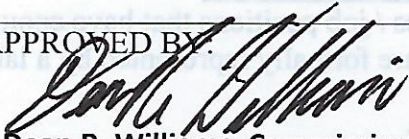


**STATE OF ALASKA  
DEPARTMENT OF CORRECTIONS**



**POLICIES & PROCEDURES**

SECTION: <b>Administration</b>		PAGE: Page 1 of 4
CHAPTER: <b>100</b>	NUMBER: <b>106.01</b>	P&P TYPE: <b>Public</b>
TITLE: <b>Legal Assistance To Employees</b>		
APPROVED BY:  <b>Dean R. Williams, Commissioner</b>		DATE: <b>08/11/17</b>
ATTACHMENTS / FORMS: <b>(None.)</b>		AUTHORITY / REFERENCES: <b>22 AAC 05.095 AS 33.16.180</b> <b>22 AAC 05.155 AS 33.30.011</b> <b>AS 09.50.253 AS 33.30.021</b> <b>AS 33.05.010 AS 44.28.030</b> <b>Art.29, 2015-18 ACOA Contract.</b> <b>Art. 36, 2016-19 ASEA Contract.</b> <b>Art. 12, 2016-18 APEA Contract.</b>

**POLICY:**

- I. It is the policy of the Department of Corrections (DOC) to have in place procedures to provide all employees with adequate and appropriate legal advice and assistance when necessary in the performance of their duties, as well as legal representation in all legal actions arising from legitimate performance of those duties.
- II. Nothing in this policy and procedure shall deny an employee legal coverage and indemnification that they are entitled to under their Collective Bargaining Agreement (CBA) between their union and the State of Alaska.

**APPLICATION:**

This policy and procedure will apply to all Department employees.

**DEFINITIONS:**

As used in this policy, the following definitions shall apply:

**Assigned Assistant Attorney General:**

An attorney (or attorneys) from the Department of Law (DOL) assigned the responsibility of providing representation to the Department of Corrections and its employees and rendering assistance in all matters involving a legal issue.

**Collective Bargaining Agreement (CBA):**

The current contract in effect between the State and a group of organized employees who work for the State, but are represented by a Collective Bargaining Unit (CBU).

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**Collective Bargaining Unit (CBU):**

A group of employees / job positions that have enough of a common interest in regards to employment conditions that they are formally represented by a labor union.

**PROCEDURES:**

I. Guidelines Concerning Legal Assistance:

A. Employees may request the assistance of counsel regarding:

1. Legal actions against the Department or an institution / office;
2. Legal actions against employees for actions taken in the official scope of the employee's duties;
3. Court decisions; and
4. Interpretations of offender rights and other legal issues.

B. Employees who are members of a CBU may have the cost of their legal representation / assistance in civil matters regarding the performance of their official duties, covered by the State in accordance with their specific CBA:

1. Some CBA's require employees to specifically request legal assistance from their employer in writing.
2. If an employee who is a member of a CBA becomes the subject of a civil action regarding his / her official duties the employee should consult his / her specific CBA for more details regarding legal rights / benefits and indemnity.

C. Legal representation may be denied in situations where the employee's conduct was grossly negligent, malicious, or the employee acted or failed to act, with willful, reckless or intentional misconduct.

D. If an employee requests legal representation, the Assigned Assistant Attorney General will notify the employee in writing if the request is denied.

E. Counsel is not available for advice, consultation and / or representation of employees for criminal action taken against them, for civil actions not involving the performance of official duties, or for personal matters.

II. Channels Of Communication:

A. An employee who is served with a legal notification shall contact his or her supervisor immediately.

B. If an employee requests advice or representation from the Assigned Assistant Attorney General, he / she must first submit the request in writing to their supervisor. It is the responsibility of the supervisor to inform the appropriate Division Director.

C. The supervisor in consultation with the Division Director shall forward all requests to the Assigned

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Assistant Attorney General along with the employee(s) comments and any recommendation by the Department, subject to the conditions stated in this Policy & Procedures.

- D. Department employees, upon consulting with their supervisor, may contact the Assigned Assistant Attorney General by telephone for advice on operational matters.

### III. Receiving And Routing Of Subpoenas, Summons Or Lawsuits:

- A. Employees must not sign for certified or registered mail intended for any State employee except themselves. When this type of mail arrives, the receiving employee must call and request that the employee it is addressed to sign for the envelope. If that employee is not present that day, those items in the mail should not be accepted.

**Note:** Exceptions may be made for employees who have express authorization to sign for a supervisor's mail and / or where a signature delegation is on file with the postal service.

- B. Under no circumstances must any restricted delivery mail addressed to a former employee ever be accepted or signed for by another employee.
- C. If a subpoena, summons, or lawsuit is served on an employee of the Department, the following procedures shall be followed:
  1. Receiving staff shall write on the cover page of the suit or summons the date it was received and a notation as to how it was received, i.e., by U.S. Mail, personal service, FedEx, etc.;
  2. Upon receipt of a summons and complaint, an employee shall immediately notify his / her supervisor. The supervisor shall notify the Assigned Assistant Attorney General of the lawsuit via email and attach a copy of summons, complaint, all attachments and the envelope it was received in. The originals of all documents should be forwarded to the Assigned Assistant Attorney General. The employee and supervisor should retain a copy for future reference.
  3. A copy of the lawsuit shall be provided to the appropriate Deputy Commissioner.
- D. Failure to properly notify the Assigned Assistant Attorney General within two (2) working days may result in disciplinary action.

### IV. Communication Or Counsel With Offenders In Pending Lawsuits:

- A. Under no circumstances will any employee of the Department in any way assist an offender in the preparation or conduct of any lawsuit involving the Department or involving defendants who are Departmental employees.

**Note:** This restriction does not include providing access to legal materials for the offender.

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- B. No employee will give affidavits, supporting information or access to Departmental files (except as provided in 22 AAC 05.095, Access To Prisoner Records) without the knowledge and concurrence of the Assigned Assistant Attorney General.
- C. Whenever an offender or the offender's attorney approaches any employee about any lawsuit concerning this Department or any of its employees, the employee is to direct the offender or attorney to contact his / her supervisor who shall contact the Assigned Assistant Attorney General. The Department's Assigned Assistant Attorney General will then be able to coordinate with the Assistant Attorney(s) General who has / have been assigned the case.
- D. Employees should be aware that on occasion private counsel is retained by the State to represent them in lawsuits.

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