DEPARTMENT OF DEVELOPMENTAL SERVICES
OPERATIONS
LEGAL AFFAIRS DIVISION

DUTY STATEMENT

JOB TITLE: Attorney IV **POSITION #:** 472-543-5780-006

WORKING TITLE: Attorney IV (Complex Litigation) **EMPLOYEE**:

POSITION DESCRIPTION: Under the direction of the Chief Counsel or Assistant Chief Counsels, and using broad discretion in working independently, the Attorney IV will handle and serve as the lead over complex and sensitive state and federal litigation against the Department of Developmental Services (Department), including mentoring and training other Department attorneys in litigation matters. The Attorney IV will serve as the subject matter expert on the Lanterman Developmental Disabilities Services Act and other laws applicable to or impacting individuals with developmental disabilities to effectively liaison with the outside counsel and navigate cases through the judicial process. Working with outside counsel, the Attorney IV's combined litigation and subject matter expertise will be used to frame issues for the courts and juries to achieve the most favorable outcomes in cases. The Attorney IV will advise Department Executive Staff on management of complex cases while minimizing the burdens of discovery and other litigation responsibilities for the staff. The Attorney IV will handle, manage, and serve as lead trial counsel on the more complex administrative and regulatory matters the Department will face.

SUPERVISION EXERCISED: The Attorney IV does not directly supervise any staff but may act in a lead capacity with an Attorney lll or Attorney, and/or other clerical staff.

SUPERVISION RECEIVED: Reports directly to the Chief Counsel and Assistant Chief Counsels.

EXAMPLES OF DUTIES:

Essential Job Functions:

50% Serve as the Department's complex civil and criminal litigation expert. Manage state and federal litigation cases presenting complex or novel legal issues with the Office of the Attorney General (OAG) or other outside counsel, provide critical review of pleadings, and actively develop litigation strategies with knowledge of the Department and Regional Center system that the OAG or outside counsel may lack. In consultation with the Chief Counsel and Assistant Chief Counsels, inform the Department's Executive Staff of significant litigation status and provide ongoing recommendations throughout the proceedings with an eye toward minimizing litigation burdens on the Department and its staff. Recommendations may include,

but not be limited to, developing litigation strategy, conducting analysis of litigation risks and benefits, developing settlement options, coordinate discovery responses, and independently evaluating recommendations made by the OAG or other outside counsel. Keep Department Executive Staff informed on complex regulatory matters and audit and administrative litigation. Provide leadership and mentoring to the Legal Affairs Division staff on litigation, discovery, and law and motion practice. In carrying out these responsibilities, reviews and evaluates early motions to dismiss the case and manages offensive and defensive discovery strategy with the OAG or other outside counsel, while identifying individuals and information within the Department needed to respond to discovery and assisting the OAG or other outside counsel in preparing discovery responses. Also helps identify potential privileges and privacy objections applicable to state departments and individuals with developmental disabilities, and responds to and manages electronic discovery, including discovery production from large databases, coordinating with Department research and data experts on the information those databases contain that is relevant to pending litigation. Throughout each case, assists in developing strategy for every phase of litigation, including law and motion, discovery, and dispositive motions, and develops settlement strategies and options as the case progresses. Finally, assists in trial preparation, including the arrangement and preparation of Department deponents, witnesses, persons most knowledgeable, and expert witnesses, and in preparing for cross-examination of witnesses.

20% Review Department audits, findings of fact, and audit appeals from vendors and Regional Centers. Advise the Department's audit and federal waiver units on complex legal issues related to federal and state compliance to prevent fraud, waste, and abuse of Medicare waiver or state funding. Serve as lead trial counsel when representing the Department in administrative hearings regarding audits, out-of-state, and other administrative issues. Review Department Fair Hearing processes for Regional Center services and participate in administrative litigation as necessary before the Office of Administrative Hearings (OAH). Assist in managing the Department's contract with OAH for fair hearing and other services. In this capacity, serves as lead in discussions with OAH regarding services provided and changes to the terms of the OAH-Department contract, and also in training administrative law judges on changes to laws applicable to individuals with developmental disabilities. Litigates all stages of audit appeals and other administrative matters before OAH, including drafting initial pleadings, conducting discovery, drafting and arguing dispositive motions, and conducting hearings. Over the course of these matters, develops settlement strategies, including preparation of settlement agreements, and participates in various enforcement actions, at times making referrals to outside state or federal agencies for matters involving fraud, waste, or abuse.

15% Provide comprehensive legal advice for various Department program and regulatory matters, including but not limited to, the Early Start Program, Regional Center Board of Directors governance and meetings, conducting review of Department regulations, and implementing regulatory changes to align with federal Medicaid enrollment and screening requirements. This work includes reviewing and developing Regional Center special contract language and other corrective actions, as well as coordinating with subject matter experts to draft, revise, and refine regulations for clarity and accuracy. It also involves collaborating with sister agencies in developing regulation and ensuring compliance with the Administrative Procedures Act throughout the process, while keeping Executive Staff and the Office of Legislation, Regulations and Public Affairs updated on the status of regulation packages and coordinating with the Office of Administrative Law on any related questions or revisions.

5% Serve as the Attorney of the Week (AOW) on a rotating basis. The AOW is responsible for handling subpoenas and other legal documents served on the Department, its Director, managers, and employees acting in their official capacity. The AOW also responds to phone inquiries from other government agencies, attorneys, and members of the public. In the absence of the Chief Counsel and Assistant Chief Counsels, serve as the Acting Chief Counsel and performs all duties associated therewith.

5% Additional assignments as deemed necessary by the Chief Counsel or Assistant Chief Counsels

Marginal Job Functions:

5% Attends legal training courses on complex legal topics. Conduct training for Department staff and attorneys on various legal issues impacting the Department. Other duties as assigned within the scope of the classification. Other duties as assigned within the scope of the classification.

WORKING CONDITIONS: Moderate to occasional daytime and overnight statewide travel may be required. Transport legal files and documents, as needed, to locations inside and outside the normal worksite for hearings and meetings. File boxes of documents may weigh up to 50 lbs. each and a file may constitute more than one box. This position is a hybrid, in-office/telework position, and may be subject to change. Incumbent can be required to report to the office, or any designated location at any time. Telework agreements can be modified and/or cancelled at any time.

DESIRABLE QUALIFICATIONS:

Knowledge of: Timely open and close assigned cases and maintain case files on all assigned matters. Submit updated monthly reports to the Chief Counsel and Assistant Chief Counsels.

Ability to: Interact independently, professionally, and courteously with departmental Executive team and multiple program managers while performing multiple tasks that often require stringent deadlines; communicate effectively in writing and audibly in person, through the use of documents and electronic devices; proficient in Microsoft Word, Outlook, Westlaw, Abode, and all other computer tools, programs, or systems utilized by the Office of Legal Affairs, handle multiple tasks and effectively prioritize workloads.

CERTIFICATION OR LICENSE: Active membership of the California State Bar.

Employee Name (Print)	Employee Signature	Date

Supervisor Name (Print)	Supervisor Signature	Date

Employee and Supervisor acknowledge that by signing this Duty Statement that they have discussed and agree to the expectations of the position.