§ 727.6 Functions of legal assistance officers.

(a) Basic duties. A legal assistance officer, while performing legal assistance duties, in addition to performing any other duties which may be assigned to him/her:

(1) Shall counsel, advise, and assist persons eligible for assistance in connection with their personal legal problems, or refer such persons to a civilian lawyer as provided in § 727.9.

(2) Shall serve as advocate and counsel for persons eligible for assistance in connection with their personal legal problems and may prepare and sign correspondence on behalf of a client, negotiate with another party or his lawyer, and prepare all types of legal documents, including pleadings, as are appropriate.

(3) Shall, in appropriate cases and under guidelines prescribed in the Manual of the Judge Advocate General contemplating agreements or liaison with appropriate civilian bar officials, serve as advocate and counsel for, and provide full legal representation including representation in court to, persons eligible for assistance in connection with their personal legal problems.

(4) Shall, subject to the direction of the senior legal assistance officer of the command, establish contact and maintain liaison with local bar organizations, lawyer referral services, legal aid societies, and other local organizations through which the services of civilian lawyers may be made available to military personnel and their dependents.

(5) Shall supervise the personnel and operation of the legal assistance office in accordance with good legal practice and the policies and guidance provided by the Judge Advocate General.

(6) Shall advise persons with complaints of discrimination on policies and procedures under the Civil Rights Act of 1964 and pertinent Navy instructions.
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(b) Nature of assistance. Legal assistance officers and administrative and clerical personnel assigned to legal assistance offices perform legal assistance duties as official duties in the capacity of an officer or an employee of the United States. Persons performing legal assistance duties, however, should not mislead those with whom they may deal into believing that their views or opinions are the official views or opinions of, approved by, or binding on, the Department of the Navy or the United States.

(c) Duty to client. A legal assistance officer should exercise his independent professional judgment on behalf of his client within the standards promulgated in the Code of Professional Responsibility and the specific limitations imposed in this part.

(d) Professional legal advice. Legal assistance is authorized for personal legal affairs only, as contrasted with military justice problems, business ventures, or matters that are not of a personal nature. Legal assistance duties are separate and apart from responsibilities of trial counsel, defense counsel, or other officers involved in processing courts-martial, nonjudicial punishments, administrative boards or proceedings, and investigations. Only legal assistance officers are authorized to perform services that call for the professional judgment of a lawyer. The legal assistance officer may delegate tasks to clerks, secretaries, and other lay personnel provided the officer maintains a direct relationship with the client, supervises the delegated work, and has complete professional responsibility for the work product. Services that call for the professional judgment of a lawyer include, but are not limited to, the preparation of wills and powers of attorney, advising personnel with respect to legal rights and responsibilities, negotiating contracts, and other matters requiring an educated ability to relate the general body and philosophy of law to a specified legal problem of a client. Guidance in this matter may be had from various official sources including the ethical considerations under the Code of Professional Responsibility of the American Bar Association.

[41 FR 26863, June 30, 1976, as amended at 47 FR 41561, Sept. 21, 1982; 65 FR 26748, May 9, 2000]

§ 727.7 Limitations on service provided.

(a) Assistance in official military matters. Legal Assistance duties are separate and apart from the responsibilities of a trial counsel, defense counsel, or other officer involved in the processing of courts-martial, nonjudicial punishment, administrative boards or proceedings, investigations, or other official military matters. Frequently, a service member accused or suspected of an offense or conduct leading to an administrative proceeding will request advice from the legal assistance officer. In such a case, the service member should be advised of the proper procedures for obtaining counsel or advice. This limitation does not prevent the assignment of the same officer to perform the functions of a legal assistance officer and the functions of a defense counsel, counsel for respondent, or counsel for a party.

(b) Domestic-relations cases. In domestic-relations cases, a legal assistance officer may provide advice concerning the legal and practical implications of divorce, legal separation, annulment, custody, and paternity. Assistance and advice in domestic violence cases will be consistent with the Department of the Navy family advocacy program. If two or more eligible persons with conflicting interests seek legal assistance from the same office on the same matter, the party first establishing an attorney-client relationship will be provided representation. Other parties shall be advised that they are also eligible for assistance, but that it must be obtained from another source, with the assistance of and referral by the first office.

(c) Nonlegal advice. The legal assistance officer, while giving legal advice, may also determine that the client needs or desires advice on related nonlegal matters. The legal assistance officer should provide legal advice only, or defer giving such advice, and