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CHAPTER 1: ADMINISTRATION, ORGANIZATION, AND MANAGEMENT		
	STATE of MAINE DEPARTMENT OF CORRECTIONS	PROFESSIONAL STANDARDS: See Section VII
	Approved by: <u><i>Martin Magnusson</i></u> Signature of Commissioner	
EFFECTIVE DATE: March 22, 2004	LATEST REVISION: March 10, 2010	CHECK ONLY IF APA []

I. AUTHORITY

The Commissioner of Corrections adopts this policy pursuant to the authority contained in 34-A M.R.S.A. Section 1403.

II. APPLICABILITY

Entire Maine Department of Corrections

III. POLICY

It is the purpose of this policy to establish a process for employees of the Department of Corrections to request legal advice and representation from the Assistant Attorney General assigned to assist the Department and its employees.

IV. CONTENTS

- Procedure A: Advice and Representation, General
- Procedure B: Representation for Lawsuits, Notices of Tort Claim, Maine Human Rights Commission Complaints, etc.
- Procedure C: Request for Legal Advice

V. ATTACHMENTS

None

VI. PROCEDURES

Procedure A: Advice and Representation, General

1. The Assistant Attorney General (AAG) assigned to assist the Department and its employees is generally available for advice and representation with respect to, but not be limited to, the following:

- a. Compliance with constitutional and other rights of prisoners, residents, and adult and juvenile community corrections clients
- b. Interpretation and implementation of relevant court decisions, statutes, and regulations
- c. Review, interpretation and implementation of Departmental regulations and policies and procedures
- d. Communications with private attorneys and legal advocacy organizations
- e. Review and drafting of proposed legislation
- f. Review of major contracts (for example, with providers of health care services to prisoners and residents)
- g. Fulfillment of Freedom of Access Act requests
- h. Representation for lawsuits, notices of tort claim, Maine Human Rights Commission complaints, etc.

Procedure B: Representation for Lawsuits, Notices of Tort Claim, Maine Human Rights Commission Complaints, etc.

1. Any employee who receives a lawsuit, notice of tort claim, Maine Human Rights Commission complaint or other apparent legal document and who wishes to be represented by the AAG assigned to represent the Department and its employees shall immediately forward all the paperwork, including the envelope, to staff designated by the Chief Administrative Officer of the facility, Regional Correctional Administrator of the community corrections region or, if the employee is assigned to Central Office, to the Commissioner’s designee. If the paperwork was not sent through the U.S. Postal Service or internal facility mail, the employee shall note on the back of the paperwork when and how it was delivered and by whom.
2. The staff designated to process legal documents shall make two (2) copies of all the paperwork, including the envelope, and shall immediately forward the original to the AAG assigned to represent the Department and its employees. One copy shall be immediately forwarded to the Commissioner’s Administrative Secretary and the other shall be retained by the designated staff. Upon request of the AAG assigned to represent the Department and its employees, designated staff shall gather documentation and provide other information necessary to provide a defense in the matter.

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3. The Commissioner's Administrative Secretary shall maintain a system for filing the copy received and shall confirm that the original has been received by the AAG assigned to represent the Department and its employees.
4. The employee shall not sign any legal document or other paper received except for a certified mail return receipt.
5. The employee shall not discuss anything to do with the matter with anyone except the AAG assigned to represent the Department and its employees.

Procedure C: Request for Legal Advice

1. At each facility, the Chief Administrative Officer shall designate a staff person to be the facility's contact person with respect to legal advice.
2. Any request for legal advice shall be made through that staff person designated by the Chief Administrative Officer of the facility, Regional Correctional Administrator of the community services region or, if the employee is assigned to Central Office, through the Commissioner's designee. Designated staff shall, if appropriate, forward the request to the AAG assigned to represent the Department and its employees.
3. If the request concerns any matter listed in procedure A. 1. a, b, or c. or other matter with significance beyond the particular facility or community services region, the staff designated to process requests for legal advice shall forward the request to the Policy Development Coordinator. The Policy Development Coordinator shall, if appropriate, forward the request to the AAG assigned to represent the Department and its employees.

VII. PROFESSIONAL STANDARDS

ACA:

- ACI - 4-4023** Written policy and procedure specify the circumstances and methods for the warden/superintendent and other staff to obtain legal assistance as needed in the performance of their duties.
- 4-JCF-6D-05** Procedures specify the circumstances and methods for the facility administrator and other staff to obtain legal assistance, as needed in the performance of their duties.

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