

61—1.5(13) Opinions.

1.5(1) Written opinions are provided upon request on questions of law submitted by the legislature or by any state officer, elective or appointive. The questions must be of a public nature and relate to the duties of the requesting officer. Written opinions may also be issued to county attorneys when appropriate for their supervision in matters pertaining to the duties of their offices. The attorney general does not issue opinions to other persons.

1.5(2) Opinion requests are to be addressed to the attorney general and contain sufficient information to determine the precise legal question presented. The request should also indicate if the question is pending in litigation or before any agency of state, local, or federal government, if the requester has a personal interest in the question, and any other matter which would be relevant to resolution of the request.

1.5(3) The attorney general may decline to issue an opinion where appropriate, as in the following examples:

a. The matter is pending in litigation or litigation is imminent, or other formal proceeding provided by law for resolution of the issue and issuance of the opinion could interfere with the authority of the other forum.

b. A conflict of interest exists on the part of the attorney general or the requester.

c. The question calls for resolution of a question of fact or policy rather than determination of a question of law, or the legal question is dependent upon the facts of specific cases.

d. The request does not involve a concise question of state law of general significance.

e. The question is likely to be rendered moot, as in the case of pending legislation.

1.5(4) The attorney general may also determine that a question can more appropriately be addressed by other means and so advise the requester. Alternative means for resolution of questions which are frequently appropriate include advice from assistant attorneys general and existing administrative procedures available from state agencies or other branches of government.

1.5(5) Official opinions may be formal opinions, which are published in full biennially, or letter opinions, summaries of which are published. Formal opinions are generally limited to those which resolve an important, previously undecided legal issue which is of broad public interest or of significant precedential effect. Both formal and letter opinions are official opinions of the attorney general. In contrast, letters of advice from assistant attorneys general represent the legal advice of an attorney and are not official opinions of the attorney general. The function of an official opinion is to decide a question of state law; the function of letters of advice is to provide legal guidance to agencies or to provide information. Requesters are encouraged to contact the appropriate division or the deputy attorney general for opinions to discuss whether an opinion request would be the preferred means for handling a specific question.

1.5(6) Questions and comments about the opinion process should be addressed to the executive deputy attorney general. Questions about the status of a specific opinion request or requests for copies of opinions should be addressed to the administrative assistant to that executive deputy attorney general, telephone (515)281-5166.