

# OFFICE OF LEGAL AFFAIRS

## Office of Legal Affairs Overview

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**The Policy** The Department of Children and Families shall have an Office of Legal Affairs (OLA) to oversee the many and varied legal aspects of DCF's mission.

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**Duties of the Agency Legal Director** The Director of OLA acts as overall General Counsel for DCF. The Agency Legal Director's duties shall include but are not limited to:

- providing legal advice and assistance related to DCF business to all employees;
- advising the Commissioner regarding legal issues related to DCF business;
- providing management and oversight of:
  - DCF legal staff in Central Office and the Regions;
  - the Administrative Hearings Unit;
  - the promulgation of DCF regulations;
- keeping DCF staff abreast of new statutes, regulations, case decisions and other changes in the law which affect the DCF's mission;
- collaborating with Human Resource Management and the Office of Diversity and Equity to ensure the rights of employees and the public; and
- collaborating with the Office of the Attorney General on litigation and other legal matters.

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**Collaboration with the Office of the Attorney General** The Office of the Attorney General is a separate state agency that, pursuant to Connecticut law, provides legal representation to DCF in all court cases and many administrative matters.

The duties of the Assistant Attorneys General who represent DCF in child protection cases include:

- appearing on behalf of DCF in all court hearings, case status conferences and related proceedings;
  - advising Social Work staff regarding legal strategy in child protection cases verbally and in written memoranda;
  - keeping DCF staff informed of legal developments in cases before the court;
  - preparing witnesses, issue subpoenas, respond to motions filed by other parties, and otherwise ensure that the case is ready for a court hearing;
  - zealously advocating DCF's position in any case before the court; and
  - filing appeals of court decisions adverse to DCF as requested by the Commissioner.
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**DCF Legal Staff** Each Region is served by legal staff consisting of one or more Attorneys and one or more Paralegal Specialists who are DCF employees.

Central Office and facility Superintendents are served by legal managers.

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**Documentation of Legal Advice** All legal advice shall be documented by the attorney who provides it in the legal narrative section of the electronic case record within three business days.

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**Documentation of Legal Advice** (continued) Documentation shall include a summary of the facts of the legal issue, the pros and cons of all potential legal action and the recommendation of the attorney.

Legal advice is confidential and shall not be disclosed to persons not employed by the DCF or the Office of the Attorney General. Any questions concerning the disclosure of legal advice shall be directed to an AAG or DCF attorney.

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**Duties of the Regional DCF Attorneys** The duties of the Regional DCF Attorneys may include the following:

- drafting and reviewing neglect and termination of parental rights petitions, motions for review of permanency plans, and related studies for legal sufficiency prior to filing, including consultation with social work staff and editing as necessary;
  - reviewing affidavits submitted with motions for orders of temporary custody to ensure the strongest legal case possible;
  - consulting with social work staff regarding case work decisions as requested;
  - representing DCF at complex administrative hearings;
  - acting as liaison between DCF staff and Assistant Attorneys General as requested;
  - providing legal training and advice to Area Office staff;
  - attending Regional and Area Office meetings as requested by management;
  - providing training for, advice to and supervision of preparation of DCF records for disclosure to third parties;
  - supervision of Paralegal Specialists.
  - ensuring legal logs are current and accurate; and
  - reviewing all court orders to ensure accuracy.
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**Duties of the Paralegal Specialists** The duties of the Paralegal Specialists may include the following:

- representing DCF at administrative hearings;
  - providing legal training to Area Office staff (Paralegal Specialist II only);
  - participating in the review of decisions to substantiate abuse and neglect;
  - assisting DCF Attorneys in the review of legal documents;
  - consulting with and advising Area Office staff regarding preparation of legal documents;
  - maintaining legal logs established in the Area Offices;
  - preparing official DCF records for disclosure to third parties; and
  - assisting Social Workers with diligent search efforts to locate missing parents and effectuate service of process.
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**Subpoenas** Whenever a subpoena is served on a DCF employee, the person served shall consult with DCF legal staff immediately to determine if:

- it is appropriate to challenge the subpoena by filing a motion to quash;
- representation by the Office of the Attorney General is needed;
- the person subpoenaed will be required to appear in court; and
- if the material requested can be delivered to court under seal.

