

Legal Services

The Army Legal Assistance Program

**Headquarters
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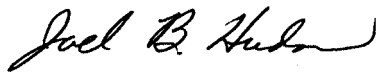
Legal Services

The Army Legal Assistance Program

By Order of the Secretary of the Army:

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History. This publication includes changes 1 and 2 to the 30 September 1992 edition of this regulation. This printing publishes change 2. This publication has been reorganized to make it compatible with the Army electronic publishing database. No content has been changed.

Summary. This regulation covers policies and procedures for the Army Legal Assistance Program.

Applicability. This regulation applies to the Active Army, the Army National Guard, and

the U.S. Army Reserve. This regulation is applicable to all attorneys serving in, employed by, or affiliated with the Department of Army (DA). This regulation applies during partial and full mobilization.

Proponent and exception authority. The Judge Advocate General is the proponent of this regulation. The Judge Advocate General has the authority to approve exceptions to this regulation that are consistent with controlling law and regulation. The Judge Advocate General may delegate this authority in writing to a division chief within the proponent agency who holds the grade of colonel or the civilian equivalent. The approval authority will coordinate all questions regarding the scope of authority to approve exceptions with Administrative Law Division, The Judge Advocate General, 2200 Army Pentagon, WASH DC 20310-2200.

Army management control process. This regulation contains management control provisions, but does not identify key management controls that must be evaluated.

Supplementation. Supplementation of this regulation and establishment of command or local forms or reports on legal assistance matters are prohibited without approval from

Legal Assistance Division, The Judge Advocate General, 2200 Army Pentagon, WASH DC 20310-2200.

Interim changes. Interim changes to this regulation are not official unless they are authenticated by the Administrative Assistant to the Secretary of the Army. Users will destroy interim changes when they are superseded or rescinded, or upon their expiration dates.

Suggested Improvements. The proponent agency of this regulation is the Office of the Judge Advocate General. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) directly to Legal Assistance Division, The Judge Advocate General, 2200 Army Pentagon, WASH DC 20310-2200.

Distribution. Distribution of this publication is made in accordance with the requirements on DA Form 12-09-E, block number 3238, intended for command levels B, C, D, and E for Active Army, Army National Guard, and U.S. Army Reserve.

Contents (Listed by paragraph and page number)

Chapter 1

Introduction, page 1

Purpose • 1-1, page 1

References • 1-2, page 1

Explanation of abbreviations and terms • 1-3, page 1

Responsibilities • 1-4, page 1

Exceptions • 1-5, page 2

Chapter 2

Legal Assistance Providers and Clients, page 2

General • 2-1, page 2

Authorization to provide legal assistance • 2-2, page 3

Duty to provide legal assistance • 2-3, page 3

Training • 2-4, page 3

Persons eligible to receive legal assistance • 2-5, page 4

Limiting legal assistance to otherwise eligible persons • 2-6, page 5

Chapter 3

Legal Assistance Services, page 5

Section I

General, page 5

Background • 3-1, page 5

Types of legal assistance services • 3-2, page 5

Section II

Preventive Law Services, page 5

General • 3-3, page 5

Preventive law measures • 3-4, page 5

Section III

Client Services, page 6

Scope • 3-5, page 6

Types of cases • 3-6, page 6

Types of services • 3-7, page 9

Limitations on services • 3-8, page 11

Chapter 4

Professional Matters, page 12

Section I

General, page 12

Professionalism • 4-1, page 12

Liaison with civilian bar • 4-2, page 12

Contents—Continued

Liability • 4-3, *page 12*

Section II

Professional Resources, page 13

Legal Automation Army-Wide System (LAAWS) • 4-4, *page 13*

JAGC Reserve Officer Legal Assistance Directory • 4-5, *page 13*

Section III

Professional Conduct, page 13

General • 4-6, *page 13*

Ethical standards • 4-7, *page 13*

Attorney-client privilege • 4-8, *page 14*

Conflicts of interest • 4-9, *page 14*

Investigations and advisory opinions • 4-10, *page 14*

Chapter 5

Administration, page 14

General • 5-1, *page 14*

DA Form 2465 • 5-2, *page 14*

DA Form 4944-R (RCS JAC-81) • 5-3, *page 14*

Other reports • 5-4, *page 15*

Control of privileged materials • 5-5, *page 15*

Appendixes

A. References, *page 16*

B. Instructions for completing DA Form 2465 (Client Legal Assistance Record) and DA Form 4944-R (Report on Legal Assistance Services), *page 18*

C. Instructions for completing part 2, SGLV 8286 (Servicemen's Group Life Insurance Election and Certificate), *page 23*

Table List

Table B-1: Legal assistance codes for DA Form 2465, *page 20*

Figure List

Figure B-1: Example of a completed DA Form 2465, *page 22*

Glossary

Index

Reproducible Forms

Chapter 1 Introduction

1-1. Purpose

This regulation prescribes policies, responsibilities, and procedures for the Army Legal Assistance Program. One statutory authorization for legal assistance to Active Army and retired service members and their family members is section 1044, title 10, United States Code (10 USC 1044). Another statutory authorization for legal assistance to these and all other eligible clients (for example, Reserve component (RC) soldiers and Department of Defense (DOD) civilian employees in certain situations) is 10 USC 3013g. (See para 2-5a.)

a. This regulation is designed to improve legal assistance procedures and services within the Department of the Army (DA). It preempts all other regulations within DA on the delivery of legal assistance services as defined in this regulation. (See chap 3.) It should not be construed to create any right or benefit, substantive or procedural, enforceable at law or in equity, by a party against the United States, its agencies, its officers, or any other person.

b. This regulation shall not be construed to create any right to judicial review involving the compliance or noncompliance with this regulation by the United States, its agencies, its officers, or any other person.

