

JUSTICE NEWS

Department of Justice

Office of Public Affairs

FOR IMMEDIATE RELEASE

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Attorney General Jeff Sessions Ends the Department's Practice of Regulation by Guidance

Today, in an action to further uphold the rule of law in the executive branch, Attorney General Jeff Sessions issued a memo prohibiting the Department of Justice from issuing guidance documents that have the effect of adopting new regulatory requirements or amending the law. The memo prevents the Department of Justice from evading required rulemaking processes by using guidance memos to create de facto regulations.

In the past, the Department of Justice and other agencies have blurred the distinction between regulations and guidance documents. Under the Attorney General's memo, the Department may no longer issue guidance documents that purport to create rights or obligations binding on persons or entities outside the Executive Branch.

The Attorney General's Regulatory Reform Task Force, led by Associate Attorney General Brand, will conduct a review of existing Department documents and will recommend candidates for repeal or modification in the light of this memo's principles.

"Guidance documents can be used to explain existing law," Associate Attorney General Brand said. "But they should not be used to change the law or to impose new standards to determine compliance with the law. The notice-and-comment process that is ordinarily required for rulemaking can be cumbersome and slow, but it has the benefit of availing agencies of more complete information about a proposed rule's effects than the agency could ascertain on its own. This Department of Justice will not use guidance documents to circumvent the rulemaking process, and we will proactively work to rescind existing guidance documents that go too far."

View the memo [here](#).

Attachment(s):

[Download Prohibition on Improper Guidance Memo](#)

Component(s):

[Office of the Associate Attorney General](#)

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