

Per California Code of Regulations, title 2, section 548.5, the following information will be posted to CalHR's Career Executive Assignment Action Proposals website for 30 calendar days when departments propose new CEA concepts or major revisions to existing CEA concepts. Presence of the department-submitted CEA Action Proposal information on CalHR's website does not indicate CalHR support for the proposal.

A. GENERAL INFORMATION

1. Date

1/30/2025

2. Department

Justice

3. Organizational Placement (Division/Branch/Office Name)

Directorate Division/Special Litigation Section

4. CEA Position Title

Chief Counsel for Special Litigation

5. Summary of proposed position description and how it relates to the program's mission or purpose.
(2-3 sentences)

Under the administrative and legal direction of the Chief Deputy Attorney General (CDAG), the Chief Counsel for Special Litigation (CCSL) will be responsible for planning, organizing, and directing the work of the Special Litigation Section within the Directorate Division and provides the CDAG with expert legal counsel on the various federal accountability legal matters handled in the Department. Federal Accountability refers to the mechanisms and processes in place to ensure transparency, responsibility, and oversight within the U.S. federal government. The CCSL will be designated to coordinate and manage the Department of Justice's workload on federal legislation.

6. Reports to: (Class Title/Level)

Chief Deputy Attorney General (Exempt)

7. Relationship with Department Director (*Select one*)

- ☒ Member of department's Executive Management Team, and has frequent contact with director on a wide range of department-wide issues.
- ☐ Not a member of department's Executive Management Team but has frequent contact with the Executive Management Team on policy issues.

(*Explain*):

8. Organizational Level (*Select one*)

- ☐ 1st ☒ 2nd ☐ 3rd ☐ 4th ☐ 5th (mega departments only - 17,001+ allocated positions)

B. SUMMARY OF REQUEST

9. What are the duties and responsibilities of the CEA position? Be specific and provide examples.

The CCSL will serve as a technical expert and primary legal advisor to the CDAG with regard to the position's assigned responsibility over the Special Litigation Section of federal litigation efforts and initiatives to support the Department. Will consult with the CDAG in the development and formulation of legal and litigation policy and program objectives, personnel management, and employee utilization.

The CEA will perform the most complex and difficult litigation negotiation, legislative liaising, hearings, legal research, and opinion drafting of the Special Litigation Section. Will lead coordination of federal accountability internal working groups and other department leadership and subject matter experts and prepares AG briefings of those matters of highest priority to the Department. Will develop federal strategies and tactics in the most complex disputes, investigations, or litigation. Will formulate legal advice for the CDAG that may affect not only Department's federal litigation and management thereof, but also other areas such as division plans and relationships with other agencies statewide and nationwide. Will draft and respond to legal correspondence on behalf of the CDAG. Will keep the CDAG informed of federal legal and political developments, potential conflicts of interest, and federal matters that may be of interest to the Department. Will research subject matter, and provide insight and recommendations to the CDAG to guide decision-making. Will present and provide recommendations.

The CCSL will serve as Department point of contact for the Governor's Office (GO) on current critical federal litigation matters, increasing the efficacy of the Department's overall legal efforts and mission. Will coordinate directly with the Department's Communications team on current and pending public information related to federal litigation matters of utmost importance to the Department. Will coordinate all incoming federal litigation matters, ensuring inclusion of applicable division and executive leadership. Will attend administrative, legal, and/or project-based meetings, and provides legal perspective in meetings on behalf of the CDAG.

The CEA will provide functional and strategic supervision to Deputy Attorney General Supervisors and an Administrative staff working on federal accountability field of litigation and general representation of the public interest. Will review work product of legal teams and divisions to ensure fulfillment of standards set by the CDAG and consistency with departmental policies and procedures. Will undertake administrative responsibilities, including personnel matters, monthly case reporting, annual performance appraisals, reviewing monthly section reports and section billings, identifying the need for resources necessary for the mission of the section, and developing plans for recruitment of new staff.

The CCSL will coordinate and assist in the development and preparation of Budget Change Proposals related to the establishment of funding necessary for current and future federal legislative initiatives. Will monitor and approve expert legal consultants and associated travel-related expenses. Will collaborate with the GO to provide guidance to state law enforcement agencies and other state governmental agencies on pending federal government actions related to grant funding and potential restrictions.

The CCSL will communicate with the United States Department of Justice as well as other major offices (i.e, United States Attorney offices in California) and associations regarding federal litigation as needed.

B. SUMMARY OF REQUEST (continued)

10. How critical is the program's mission or purpose to the department's mission as a whole? Include a description of the degree to which the program is critical to the department's mission.

- ☒ Program is directly related to department's primary mission and is critical to achieving the department's goals.
- ☐ Program is indirectly related to department's primary mission.
- ☐ Program plays a supporting role in achieving department's mission (i.e., budget, personnel, other admin functions).

Description: The Special Litigation section is critical in supporting the Attorney General's (AG) mission. The AG is the state's chief law enforcement officer and has the responsibility of ensuring the laws of California are uniformly and adequately enforced, which is fulfilled through the diverse programs at the DOJ. The DOJ is responsible for providing skillful and efficient legal services on behalf of the People of California. The AG represents the People in all matters before the Appellate and Supreme Courts of California and the United States; serves as legal counsel to state officers, boards, commissioners, and departments and represents the people in actions to protect the environment, consumers, antitrust and civil laws; and assists district attorneys in the administration of justice. The DOJ provides oversight, enforcement, education, and regulation of California's firearms/dangerous weapon laws; provides evaluation and analysis of physical evidence; regulates legal gambling activities in California; supports telecommunications and data processing needs of the California criminal justice community; and pursues projects designed to protect the People of California from fraudulent, unfair, and illegal activities. The proposed Chief Counsel for Special Litigation will develop, implement and oversee critical legal and litigation policies and procedures that directly impact DOJ's ability to conduct mission critical operations.

