



## POLICY

### Legal Representation of State Employees

Policy Administrator: General Counsel  
Authority: N.J.S.A. 59:10A-3  
Effective Date: April 9, 1975; September 18, 2013  
Index Cross-References:  
Policy File Number: I-18  
Approved By: Board of Trustees

Unless subject to a statutory exception, the Attorney General shall, upon the request of an employee or former employee of the State, provide for the defense of any action brought against that State employee or former State employee for an act or omission **in the scope of their employment**. N.J.S.A. 59:10A-1. The Attorney General may decline such representation if the Attorney General determines it is more probable than not that an exception to such representation exists. Those three exceptions are:

1. The acts or omission was not within the scope of employment,
2. The act or failure to act was because of actual fraud, willful misconduct or actual malice, or
3. The defense of the action would create a conflict of interest between the State and the employee or former employee. N.J.S.A. 59:10A-2.

The Attorney General for the State of New Jersey has discretionary authority to furnish a defense for all State employees or former State employees in any other actions or proceedings including charges of criminal activity when the Attorney General determines that it is in the best interest of the State to do so. N.J.S.A. 59:10A-3 The Attorney General for the State of New Jersey is charged with the responsibility of making a judgment as to whether or not State employees accused of criminal or disorderly persons offenses related to State employment should be provided with legal representation by the State of New Jersey.

Requests for representation shall be made to the President. In the event a request for representation is made to the President, appropriate inquiry will be made, and documentation gathered if appropriate. The President will make recommendations on the matter to the Attorney General.

Approval History:

	Date
Board of Trustees	09/08/13