

Office of General Counsel

***1100 The Role of the Office of General
Counsel***

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Table of Contents

Policy	2
Authority.....	3
References	4
Applicability.....	5
Definitions	6
Responsibilities	7
History.....	8
Evaluation	9



Department of Human Services
Policy and Manual Management System

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Policy

The Policy of the Office of General Counsel (OGC) is to provide legal support and guidance to the Department of Human Services (DHS). OGC provides legal services in three capacities. OGC provides direct legal assistance to the Commissioner's Office. In an effort to assist the various divisions and enterprise-level offices, a Deputy General Counsel (DGC) or an Associate General Counsel(s) (AGC) is assigned to each division and select administrative offices to provide legal support and guidance. Thirdly, in addition to its role within DHS, OGC serves as a liaison for the legal support provided by the Georgia Office of the Attorney General (the Law Department).

Authority

O.C.G.A. § 45-15-3 et seq.

O.C.G.A. § 45-15-34

O.C.G.A. § 50-13-13

O.C.G.A. § 50-13-17

O.C.G.A. § 50-13-19

O.C.G.A. § 50-13-41

O.C.G.A. § 50-18-70 et seq.

Ga. Const. 1983, Art. V, Sec. III, Para. IV

Attorney General Official Opinion 95-1

References

N/A

Applicability

This policy applies to all staff within the Office of General Counsel and all divisions, offices, and enterprise functions within the Department of Human Services.

Definitions

Legal documents include, but are not limited to, the following:

Lawsuit/complaint

the original or initial pleading which signals the commencement of a legal action against another party and sets forth a claim for relief

Ante litem notice/notice of claim

a written notice to the State of Georgia of an adverse party's intent to bring legal action against the state

Request for Production of Documents

written requests for documents about a case submitted by one party to the other or witness

Interrogatories

a set of written questions about a case submitted by one party to the other or witness

Request for Admissions

written statements of facts concerning the case which are submitted to an adverse party and which that party is required to admit or deny

Subpoena

a written command to appear at a certain time and place to give oral testimony upon a certain matter. A subpoena duces tecum requires the production of documents, books, papers, or other items

Petition for Judicial Review

a formal written request to the court requesting judicial action on a certain matter

Responsibilities

1. OGC shall notify the Law Department in a timely manner of the receipt of legal documents that name DHS, a DHS entity, or a DHS employee as a party.
2. The DGC or AGC for each Division or Office shall coordinate with OGC and communicate to staff within their respective Division or Office to ensure the timely transmission of legal actions received by DHS to the Law Department.
3. OGC provides legal support and guidance to the Department of Human Services. Among its duties, OGC provides day-to-day support to the divisions and enterprise functions. Additionally, OGC provides legal assistance to the Office of the Commissioner.
4. Legal support and guidance includes, but is not limited to, the following:
 - a. Ensuring their respective division or office remains in compliance with all relevant federal and state laws.
 - b. Providing legal compliance training to employees within their respective Division or Office.
 - c. Providing assistance to their respective division or office for various constituent issues that require legal guidance.
 - d. Serving as the liaison between the Law Department and DHS.
 - e. Assisting the Special Assistant Attorneys General. Representing DHS in legal proceedings.
 - f. Reviewing DHS contracts or agreements for legal compliance.
 - g. Responding to, or assisting with, complaints from the Office of Civil Rights, or any other federal agency, regarding a complaint.
5. Legal support and guidance **does not** include the following:
 - a. Representing DHS employees in any civil, criminal, or administrative proceeding.
 - b. Providing legal advice to DHS employees for non-employment related (i.e., personal) matters.
 - c. Providing legal advice to or representing any constituent in any civil, criminal, or administrative proceeding.
6. OGC provides certain specific legal support and guidance to the Department of Human Services. Statutorily required duties of the Department that are provided by OGC include, but are not limited to, the following:
 - a. Processing of hearing requests to the Office of State Administrative Hearings (OSAH), O.C.G.A. § 50-13-13.
 - b. Agency review of initial decisions from OSAH, O.C.G.A. §§ 50-13-17 and 50-13-41.
 - c. Certifying administrative records for judicial review, O.C.G.A. § 50-13-19.
 - d. Responding to legal actions against the DHS, Ga. Const. 1983, Art. V, Sec. III, Para. IV., and O.C.G.A. § 45-15-34.
 - e. Responding to requests under the Georgia Open Records Act, O.C.G.A. § 50-18-70 et seq.
 - f. Responding to known or suspected breaches of protected health information or personally identifiable information.

History

Replaces POL1100, last reviewed 10/1/2016

Evaluation

The General Counsel evaluates the effectiveness of this policy every two years.