

	Department of Human Services Online Directives Information System Office of General Counsel	Index: Effective: Review:	POL1100 10/1/2016 10/1/2019
---	--	---------------------------------	-----------------------------------

THE ROLE OF THE OFFICE OF GENERAL COUNSEL

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, an Associate General Counsel(s) (AGC) is assigned to each division to provide legal support and guidance. Thirdly, in addition to its role within DHS, OGC serves as a liaison for the the legal support provided by the Georgia Office of the Attorney General (the Law Department).

I. 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

II. References

- PROC110: Processing Hearing Requests to the Office of State Administrative Hearings
- PROC111: Agency Review of Initial Decisions from the Office of State Administrative Hearings
- PROC112: Certifying the Administrative Record for Judicial Review
- PROC113: Responding to Legal Actions Against the Department

POL1200: Maintaining Compliance with the Georgia Open Records Act

PROC120: Responding to Open Record Requests

POL1660: Data Breach Response Policy

III. 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.

IV. Definitions

Legal documents include the following:

1. 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;
2. 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;
3. Request for Production of Documents: written requests for documents about a case submitted by one party to the other or witness;
4. Interrogatories: a set of written questions about a case submitted by one party to the other or witness;
5. 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;
6. 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;
7. Petition for Judicial Review: a formal written request to the court requesting judicial action on a certain matter.

V. Responsibilities of the Office of General Counsel (OGC) to the Office of the Attorney General (Law Department)

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.

The Associate General Counsel (AGC) for each Division shall coordinate with OGC and communicate to staff within their respective Division to ensure the timely transmission of legal actions received by DHS to the Law Department.

VI. Responsibilities of the Office of General Counsel (OGC) to the Department of Human Services (DHS)

- A. 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.

- B. Legal support and guidance includes, but is not limited to, the following:
 - 1. Ensuring the division remains in compliance with all relevant federal and state laws;
 - 2. Providing legal compliance training to employees within their respective division;
 - 3. Providing assistance to the division for various constituent issues that require legal guidance;
 - 4. Serving as the liaison between the Law Department and the division;
 - 5. Assisting the Special Assistant Attorney Generals representing the division in legal proceedings;
 - 6. Reviewing division contracts for legal compliance;
 - 7. Responding to, or assisting with, complaints from the Office of Civil Rights, or any other federal agency regarding a complaint.

- C. Legal support and guidance does not include the following:
 - 1. Representing DHS employees in any civil, criminal, or administrative proceeding;
 - 2. Providing legal advice to DHS employees for non-employment related (i.e., personal) matters;
 - 3. Providing legal advice to or representing any constituent in any civil, criminal, or administrative proceeding.

VII. Statutory Responsibilities of the Office of General Counsel (OGC) to the Department of Human Services (DHS)

OGC is statutorily required to provide certain specific legal support and guidance to the Department of Human Services.

Statutorily required legal support and guidance includes, but is not limited to, the following:

- 1) Processing of hearing requests to the Office of State Administration Hearings (OSAH) O.C.G.A. § 50-13-13;
- 2) Agency review of initial decisions from OSAH, O.C.G.A. §§ 50-13-17 and 50-13-41;
- 3) Certifying administrative records for judicial review, O.C.G.A. § 50-13-19;
- 4) Responding to legal actions against the DHS, Ga. Const. 1983, Art. V, Sec. III, Para. IV., and O.C.G.A. § 45-15-34;

- 5) Responding to requests under the Georgia Open Records Act, O.C.G.A. § 50-18-70 et seq.;
- 6) Responding to known or suspected breaches of protected health information or personally identifying information.

VIII. History

None.

IX. Authentication

Commissioner

Date