, including claims in tort, contracts, intellectual property, discrimination and harassment, environmental issues, and negligence. The office also represented the Institute in mediations and arbitrations. Finally, OGC handled federal and state agency compliance reviews and investigations and complaints pending before federal, state, and city administrative agencies.

The OGC has a system in place to ensure efficient use of top-notch outside counsel who know our team and MIT. We place importance on individual lawyers, not necessarily law firms, and we continue to do more internally than externally, spending less than budgeted in this fiscal year, despite rising costs and complicated matters.

We will look forward to continuing to serve MIT as independent, intelligent advocates, advisors, facilitators, and problem solvers.

Mark C. DiVincenzo
Vice President and General Counsel