1-2. References

Required and related publications and prescribed and referenced forms are listed in appendix A.

1-3. Explanation of abbreviations and terms

Abbreviations and terms used in this regulation are explained in the glossary.

1-4. Responsibilities

a. The Judge Advocate General (TJAG) is responsible for the overall supervision and administration of the legal assistance program.

b. The Chief, Legal Assistance Division, Office of The Judge Advocate General (OTJAG), is TJAG's delegate for purposes of this regulation. This officer will—

(1) Promulgate policies and procedures for the legal assistance program.

(2) Serve as the sole authority for authorizing RC judge advocates to earn retirement points for legal assistance work while not in a military duty status. (See para 2-2b.)

(3) Authorize exceptions on a case-by-case basis to the provisions of paragraphs 2-2, 2-5, 3-6, 3-7, and 3-8 of this regulation if not inconsistent with the requirements set by statute, prescribed by executive order, mandated by applicable case law, or required by higher authority.

(4) Advise TJAG on legal assistance problems and needs, including those that arise during war or national emergencies, or during or following any local disaster that causes an increased need for legal services from eligible clients under this regulation. (In such situations the use of RC judge advocates to assist DA or installation legal assistance efforts will be considered.)

(5) Foster a joint-service approach, in conjunction with the chiefs of legal assistance for the other Armed Forces of the United States, in delivering legal assistance services (excluding help on military administrative matters) to all eligible clients.

c. The Chief, U.S. Army Trial Defense Service (USATDS), will, subject to other USATDS mission requirements, make USATDS attorneys available to provide legal assistance on the installations at which they are assigned in accordance with AR 27-10, paragraph 6-8. (Legal assistance cases are listed by category in paragraph 3-6 of this regulation.) USATDS attorneys who provide legal assistance will do so in accordance with this regulation and locally established legal assistance policies and procedures. The use of USATDS attorneys in providing legal assistance will not be inconsistent with or detrimental to the USATDS mission. Senior defense counsel and

staff judge advocates (SJAs) will consider the work load and staffing of their respective offices, this regulation (especially paras 3-6g, 3-7h, and 4-9), and USATDS guidelines in negotiating agreements on the extent to which USATDS counsel will share responsibility in providing client services on each installation.

d. The Commandant, The Judge Advocate General's School, Army (TJAGSA), will ensure that courses and instruction, together with course materials and outlines, are provided in areas of the law, policy, doctrine, and professional responsibility that are relevant to legal assistance. Course materials will include recommended questionnaires and check lists to be used during client interviews and sample letter formats for use in drafting correspondence on behalf of clients. Instruction should include the mechanics and computer applications involved in delivering legal assistance and in maintaining files and documenting the work done in each case. Additionally, similar instruction should be provided during Judge Advocate Triennial Training (JATT) or Judge Advocate Officers Advance Correspondence (JAOAC) courses and during on-site training provided for RC judge advocates, as appropriate. The Commandant is also responsible for providing new and updated legal assistance materials for periodic revision of the Legal Automation Army-Wide System—Legal Assistance (LAAWS-LA) software program.

e. The Chief, Information Management Office, OTJAG, will—
(1) Provide periodic updates and other changes and improvements to the LAAWS-LA software program.

(1.1) Assist the Chief, Legal Assistance Division, OTJAG in the production and procurement of legal assistance software programs to assemble legal assistance documents and reports, and in procuring software programs containing legal reference materials for incorporation in LAAWS-LA (para 1-4d). (Emphasis will be placed on obtaining software for use throughout the Active and Reserve components of the Armed Forces.)

(2) Duplicate and distribute the LAAWS-LA software program to all attorneys who are identified on the LAAWS-LA list maintained by the Chief, Legal Assistance Division, OTJAG.

f. Active Army and RC commanders are responsible for providing legal services within their commands to include those legal services provided under the legal assistance program. Commanders, in making decisions on the allocation of resources and the staffing of positions within their commands, determine the extent to which legal assistance services will be provided on their installations or within their commands.

(1) All commanders having one or more attorneys (as described in para 2-2a) assigned to their staffs will provide the following legal assistance services:

(a) Legal assistance services required by service members in conjunction with mobilization or deployment.

(b) Legal referral services for eligible legal assistance clients seeking legal help on personal legal problems or needs. (See paras 3-7h and i.)

(1) Commanders having one or more attorneys (as described in para 2-2a) assigned to their staffs or under their commands who are providing legal assistance on either a full or a part-time basis as part of their duty or job descriptions will provide—

(a) Adequate funding for the continuing legal education (CLE) of all attorneys performing legal assistance duties and for the training of clerical support staff.

(b) A building or office location within the command or on the installation that can be readily found (for example, adequate road signs, building markings) by those seeking legal assistance; that is easily accessible by those in the company of young children and by those who are elderly or physically limited; and that is structured or modified (for example, with sound-deadening materials such as rugs and drapes) to protect the confidentiality of attorney-client communications.

(c) Command support and adequate space, facilities, resources, and staffing—

1. For the delivery of professional legal services (for example, adequate furniture) ready means of access to U.S. and relevant State statutes and Army and command regulations and directives, modern