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### Subpoenas (continued)

DCF staff shall not accept service of a subpoena for another staff unless the person accepting has the recipient's specific permission. Once the subpoena is accepted the person accepting shall ensure that the person to whom it is directed actually receives it.

If the person to whom the subpoena is directed reports to a different office location, State Marshal shall be directed to serve the subpoena at the correct office location.

Subpoenas shall not be accepted on behalf of any person except a DCF employee currently working in that Area Office, Central Office or facility.

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### Regulations

The Office of Legal Affairs shall collaborate with DCF subject matter experts and other state agencies to promulgate regulations as required by state statute, and to update existing regulations as necessary.

Regulations shall be promulgated and updated in accordance with the requirements of the State of Connecticut Uniform Administrative Procedures Act and the procedures set forth by the General Assembly's Legislative Commissioner's Office.

Legal reference: Conn. Gen. Stat. §4-166 through §4-174.

All current and proposed regulations shall be posted on the Secretary of State's eRegulations webpage for easy access by staff and the public.

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### Official Policy Development

The Office of Legal Affairs shall assist with official DCF policy development as follows:

- assist Policy Sponsors with the development of DCF policies and supplemental material;
- maintain records of policy development; and
- provide consultation, training and assistance to DCF staff regarding policy topics.

**See:** DCF Policy 4-7, "Official Policy Development".

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### Administrative Hearings Unit

DCF shall operate an Administrative Hearings Unit comprised of attorneys and paralegals who manage and preside over administrative hearings required by law.

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### Confidentiality

The Department of Children and Families shall protect adult and child client information in its records in accordance with applicable state and federal law.

If there is any doubt about whether certain information can be disclosed, a legal consultation shall be sought.

**Cross Reference:** DCF Policy 6-2, "Confidentiality".

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### **Freedom of Information Act**

DCF shall provide documents to third party requestors in accordance with the State of Connecticut Freedom of Information Act (FOIA).

DCF employees who receive such requests shall immediately forward the requests to the Office of Legal Affairs, which shall contact employees in possession of the documents requested. Employees in possession of records requested shall deliver them immediately to OLA. OLA shall determine whether the documents are public and therefore disclosable.

OLA shall collaborate with the DCF Public Information Officer regarding FOIA requests from the media.

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### **Records Management**

The Office of Legal Affairs shall oversee the management and retention of closed DCF records, including responding to requests from third parties for copies of such records.

Disclosure of confidential records shall be in accordance with all applicable state and federal laws.

Closed records shall be maintained in accordance with the State Library Retention schedules.

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### **Mandated Reporters Failure to Report**

The Office of Legal Affairs shall assist in referring cases of failure to report to the Chief State's Attorney's Office in accordance with DCF Policy 6-3, "Mandated Reporter's Failure to Report".

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### **Litigation Hold Notices**

The Department of Children and Families shall ensure that all documents, both hard copy and electronic, that are relevant to a case or issue that is subject to federal litigation, shall be saved until said litigation is adjudicated and all appeals have been resolved.

Responsibility of Office of Legal Affairs:

The Office of Legal Affairs shall notify through the DCF-5001, "Litigation Hold Notice," each employee who may have documentary evidence relevant to a case or issue that is the subject of litigation that such documentation must be maintained until further notice.

Responsibility of Employees with Relevant Documents:

Each employee receiving a Litigation Hold Notice (LHN) shall maintain all hard copy and documentary evidence indicated on the LHN until further notice. This information shall be maintained in a single hard copy and electronic file for immediate retrieval.

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