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GOVERNOR

# State of Alabama Department of Corrections

Alabama Criminal Justice Center  
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JOHN Q. HAMM  
COMMISSIONER

August 3, 2023

**ADMINISTRATIVE REGULATION  
NUMBER** 026

**OPR: LEGAL**

## **AVAILABILITY OF LEGAL ASSISTANCE**

### **I. GENERAL**

This Alabama Department of Corrections (ADOC) Administrative Regulation (AR) establishes the policies, procedures, and responsibilities to provide for the availability of legal assistance to the ADOC, which includes its Commissioner, officials, and employees.

### **II. POLICY**

It is the policy of the ADOC to have legal counsel available to provide legal advice, assistance, and representation to the ADOC in all areas of official departmental activities.

### **III. DEFINITIONS AND ACRONYMS**

This section is not used in this AR.

### **IV. RESPONSIBILITIES**

- A. The ADOC Commissioner is responsible for hiring and designating a licensed, experienced attorney to be the ADOC's General Counsel, who shall serve as a member of the ADOC Executive Leadership and shall be responsible for the ADOC Legal Division.
- B. The General Counsel is responsible for:
  - 1. Supervising the ADOC Legal Division.
  - 2. Staffing the ADOC Legal Division after consulting with and receiving approval from the Commissioner. The General Counsel may employ

additional attorneys, paralegals, legal research assistants, administrative assistants, and clerks as part of the ADOC Legal Division to assist in advising the ADOC. The General Counsel may appoint any attorney within the ADOC Legal Division as a designee to complete any responsibility of the General Counsel.

3. Advising the Commissioner, and such other officials and employees as time and resources permit, of significant legislative and judicial developments that may affect the ADOC's policies and procedures.
4. Monitoring all litigation filed against the ADOC, consulting with the Office of the Attorney General of Alabama concerning such litigation and providing any necessary representation of the ADOC (or assistance to the Office of the Attorney General or outside counsel specially appointed as deputy attorneys general in representation of the ADOC) in such litigation.
5. Serving as a mandatory reviewer of all ADOC ARs to ensure their legality and advising the Office of Primary Responsibility (OPR), the appropriate Deputy or Associate Commissioner, and the Commissioner of any potential legal issues that the Department may encounter from promulgating the AR.
6. Advising the ADOC, subject to the General Counsel's appropriate judgment and discretion, on legal issues relating to policy formulation; interpretation of laws, regulations, contracts, agreements, and leases; and official job duties and responsibilities.
7. Advising the ADOC when inmate grievances raise legal issues that must be resolved prior to responding to the grievance.

C. All ADOC employees are responsible for:

1. Promptly providing the General Counsel/Designee (or the Office of the Attorney General or outside counsel specially appointed as deputy attorneys general), with all relevant documentation, subpoenas, or other information related to any request or legal action.
2. Cooperating with all legal inquiries, interrogatories, depositions, or other legal processes that will assist in legal proceedings.
3. Complying with the contents of this AR.

V. **PROCEDURES**

A. Requests for Legal Assistance:

1. ADOC Employees requesting legal assistance, including questions or problems involving policy formulation; interpretation of laws, regulations, contracts, agreements, and leases; and official job duties and responsibilities, shall complete and submit a copy of ADOC Form 026-A, *Request for Legal Assistance*, to the ADOC Legal Division.
2. Upon receipt of the ADOC Form 026-A, *Request for Legal Assistance*, the General Counsel/Designee shall update it with the date it was received, assign it a control number, and assign and forward it to one the ADOC attorneys.
3. Upon receipt and review of the ADOC Form 026-A, *Request for Legal Assistance*, the assigned ADOC attorney will use appropriate judgment and discretion to determine whether the Legal Division should become involved in resolving the question or problem.
  - a. If the assigned ADOC attorney determines that it is appropriate for the Legal Division to become involved in resolving the question or problem, return the Form 026-A, *Request for Legal Assistance*, with written response, which includes both advising on applicable laws and regulations and recommendations of departmental actions in accordance with those laws and recommendations, to the employee.
  - b. If the assigned ADOC attorney determines that it is not appropriate for the Legal Division to become involved in resolving the question or problem, return the Form 026-A, *Request for Legal Assistance*, with written statement accordingly to the employee.

B. Requests for Emergency Legal Assistance:

1. Employees requesting emergency legal assistance that requires an immediate response may directly contact, either by telephone or e-mail, the Legal Division without submitting the question or problem on Form 026-A, *Request for Legal Assistance*.
2. Employees shall clearly indicate, either verbally or at the beginning of the written request, that they are requesting emergency legal assistance and include a requested deadline to provide a response.
3. Upon receipt and review of the request for emergency legal assistance, the Legal Division will use appropriate judgment and discretion to determine whether such request is an actual emergency requiring immediate legal assistance.
  - a. If the Legal Division determines that request for emergency legal assistance is not an emergency requiring immediate legal attention,

then the Legal Division will provide a response accordingly to the employee either by telephone or e-mail and advise that the request should therefore be forwarded through the normal procedures in accordance with Section V.A. above.

- b. If the Legal Division determines that request for emergency legal assistance is an emergency requiring immediate legal attention, then the Legal Division will use appropriate judgment and discretion to determine whether, and to what extent, the Legal Division should become involved in resolving the question or problem.
  - (1) If the Legal Division determines that it is appropriate for the Legal Division to become involved in resolving the question or problem, then the Legal Division will provide a response, which includes both advising on applicable laws and regulations and recommendations of departmental actions in accordance with those laws and recommendations, to the employee either by telephone or e-mail as soon as practicable.
  - (2) If the Legal Division determines that it is not appropriate for the Legal Division to become involved in resolving the question or problem, then the Legal Division will provide a response accordingly to the employee either by telephone or e-mail as soon as practicable.

## **VI. DISPOSITION**

Any forms used will be disposed of and retained according to the Departmental Records Disposition Authority (RDA).

## **VII. ANNEXES AND FORMS**

ADOC Form 026-A, *Request for Legal Assistance*.

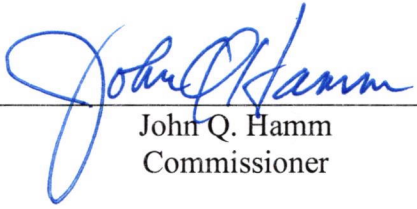
## **VIII. SUPERSEDES**

This Administrative Regulation supersedes AR 026, *Availability of Legal Assistance*, dated March 21, 2005, and any related changes.

## **IX. PERFORMANCE**

- A. Code of Alabama 1975 § 14-1-1.1 *et seq.*
- B. Alabama Rules of Professional Conduct Rule 1.1 *et seq.*

- C. American Correctional Association Performance-Based Standards & Expected Practices for Adult Correctional Institutes § 5-ACI-1A-23 (5th ed. 2021).



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John Q. Hamm  
Commissioner

Alabama Department of Corrections

**REQUEST FOR LEGAL ASSISTANCE**

This Section for Division/Facility ONLY		This Section for Legal Division ONLY	
Requestor Name:		Legal Division	Attorney
Requestor Title:		Date Received:	Date Received:
Immediate Supervisor:			
Division Director/Warden:			
Division/Facility:			
Law/AR/SOP Involved:			
Inmate Name:			
Inmate AIS No.:			
Inmate Summary Attached:		Yes:	No:
Other Attachments:	Yes:	No:	
Date of Request:		Control No.:	

1. Briefly state question or problem and outline with any comments:

2. Legal Division Comments:

\_\_\_\_\_  
Individual Completing Request

\_\_\_\_\_  
Date