

1 **Rule 3-401. Office of General Counsel.**

2 **Intent:**

3 To establish the office of General Counsel within the Administrative Office.

4 To identify the office of General Counsel as the primary authority for coordinating the provision
5 of legal services to the judiciary.

6 To establish uniform procedures governing the provision of legal services to the judiciary.

7 To define the relationship between the office of General Counsel and the Office of the Attorney
8 General.

9 **Applicability:**

10 This rule shall apply to the judiciary.

11 **Statement of the Rule:**

12 (1) **Establishment of office of general counsel.** The office of General Counsel is
13 established within the Administrative Office to provide legal services to the judiciary.

14 (2) **Responsibility.** The office of General Counsel shall have primary responsibility for
15 providing the following legal services:

16 (2)(A) informal advice and counsel;

17 (2)(B) written opinions;

18 (2)(C) legislative drafting;

19 (2)(D) legal representation in administrative and judicial proceedings where the claimant
20 is seeking declaratory, injunctive, or extraordinary relief or where risk
21 management coverage is not provided;

22 (2)(E) negotiation, drafting, and review of contracts and leases;

23 (2)(F) consultation, drafting, and review of judicial policies and procedures;

24 (2)(G) staff support to committees established by the Council and the Supreme Court;
25 and

26 (2)(H) coordination of, and arrangement for, legal representation by the Attorney
27 General's Office or outside counsel in appropriate cases.

28 (3) **Protocol for requesting legal assistance.**

29 (3)(A) **Courts of record.**

30 (3)(A)(i) Non-judicial officers and employees of the state.

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(3)(A)(i)(a) All requests for legal assistance, other than requests for informal advice or counsel, shall be in writing and directed to the appropriate state level administrator, who shall refer appropriate requests to the office of General Counsel.

(3)(A)(i)(b) All requests for legal representation and indemnification shall be made in writing by the employee or officer who is named as a defendant. The request shall be made within ten days of service and directed to the office of General Counsel. A copy of the request shall be sent by the individual officer or employee to the Office of the Attorney General at that time. General Counsel shall be responsible for coordinating the legal representation of non-judicial officers and employees with the Attorney General's Office.

(3)(A)(ii) Judicial officers.

(3)(A)(ii)(a) All requests for legal assistance from judicial officers, other than requests for informal advice or counsel, shall be in writing and directed to General Counsel. ~~In cases where there are conflicts, time constraints or other judicial priorities, General Counsel shall consult with the presiding officer of the Council prior to responding to such requests. General Counsel shall not provide legal counsel or advice to judicial officers on issues which are pending before that court for resolution.~~

(3)(A)(ii)(b) All requests for legal representation and indemnification shall be made ~~in writing~~ by the judicial officer who is named as a defendant. The request shall be made within ten days of service and directed to General Counsel. ~~A copy of the request shall be sent by the judicial officer to the Office of the Attorney General at that time.~~ General Counsel shall be

65 responsible for coordinating the legal representation of
66 judicial officers with the Attorney General's Office.

67 (3)(B) **Courts not of record.** All requests for legal assistance, representation and
68 indemnification shall be made in writing by the officer or employee seeking
69 assistance and directed to the appropriate governmental entity. ~~A copy of the~~
70 ~~request for assistance shall be sent by the officer or employee to the Office of~~
71 ~~General Counsel at that time.~~

72 (3)(C) **Judicial council, boards of judges, committees and task forces.** All requests
73 for legal assistance from the Council, the Boards, committees or task forces
74 established by the Council or the Supreme Court shall be in writing and directed
75 to General Counsel from the presiding officer of the Council, Board, committee or
76 task force.

77 ~~(3)(D) **Code of judicial conduct.** All requests for legal advice concerning the Code of~~
78 ~~Judicial Conduct shall be made by individual judges in writing and directed to the~~
79 ~~Office of General Counsel for referral to the Ethics Advisory Committee.~~

80 (4) **Relationship to attorney general's office.** The provision of legal services to the judiciary
81 by the Office of General Counsel and the Office of the Attorney General shall be governed
82 by the Memorandum of Understanding entered into between the Council and the Attorney
83 ~~General's office which shall be reviewed and updated annually if appropriate~~ this rule and
84 Utah Code section 63G-7-901.