



**NOTICE OF PROPOSED CHANGES IN THE REGULATIONS
OF THE DEPARTMENT OF LAW REGARDING
REPRESENTATION IN AN ETHICS COMPLAINT AGAINST
THE GOVERNOR, LIEUTENANT GOVERNOR, OR
ATTORNEY GENERAL**

Proposed Regulations - FAQ

August 2023

1. What is the purpose of the proposed regulations? What will this regulation do?

The Department of Law proposes to change regulation to allow the Department of Law to represent the Governor, Lt. Governor, or Attorney General in a complaint alleging a violation of the Alaska Executive Branch Ethics Act. This regulation will authorize the Department of Law to defend and represent those public officials in proceedings before the State Personnel Board. The current regulation requires the Governor, Lt. Governor and Attorney General to hire outside counsel to represent them during these proceedings. This regulation would amend current regulation to allow the Department of Law to represent these individual when complaints are filed. A finding that such representation is in the public interest must be made prior to the Department of Law taking on representation.

2. What is the Department of Law's role in investigating complaints against the Governor, Lieutenant Governor, or the Attorney General?

The Department of Law does not have a role in investigating complaints against the Governor, the Lt. Governor or the Attorney General. If a complaint alleges a violation of the Alaska Executive Branch Ethics Acts by the Governor, Lt. Governor, or the Attorney General, the complaint is referred to the State Personnel Board. The State Personnel Board then retains

independent counsel who acts in the place of the Department of Law by presenting and prosecuting the charges before the board.

3. Is it a conflict of interest to have the Department of Law defend the Governor, Lt. Governor, and Attorney General against ethics complaints?

No. Since complaints against the Governor, Lt. Governor, and the Attorney General are submitted to the Personnel Board, not the Department of Law. The Personnel Board hires independent counsel that reviews, evaluates, and ultimately, if the complaint moves forward, prosecutes the complaint before the State Personnel Board. Therefore, having the Department of Law represent the Governor, Lt. Governor, or Attorney General in an ethics investigation or hearing conducted by independent counsel does not create a conflict of interest.

4. If the Governor, Lt. Governor, or Attorney General is found in violation, who will pay the fines or penalties if any are levied?

The Governor, Lt. Governor or the Attorney General would be personally responsible to pay any fines or penalties associated with a violation.

5. What is the Alaska Executive Branch Ethics Act?

Alaska Statutes 39.52 establishes a code of conduct and practices applicable to all executive branch employees and officials with the goal of improving the standards of public service and prompting and strengthening the faith and confidence of the people of Alaska in their public officials.

6. Who is subject to the Alaska Executive Branch Ethics Act?

The Alaska Executive Branch Ethics Act applies to all public officers and employees within executive branch agencies, including members of boards, commissions, and public corporations.

7. What conduct is prohibited by the Alaska Executive Branch Ethics Act?

While no code of conduct, however comprehensive, can anticipate all situations in which violations may occur or describe every instances of unethical conduct, the Alaska Executive Branch Ethic Act prohibits the misuse of an official position, the solicitation, acceptance, or receipt of improper gifts, the improper use or disclosure of information, improper influence in state grants, contracts, leases, or loans, and employment outside the state government which may conflict or influence a public employee's official duties.

8. What is the Department of Law's role in enforcing the Alaska Executive Branch Ethics Act?

Under the applicable statutes, the Attorney General, as the head of the Department of Law, is responsible for issuing opinions and advice for public officials on compliance with the Alaska Executive Branch Ethics Act along with the investigation and initiation of complaints under the Act. Except as noted above in FAQ 2 and 3 related to complaints against the Governor, the Lt. Governor or the Attorney General, if a complaint warrants an enforcement action, it is the duty of the Department of Law to present and prosecute the complaints in an administrative proceeding.

9. What are the costs to comply with the proposed regulations?

There are no known costs to implement these changes.

10. When will the regulations be effective?

After the public comment deadline, comments received are compiled by the Department for consideration. The Department of Law may adopt the regulation as written/publicly noticed, may amend and adopt them, choose to take no action, or may withdraw the proposed regulations in part or in its whole Once the regulation is approved and adopted by Department, it goes to the Lt. Governor for filing.

Regulation takes effect on the 30th day after they have been filed by the Lt. Governor.

Do you have a question that is not answered here? Please email ethics.regulation.public.comments@alaska.gov so it can be added.