B. SUMMARY OF REQUEST (continued)

11. Describe what has changed that makes this request necessary. Explain how the change justifies the current request. Be specific and provide examples.

The Department legal division chiefs have recommended that one individual be designated to coordinate and manage the office's workload on federal litigation. The CCSL will give the office a single point of contact who is focused on leading and coordinating this work, and who has an overarching awareness of all of the federal accountability efforts taking place across the office. A steering committee would not be appropriate as it runs the risk of separate conversations, different levels of awareness, or lack of awareness of current events, as well as potential difficulties coordinating appropriate assignments and points of contact due to multiple different committee members being involved. Having a designated individual to coordinate this work would align with how other AGs' offices designated Special Counsel positions and managed efforts during the Trump Administration.

The current federal administration has voiced their intention to prioritize efforts related to address illegal immigration, including militarization of the National Guard to effect mass deportations, ending birthright citizenship, eliminating Deferred Action for Childhood Arrivals (DACA) protection, imposing travel bans, and stopping protections of immigrant children and family members. The CCSL will lead the department, coordinating with applicable legal divisions, in efforts to defend existing California statute.

In addition, the CCSL will also lead strategy and coordination efforts to uphold California's interpretation of anti-discrimination laws and actively seek to defend Californians' rights related to voting, disability, juveniles, LGBTQ+/gender, reproductive rights and numerous environmental protections. All policy areas are expected to be challenged by the current Trump Administration, resulting in a substantial workload increase. This CCSL will allow the department to coordinate these efforts, establishing the focus on federal litigation so critically needed to ensure the rights of Californians are protected.

C. ROLE IN POLICY INFLUENCE

12. Provide 3-5 specific examples of policy areas over which the CEA position will be the principle policy maker. Each example should cite a policy that would have an identifiable impact. Include a description of the statewide impact of the assigned program.

The CCSL will have significant policy influence and involvement at the Department's executive and senior management level. The CCSL is responsible for cross-divisional coordination of the office's opposition to federal action that is inconsistent with Californians' well-being. As such, the CCSL will make, lead, or recommend decisions on strategic, legal, and policy issues that arise in the Department's opposition to the federal administration. This includes protection of a broad swath of affected interests, including California's immigrant community, reproductive rights, healthcare access, and the environment. So, for example, when the President issues an executive order that negatively impacts state interests, the CCSL will determine what section should respond, review that proposed response in light of broader policy and strategic considerations, determine how to coordinate efforts with aligned interests and the multistate community, communicate those interests to the Chief Deputy Attorney General and the Attorney General, and implement the ultimate decision.

The CCSL will understand the limitations in federal law that preclude the presidential administration from taking harmful action and also the policy concerns that militate in favor of a strategic approach. The CCSL will help formulate and refine decisions, including resolving conflicts, concerning litigation decisions, including where and when to file lawsuits and what role to take in concert with other stakeholders. These decisions—such as what court to file a lawsuit in, how to coordinate actions, whether to act collectively with other stakeholders or file independently—ultimately affect the development of the law, as they posture how the case will be considered by appellate courts, and potentially ultimately by the U.S. Supreme Court. As a result, these decisions impact not only the one case the Department is bringing, but how the case law develops broadly in federal law. For example, the current Deputy Attorney General Supervisor is involved in determining and advising on how to challenge an anticipated disruption to birthright citizenship, which has significant importance both to California's immigrant population as well as the development of federal constitutional law.

The CCSL will coordinate Department collaboration with other stakeholders, including advocates, nongovernmental organizations, and local government. The CCSL will represent California in the multistate community that is addressing federal accountability and coordinate the Department's engagement and representation with aligned state attorney general offices. The CCSL will have an executive-level perspective on legal policy issues and how they relate to the program and priorities of the Attorney General. The CCSL will be centrally involved in decisions involving multiple interests, such as issues that affect multiple sections in the office as well as external interests. The CCSL's decisions will help ensure that the Department provides high-quality, legally sound, and carefully considered representation in its most broadly important, often precedent-setting litigation on behalf of the People, the State, and the Attorney General in his independent capacity.

The CCSL will be responsible for conceiving and implementing Department policies about how to evaluate and decide matters related to federal accountability. Through implementation of these policies the CCSL will be personally and substantially involved in important decisions relating to these matters, including making decisions in some matters and in others making recommendations for actions by Division or Section Chiefs, the Solicitor General, the CDAG, or the Attorney General. Because of the multistate nature of the federal accountability work, these decisions will often have significant effects on nationwide litigation

C. ROLE IN POLICY INFLUENCE (continued)

13. What is the CEA position's scope and nature of decision-making authority?

The CCSL will coordinate consultation activities, and lead or actively participate in decision-making with executive attorneys and policymakers, including other CEAs and exempt appointees, both within DOJ and with other agencies, offices and stakeholders. The CCSL will also often serve as a liaison between the Executive Management Team and the leadership of particular litigating sections in high-profile cases, providing guidance to the impacted section(s) and effectuating a strategy to ensure the implementation of executive direction, keeping the Executive Management Team apprised of significant developments.

The CCSL will provide guidance and provide legal perspectives to the CDAG, AG and other Senior level management at both the Executive and Division levels on federal litigation issues that arise on the most controversial legal and executive matters that may implicate various sections or divisions across the department. This may include internal policies, as well as, litigation actions to both federal and executive orders.

14. Will the CEA position be developing and implementing new policy, or interpreting and implementing existing policy? How?

The CCSL will be centrally involved in reviewing and revising current Department policies, as well as developing and advocating new policy, in consultation with the CDAG and other affected CEA positions across the Department.