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§12–304.

(a) (1) Except as otherwise provided in this Part II of this subtitle, the Attorney General shall appear in a civil action or special proceeding against a State officer or State employee to represent the officer or employee if:

(i) the action or proceeding is in a court of the State or of the United States;

(ii) the officer or employee submits to the Attorney General a written request for representation;

(iii) the Attorney General or a person whom the Attorney General designates investigates the facts on which the action or proceeding is based;

(iv) the Attorney General does not find the officer or employee ineligible for representation under subsection (b)(1) of this section; and

(v) the officer or employee enters into an agreement as required by § 12-305 of this subtitle.

(2) The Attorney General may provide this representation by a deputy attorney general, assistant attorney general, special counsel, or other private counsel.

(b) (1) The Attorney General shall decline to represent a State officer or State employee if, on the basis of the investigation, the Attorney General finds that:

(i) the officer or employee was not acting within the scope of employment of the officer or employee;

(ii) the act or omission was malicious; or

(iii) the act or omission was grossly negligent.

(2) The Attorney General may decline to represent a State officer or State employee who otherwise is eligible for representation if the officer or employee:

(i) retains other counsel; or

(ii) is covered by insurance that requires the carrier to provide counsel.

(c) (1) Subject to the requirements of this section, the Attorney General has sole discretion in undertaking to represent the State officer or State employee.

(2) A decision of the Attorney General not to represent an officer or employee is inadmissible in any legal action or special proceeding. Reference to the decision may not be made in any hearing or trial.

(d) This section does not:

(1) deprive a State officer or State employee of any right to retain counsel, at the expense of the officer or employee; or

(2) prevent the appearance of the Attorney General to protect the interests of the State, even if the officer or employee does not request the appearance.

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