

What Do I Do During Legal Review?

The Office of the General Counsel of the Department of Defense (OGC) does two official legal reviews during the issuance process: legal objection review (LOR) and legal sufficiency review (LSR). Both reviews are done through the Directives Portal System, and your focal point¹ posts the necessary material.

LOR

- **Do I have to get an LOR?** No, an LOR isn't mandatory unless:
 - Your issuance has been identified as a Federal Register publication (it affects the public).
 - Your OSD Component requires an LOR; check with your focal point.
- **I've asked for an LOR but the suspense date has passed with no response. What do I do?**
 - **If you don't have to have an LOR**, your focal point can contact the Portal administrator to cancel the review in progress. If you do this, please *be sure* to let OGC know it's been cancelled.
 - **If you must have an LOR**, contact your focal point for help. Your focal point will contact OGC. Your Component needs to continually engage with OGC to get this done; discussions should go from your focal point to the primary focal point and beyond that to your Component leadership if necessary. If the OSD Component head is unable to get the LOR, he or she will contact the Director for Administration for help.
- **OGC completed the LOR and said my issuance is legally objectionable. What do I do?** Work with the lawyer who completed the review to resolve the problem. Once that's done, contact our Editorial Branch Chief at whs.mc-alex.esd.mbx.dod-directives-senior-editor@mail.mil; another precoordination review may be needed depending on how much of the document has changed. Once we clear it, you'll need to send the new version of the issuance to your focal point, who will send it to the Portal for a second LOR.
- **OGC completed the LOR and said my issuance is not legally objectionable "subject to the edits made." What do I do?** Look at the edits carefully. If you have no issues with them, go ahead and make the changes and you can move forward. If there are changes that you don't agree with or that are contrary to issuance standards, contact the lawyer who completed your review to discuss. Once you have reached an agreement, be

¹ In this document "your focal point" refers to the alternate focal point for your Component. The alternate focal point will engage the primary focal point as necessary.

sure to ask the lawyer for an email confirming that OGC is okay with the compromise. Be sure to provide a copy to the Directives Division for the archival record.

- **OGC completed the LOR on my Federal Register issuance and didn't mention anything about the Register. What do I do?** Contact your focal point for help. Your focal point needs to engage with OGC for a legal opinion on the Federal Register matter now. The purpose of the LOR was to confirm whether your issuance, in the eyes of the law, affects the public. If it does *not*, knowing this now will save you at least a year of work (which is how long, on average, it takes you to get through the Federal Register process *in addition to* the time needed to complete your issuance!).

LSR

- **Do I have to get an LSR?** Yes; you can't get the issuance signed without an LSR.
- **I've asked for an LSR but the suspense date has passed with no response. What do I do?** Contact your focal point for help; your focal point will contact OGC. Your Component needs to continually engage with OGC to get this done. Discussions should go from your focal point to the primary focal point and beyond that to your Component leadership if necessary. If the OSD Component head is unable to get the LSR, he or she will contact the Director for Administration for help.
- **OGC completed the LSR and said my issuance is not legally sufficient. What do I do?** Work with the lawyer who completed the review to resolve the problem. Once that's done, contact our Editorial Branch Chief at whs.mc-alex.esd.mbx.dod-directives-senior-editor@mail.mil; another presignature review may be needed depending on how much of the document has changed. Once we clear it, you'll need to send the new version of the issuance to your focal point, who will send it to the Portal for a second LSR.
- **OGC completed the LSR and said my issuance is legally sufficient "subject to the edits made." What do I do?** Look at the edits carefully. If you have no issues with them, go ahead and make the changes and you can move forward. If there are changes that you don't agree with or that are contrary to issuance standards, contact the lawyer who completed your review to discuss. Once you have reached an agreement, be sure to ask the lawyer for an email confirming that OGC is okay with the compromise. Be sure to provide a copy to the Directives Division for the archival record.

Unofficial Legal Reviews

- As you're developing the issuance, it's a good idea to ask your OSD Component's legal staff to review it. This may help you avoid problems during the LOR. This should be a part of your internal coordination process before sending it to us for precoordination edit, but it's not required by Directives Division.

- As comments are posted by DoD Components to the Portal during formal coordination, you may need help to adjudicate comments that deal with legal issues (e.g., proper citation of law, comments that the issuance violates law). You can get help by:
 - Contacting your OSD Component's legal staff;
 - If an LOR was done, e-mailing the OGC lawyer who did that review; or
 - If an LOR was not done and you don't have a legal staff in your OSD Component, contacting your focal point for help. Your focal point and OGC's will work together to get a lawyer to help you.
- You'll need to give the lawyer a copy of the draft issuance and SD Form 818, and clearly identify the comments needing review by stating the SD 818 comment number.
- Collaboration between you and the lawyer should continue throughout the formal coordination period as necessary. This review may help you avoid problems during the LSR, but it's not required by Directives Division.