



DIVISION OF DEVELOPMENTAL DISABILITIES
Olympia, Washington

TITLE: ATTORNEY GENERAL ADVICE AND REPRESENTATION POLICY 2.02

Authority: Chapter 4.92 RCW

PURPOSE

This policy describes the process for requesting assistance from the Office of the Attorney General (AGO): (a) for legal advice; (b) for assistance with or in a fair hearing; or (c) in a lawsuit where you are a named-defendant regarding alleged acts or omissions as an employee of the Division of Developmental Disabilities (DDD). This policy is intended to eliminate duplicate requests, coordinate staff efforts, and facilitate communication of AGO responses to all appropriate division staff.

SCOPE

This policy applies to all DDD organizational units.

POLICY

A. Requests for Legal Advice Unrelated to Client Appeals

1. DDD headquarters staff, regional administrators, field services administrators, and RHC superintendents can contact their assigned Assistant Attorney General (AAG) directly for verbal consultation or to request advice in writing. If analysis of specific documents is anticipated that are not readily available outside DDD, requestors should provide such documents at the outset to the assigned AAG in order to facilitate timely responses.
2. Prior to contacting an AAG for verbal consultation or to request advice in writing, DDD regional staff and RHC staff who are not subject to A.1 above should first consult with their regional administrator (RA), field services administrator (FSA), or RHC superintendent or assistant superintendent. If following such consultation it is determined that AAG involvement is necessary, the assigned AAG can be

contacted directly.

3. This procedure may be altered by prior agreement with the assigned AAG. If analysis of specific documents is anticipated that are not readily available outside DDD, requestors should provide such documents at the outset to the assigned AAG in order to facilitate timely responses.
4. If any DDD staff believes that immediate AAG involvement is necessary and that insufficient time is available to allow for the prior consultation anticipated in A.2 above, the staff person should contact an AAG immediately for the necessary consultation.
5. Prior to contacting an AAG for verbal consultation or to request advice in writing on guardianship cases or issues, including the establishment or modification of guardianships, DDD regional staff and RHC staff should first consult with their regional guardianship coordinator. If following such consultation it is determined that AAG involvement is necessary, the AAG assigned to cover guardianship matters can be contacted directly. This procedure may be altered by prior agreement with the assigned AAG. If immediate AAG involvement is necessary, refer to A.3 above.

B. Requests for Legal Advice Related to Client Appeals/Fair Hearings

1. Regional Fair Hearing Coordinators (FHCs) are expected to represent DDD at fair hearings except as follows:
 - a. If AAG representation is desired due to the complexity of the issues involved, or if the appellant has an attorney, or because further litigation is anticipated, FHCs should first consult with the DDD Central Office Fair Hearing Coordinator (COFHC) to determine the need for AAG representation. This requirement may be waived by prior agreement with the assigned AAG.
 - b. Upon the concurrence of the COFHC, the FHC should contact the assigned AAG as soon as possible to request representation and to ensure sufficient time for the AAG to evaluate the case. The AAG will coordinate with the FHC regarding necessary documentation to evaluate the case, and will make the final determination as to the level of AAG involvement.
 - c. If a request for AAG representation is denied, and the FHC continues to believe that the case cannot be adequately presented without an attorney, the FHC should contact the RA or FSA for further assistance.

2. AAG consultation and assistance is available to the regions for all client appeals and during fair hearings.
3. Prior to requesting AAG assistance in drafting motions or appeals, FHCs should first consult with the COFHC for approval. This requirement may be waived by prior agreement with the assigned AAG. Requests should be submitted to the AAG as far in advance as possible to allow time to complete the work and meet required timelines. The FHC may be asked to assist directly with drafting the appeal.

C. Notification/Representation in a Lawsuit

1. If a DDD employee is named in a lawsuit arising from his or her job duties, the employee should contact the RA or FSA and the assigned AAG immediately.
2. If a division employee has reason to believe that a lawsuit may be filed against them or the department, he or she should contact the RA, the assigned AAG, and the division's Torts Manager to determine what documentation they should begin collecting, if any.

SUPERSESSION

Division Policy 2.02
Issued April 18, 2002

Division Policy 2.02
Issued February 13, 2002

Division Policy 2.02
Issued November 21, 1994

Division Policy Directive: 113
Issued June 23, 1978

Approved: /s/ Linda Rolfe
Director, Division of Developmental Disabilities

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