



State of California
Office of the Attorney General

ROB BONTA
ATTORNEY GENERAL

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**GUIDELINES REGARDING ATTORNEY GENERAL OPINIONS
UNDER GOVERNMENT CODE SECTION 12519**

Government Code section 12519 provides that the Attorney General shall issue written opinions on questions of law to specified public officials and agencies:

“The Attorney General shall give the Attorney General’s opinion in writing to any Member of the Legislature, the Governor, Lieutenant Governor, Secretary of State, Controller, Treasurer, State Lands Commission, Superintendent of Public Instruction, Insurance Commissioner, any state agency, and any county counsel, district attorney, or sheriff when requested, upon any question of law relating to their respective offices.

“The Attorney General shall give the Attorney General’s opinion in writing to a city prosecuting attorney when requested, upon any question of law relating to criminal matters.”

RECIPIENTS

Section 12519 directs the Attorney General to provide opinions only to the public officials and agencies listed in the statute, and not to private individuals or to public officials who are not listed in the statute. In particular, section 12519 authorizes the following public officials and agencies to request Attorney General opinions:

- **Constitutional Officers.** The Attorney General may provide an opinion to any state constitutional officer: the Governor, Lieutenant Governor, Secretary of State, Controller, Treasurer, State Lands Commissioner, Superintendent of Public Instruction, and Insurance Commissioner.
- **Legislators.** The Attorney General may provide an opinion to “any Member of the Legislature.” This refers to the State Senate and the State Assembly, but not to local legislative bodies such as city councils or county boards of supervisors. Requests may be made by individual state legislators, but not by legislative committees or consultants.

- **State Agencies.** The Attorney General may provide an opinion to “any state agency.” The Attorney General interprets this as permitting opinions to be provided to state-level departments, agencies, boards, and commissions. This does not include local agencies, even though the local agency has been organized under state statutes. A request by a state agency or department should be made by or on behalf of the head of the state agency or department, not by individual employees of the agency. A request by a state board or commission must be authorized by a majority vote of the board or commission.

The California Supreme Court and Court of Appeal are state agencies authorized to request opinions. Requests should come from the Judicial Council, the Chief Justice, or a presiding justice of the Court of Appeal.

- **County Counsel, District Attorneys, and Sheriffs.** The Attorney General may issue an opinion to “any county counsel, district attorney, or sheriff.” The request should be made by the elected or appointed district attorney, county counsel, or sheriff, not by individual deputies or employees.
- **City Prosecuting Attorneys.** The Attorney General may issue an opinion to “a city prosecuting attorney when requested, upon any question of law relating to criminal matters.” Opinions may not be given to city attorneys who do not prosecute criminal cases. Whether or not a city attorney prosecutes criminal cases, an opinion may not be given to a city attorney on a question of civil law.

QUESTIONS PRESENTED

The Government Code imposes certain textual limitations on the Attorney General’s responsibility to issue opinions under section 12519: First, a designated officer or agency must “request[]” the opinion. Second, the request must present a “question of law.” And third, the question of law must “relat[e] to” the requestor’s “office[.]” (For City prosecuting attorneys only, the question of law must relate to “criminal matters.”) The Attorney General declines requests under section 12519 that do not satisfy these three statutory criteria. For example, the Attorney General declines opinion requests that seek factual or policy determinations instead of conclusions of law.

Over the decades, Attorneys General have identified additional circumstances where prudential considerations may counsel against issuing an opinion under section 12519. For example, the Attorney General will generally decline a request to issue an opinion under section 12519 if it implicates one or more of the following circumstances:

1. **Local Laws.** The Attorney General declines requests for opinions that exclusively call for interpretation of local laws such as charters or ordinances. Responsibility for interpreting and enforcing local laws rests with local government lawyers. However, requests that present interrelated questions of local and state law, such as questions of state preemption, may be an appropriate subject for an opinion.
2. **Pending Legislation.** The Attorney General declines opinion requests regarding the validity or interpretation of legislation prior to its enactment. Responsibility for providing opinions on pending bills rests with the Office of Legislative Counsel.

3. **Litigation.** The Attorney General declines opinion requests presenting legal questions that are pending in a judicial or administrative proceeding in which the Attorney General is participating. In such cases, the legal briefs filed by the Attorney General present the Attorney General's views on the legal questions at issue. At times, the Attorney General may also abstain from issuing an opinion on a legal question pending in other judicial proceedings in which a court is expected to issue a decision resolving that question in the near future.
4. **Conflicts of Interest under the Political Reform Act.** Questions arising under the Political Reform Act of 1974 (California Government Code §§ 81000-91015) concerning conflicts of interest should be ordinarily directed to the Fair Political Practices Commission, which administers the Act. A public official may rely on the Commission's opinion as a defense in enforcement actions regarding the requirements of the Political Reform Act.
5. **Conflict of Interest for the California Department of Justice.** Occasionally, the Attorney General declines a request because it presents a conflict of interest with respect to other legal matters with which the Department of Justice may be involved.

PROCESS

Contents of Request. An opinion request should be submitted in writing and signed by the public official or head of the agency authorized to make the request. Requests may be submitted by email or in hard copy.

The request should set out the question to be answered as clearly as possible, along with enough description of the background and context of the question to allow a precise legal analysis to be prepared.

Any request that is made by a department or officer that employs legal counsel must be accompanied by a legal analysis prepared by the department or officer's legal counsel. Requests from a sheriff must be accompanied by the legal analysis of the district attorney or county counsel.

The Opinion Unit may contact the requestor for additional background information, or to discuss whether revisions to the question are desirable.

Comments by Interested Persons. After an opinion request has been accepted, the question presented is added to the Attorney General's Monthly Opinion Report, which lists all of the questions currently under consideration for formal opinions under Government Code section 12519. This report, which is posted on the Attorney General's website and circulated publicly, invites any interested person to submit comments on the issues under consideration.

The Attorney General's Opinion Unit makes additional efforts to identify specific persons or entities who may have knowledge of the issues presented in a request, but we realize that we cannot expect to reach everyone, and we encourage all those with an interest to make themselves and their views known to us. All comments submitted before a draft is prepared will be considered, but early comments are strongly preferred.

Drafting and Internal Review. The Deputy Attorney General assigned to the matter is primarily responsible for researching the question and drafting the opinion.

After a draft opinion has been prepared, it is circulated internally within the Department of Justice for extensive review and revision. This process is crucial to ensuring the quality and value of a written opinion. Due to many variables, it is often not possible to accurately predict when a particular opinion will be issued, but we endeavor to respond to every request promptly. Proposed analyses and conclusions of pending opinions are not discussed outside of the Department of Justice.

The question or questions presented in an opinion request may be revised for clarity during the drafting and review process.

Publication. Once the Attorney General has formally approved an opinion, the Opinion Unit provides the opinion first to the requestor, and then to the public. Published opinions are available on the Attorney General's website, through online legal research services, and in law libraries.

Public Information. All written requests for Attorney General opinions under Government Code section 12519, as well as all written views submitted on questions under consideration, are public documents and may be disclosed to third parties under the Public Records Act.