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§ 727.10 Fees, compensation, solicitation, and representation in civilian courts.

(a) General. Active duty military personnel and civilian employees of the Navy and Marine Corps are prohibited from accepting or receiving, directly or indirectly, any fee or compensation of any nature, in cash or otherwise, for legal services rendered to any person refer the client to an appropriate person or agency for such nonlegal counseling. The legal assistance officer should establish and maintain a working relationship with those individuals who are qualified to provide nonlegal counseling services.

(d) Proceedings involving the United States. A legal assistance officer shall not advise on, assist in, or become involved with, individual interests opposed to or in conflict with the United States without the specific approval of the Judge Advocate General.

(e) Telephone inquiries. In the absence of unusual or compelling circumstances, legal advice should not be given over the telephone. This does not prohibit appropriate follow-up telephone discussions between the legal assistance attorney and the client.

§ 727.9 Referrals to civilian lawyers.

(a) General. If it is determined that the legal assistance requested is beyond the scope of this part, or if no available legal assistance officer is qualified to give the assistance requested, the client should be referred to a civilian lawyer. When the client does not know of a lawyer whom he wishes to represent him, his case may be referred to an appropriate bar organization, lawyer referral service, legal aid society, or other local organization for assistance in obtaining reliable, competent, and sympathetic counsel, or to a civilian lawyer designated by such organization.

§ 727.8 Confidential and privileged character of service provided.

All information and files pertaining to the persons served will be treated as confidential and privileged in the legal sense as outlined in the Code of Professional Responsibility, as opposed to confidential in the military sense of security information. These privileged matters may not be disclosed to anyone by personnel rendering the service, except upon the specific permission of the person concerned, and disclosure thereof may not be lawfully ordered by superior military authority. This restriction does not prohibit providing the nonprivileged statistical data required by §727.13 of this part. Protection of the confidences of a legal assistance client is essential to the proper functioning of the legal assistance program in order to assure all military personnel, regardless of grade, rank, or position, that they may disclose frankly and completely all material facts of their problem to those rendering the service without fear that their confidence will be abused or used against them in any way. While case files are not subject to the control of the Department of the Navy and therefore do not constitute a “system of records” within the meaning of the Privacy Act of 1974 (5 U.S.C. 552a), no information which identifies an individual legal assistance client by name or any other particular, such as social security number, shall be extracted from the case files and incorporated into any file or index system aside from or in addition to the information contained on the legal assistance form (NAVJAG 5801/9) or locally used equivalent. Strict adherence to the foregoing will ensure compliance with the Privacy Act. Administrative and clerical personnel assigned to legal assistance offices shall maintain the confidential nature of matters handled.

[4 FR 3897, July 13, 1977, as amended at 65 FR 26749, May 9, 2000]
§ 727.11 Supervision.

The Judge Advocate General will exercise supervision over all legal assistance activities in the Department of the Navy. Subject to the supervision of the Judge Advocate General, officers in charge of Naval Legal Service Offices, and all Marine Corps commanders exercising general court-martial authority, acting through their judge advocates, shall exercise supervision over all legal assistance activities within their respective areas of responsibility and shall ensure that legal assistance services are made available to all eligible personnel within their areas. The Judge Advocate General will collaborate with the American Bar Association, the Federal Bar Association, and other civilian bar organizations as he may deem necessary or advisable in the accomplishment of the objectives and purposes of the legal assistance program.

[42 FR 35957, July 13, 1977]

§ 727.12 Communications.

(a) Legal assistance officers are authorized to communicate directly with the Judge Advocate General, with each other, and with other appropriate organizations and persons concerning legal assistance matters.

(b) The use of a legal assistance office letterhead within the Department of the Navy is authorized as an exception to the standard letterhead requirements contained in Department of Defense Instructions. Naval Legal Service Offices and other commands having authorized legal assistance officers are authorized to print and use letterheads without seal or official command designation in those matters in which the correspondence pertains solely to legal assistance matters. Legal assistance officers are directed to ensure that their correspondence does not imply United States Navy or command sponsorship or approval of the substance of the correspondence. Such correspondence is considered a private matter arising from the attorney-client relationship as indicated in § 727.8.

[42 FR 35958, July 13, 1977, as amended at 65 FR 26749, May 9, 2000]