

**BOARD OF TRUSTEES  
MINNESOTA STATE COLLEGES AND UNIVERSITIES**

**BOARD ACTION**

APPOINTMENT OF GENERAL COUNSEL

**BACKGROUND**

In fall 2014, Chancellor Rosenstone initiated a national search for a successor to General Counsel Gail Olson. When that search did not yield the right person for such a critical position, Chancellor Rosenstone recommended and the Board of Trustees approved the appointment of Assistant General Counsel Kris Kaplan to serve as interim general counsel.

The search resumed in spring 2015. As applications were reviewed, it was increasingly clear that there was one person who was head and shoulders above the others in the pool. Chancellor Rosenstone, three presidents, several trustee, several members of the cabinet, and other key personnel in the system office interviewed the candidate.

After careful consideration of detailed feedback received from everyone who participated in the process, Chancellor Rosenstone recommends Gary Cunningham to be the next General Counsel.

**RECOMMENDED COMMITTEE ACTION**

The Human Resources Committee recommends that the Board of Trustees adopt the following motion.

**RECOMMENDED MOTION**

The Board of Trustees, upon the recommendation of Chancellor Rosenstone, appoints Gary Cunningham as General Counsel effective July 1, 2015, subject to the completion of an employment agreement. The board authorizes the chancellor, in consultation with the chair of the board and chair of the Human Resources Committee, to negotiate and execute an employment agreement in accordance with the terms and conditions of the MnSCU Personnel Plan for Administrators.

*Date of Approval: June 17, 2015*

*Date of Implementation: July 1, 2015*

# Gary Cunningham

## Minnesota State Colleges and Universities

**Assistant General Counsel**  
Office of General Counsel

October 2014 – present

- Provide legal advice and counsel on employment and other matters throughout the Minnesota State Colleges and Universities system.
- Manage litigation handled by the Office of Attorney General.
- Train human resource and affirmative action personnel to build legal capacity and knowledge of employment law.

## Office of Minnesota Attorney General

September 1986 – December 2014

**Assistant Attorney General**  
Civil litigation division

September 1994 – December 2014

- Represented all branches of state government, particularly MnSCU in employment law matters.
- Advised MnSCU and agency human resources personnel, affirmative action officers, agency general counsel, executive directors, and commissioners' staff on compliance with employment laws, labor practices, and the Minnesota Government Data Practices Act.
- Independently responsible for all phases of state and federal court litigation from discovery through appeal for claims involving discrimination. Whistleblower Act, Minnesota Data Practices Act, First Amendment and other employment related claims. Attended scheduled public commissioner meetings as legal counsel. Represented state agencies in settlement negotiations including mediation.
- Responded to discrimination charges and any subsequent administrative proceedings on behalf of state entities.
- Provided legal advice and counsel to the Minnesota Public Utilities Commission and staff with respect to regulatory matters. Represented the Commission in the Minnesota Court of Appeals, Minnesota Supreme Court, and the Federal Court on regulatory matters including a lawsuit brought by South Dakota claiming that a Minnesota Statute voided the Commerce Clause.

- Represented state entities in diverse litigation matters, including:
  - I35 Bridge litigation (Minnesota Department of Transportation)
  - Multistate litigation involving alleged violations of the Drivers Privacy Protection Act by using advertisements to offset license mailing costs (Minnesota Department of Public Safety).
  - Allegations of violations of the law in connection with its operation of a license database (Minnesota Department of Public Safety).
  - Recovery of funds used by a labor union in connection with a convention (Minnesota Department of Natural Resources)
  - Represented the State against unscrupulous businessmen “flipping” homes of financially imperiled home-owners.

**Assistant Attorney General  
Residential Utilities Division**

1986 – 1994

Represented the interests of residential and small business utility customers before the Minnesota Public Utilities Commission, the Federal Energy Regulators Commission, the Federal Communicators Commission and State and Federal courts. Participated in utility rate cases and other regulatory matters in all phases of administrative litigation. Assisted the preparation of expert testimony in economics, finance, and accounting. In one court action received a recovery of thirty-nine million dollars against a telephone company.

**Judicial Clerkship  
United States Court of Appeals, Fifth Circuit, Honorable Lewis Morgan**

**EDUCATION**

**Juris Doctor**, University of Illinois College of Law, Champaign, Illinois  
Honors: Magna Cum Laude, Order of the Coif  
Activities : Law Review, instructing University Business Law Courses

**Bachelor of Science**, Purdue University, W. Lafayette, Indiana  
Honors: Phi Beta Kappa, Sigma Pi Sigma (National Physics Honor Society)  
Majors: Math, Physics. Minor: English.  
Activities: University theatre, intramural sports