

## **DHHS POLICIES AND PROCEDURES**

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<b>Section IV:</b>	<b>General Administration</b>
<b>Title:</b>	<b>Attorney General Opinions</b>
<b>Current Effective Date:</b>	<b>8/1/02</b>
<b>Revision History:</b>	<b>8/1/02</b>
<b>Original Effective Date:</b>	<b>2/1/96</b>

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### **Purpose**

The purpose of this policy is to clarify the procedure for requesting attorney general opinions by all divisions and offices of the Department of Health and Human Services (DHHS).

### **Policy**

All requests for attorney general opinions must be forwarded to the DHHS Secretary through the office of the general counsel prior to submission to the attorney general's office. The general counsel is responsible for monitoring, processing and reviewing all departmental requests for attorney general opinions. Proper implementation of this policy will insure internal legal review of the question(s) posed and consideration of the potential department-wide effects of the opinion.

### **Implementation**

1. How to Format an Opinion Request
  - A. All requests for written attorney general opinions shall comply with the format for attorney general opinions contained as part of this policy. The request shall be typed on departmental letterhead in memorandum style.
  - B. The question or questions asked shall be written clearly using terms easily understood by persons outside a particular area. If terms not easily understood by persons outside the area are used, these terms should be defined in the request. It is very important that questions be carefully written because the wording of the questions may determine the value of the response.
  - C. It is not necessary to attach copies of the North Carolina General Statutes or rules from the North Carolina Administrative Code. However, if applicable federal statutes, regulations, policy or manual material, etc. are cited, it will assist the opinion reviewer to have information readily available.
  - D. It is important to be specific and provide necessary program and factual information in the explanation of the situation giving rise to the need for an opinion.

The attorney general staff needs adequate information to understand the problem and correctly interpret the issues.

2. Procedures to Request an Attorney General Opinion

- A. All requests for written attorney general opinions shall be reviewed by the division/office director submitting the request. The division/office director shall submit the request to the office of the general counsel.
- B. The general counsel shall review the proposed opinion request. If the general counsel determines an attorney general opinion is not needed, the general counsel shall notify the division/office director of this decision. If the proposed opinion request has general departmental applicability or affects more than one (1) division, it shall be reviewed by all appropriate division/office directors. If it has potential fiscal impact, it shall be reviewed by the appropriate budget analyst. All comments on the proposed opinion request shall be reviewed by the division/office director and the general counsel, and a final draft of the opinion request shall be prepared by the division/office director initiating the request.
- C. The general counsel shall submit the opinion request to the DHHS Secretary who shall approve or disapprove the opinion request. If the opinion request is disapproved, the general counsel shall notify the division/office director initiating the request.
- D. The general counsel is responsible for transmitting approved attorney general opinion requests to the attorney general's office. The general counsel will maintain the department's copies of these requests. The general counsel shall provide a copy of the attorney general opinion received in response to a request to the division/office director of origin and to any other division/office director who reviewed the request.
- E. This review process shall apply to **all** requests for attorney general opinions when the response will be in writing, when the response would affect any operations or programs in other DHHS divisions or offices, or when it would pertain to a pending or imminent administrative appeal or court suit.
- F. This review process does not apply to informal consultations or verbal interpretations.

*For questions or clarification on any of the information contained in this policy, please contact [The Office of General Counsel](#). For general questions about department-wide policies and procedures, contact the [DHHS Policy Coordinator](#).*

Format for Attorney General Opinion Request  
(Use Department Letterhead)

Date:

MEMORANDUM

TO: Attorney General

FROM: Secretary  
Department of Health and Human Services

SUBJECT: Request for Attorney General Opinion

REQUESTED BY: Office of General Counsel, DHHS

QUESTION:

APPLICABLE STATUTES,  
RULES, REGULATIONS,  
MANUALS, OR POLICIES:

FACTUAL SITUATION  
GIVING RISE TO THE  
NEED FOR AN OPINION: