

**BY ORDER OF THE
SECRETARY OF THE AIR FORCE**

**DEPARTMENT OF THE AIR FORCE
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Law

**LEGAL ASSISTANCE, NOTARY,
PREVENTIVE LAW, AND TAX
PROGRAMS**

COMPLIANCE WITH THIS PUBLICATION IS MANDATORY

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This publication implements Air Force Policy Directive (AFPD) 51-3, *Civil Law, Acquisition Law and Litigation*. It describes the Department of the Air Force's legal assistance, notary, preventive law, and tax programs. It applies to Regular Air Force units at all levels and Air Force Reserve and Air National Guard units, except where otherwise noted, and the United States Space Force. This Department of the Air Force Instruction (DAFI) may be supplemented at any level, but all supplements that directly implement this instruction must be routed to the Legal Assistance Policy Division (AF/JACA) for coordination prior to certification and approval. Refer recommended changes and questions about this publication to the Office of Primary Responsibility (OPR) using the DAF Form 847, *Recommendation for Change of Publication*; route AF Form 847 from the field through the appropriate functional chain of command. This instruction requires the collection and or maintenance of information protected by the Privacy Act of 1974, authorized by Title 10 United States Code (U.S.C.) § 9013, *Secretary of the Air Force*, 10 U.S.C. § 9037; *Judge Advocate General, Deputy Judge Advocate General, Appointment and Duties*; Executive Order 9397, *Numbering System for Federal Accounts Relating to Individual Persons*, as amended. The applicable SORN F051 AFJA G, *Legal Assistance Administration Records*, is available at <http://dpcl.d.defense.gov/Privacy/SORNS/>. The authorities to waive wing, delta, or unit or garrison level requirements in this publication are identified with a Tier (**T-0, T-1, T-2, or T-3**) number following the compliance statement. See Department of the Air Force Manual (DAFMAN) 90-161, *Publishing Processes and Procedure*, Attachment 10, for a description of the authorities associated with the Tier numbers. Submit requests for waivers through the chain of command to the appropriate Tier waiver approval authority, or alternately, to appropriate Tier

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SUMMARY OF CHANGES

This document has been substantially revised and must be completely reviewed. Major changes include updating AFPD, AFI, and DAFI numbers and titles; adjusting inspection tiering requirements; clarifying persons who can perform and receive legal assistance and notary services; adding education law legal assistance; addressing the scope of legal assistance regarding employment matters and education law practice; providing guidance for the provision of remote legal assistance; providing guidance for the execution of a will drafted by a private attorney (under limited circumstances); clarifying the authority of military attorneys who have not yet been designated as judge advocates; requiring that legal assistance services be offered to eligible beneficiaries unless excepted; modifying terminology to include the Space Force; and adding new definitions. In addition, a new chapter on Education Law legal assistance has been added.

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Chapter 1

LEGAL ASSISTANCE, NOTARY, PREVENTIVE LAW, AND TAX PROGRAMS

1.1. Overview. This publication contains authority, policy, and procedures and defines responsibilities for the legal assistance, notary, preventive law, and tax programs. The Department of the Air Force provides legal assistance concerning personal, civil legal affairs to eligible beneficiaries. The purpose of the legal assistance program is to support and sustain command effectiveness and readiness. Additionally, the Department of the Air Force is authorized to provide certain notarial services to eligible members. Preventive law programs focus on education. These programs recommend preventive measures in legal areas where the Department of the Air Force has a direct interest in the outcome, as well as in legal areas likely to impact base readiness and morale. Tax assistance programs are command programs, separate and distinct from legal assistance programs, designed to provide free tax assistance and filing services for eligible beneficiaries.

1.2. Roles and Responsibilities.

1.2.1. The Judge Advocate General:

1.2.1.1. Establishes the Department of the Air Force legal assistance, notary, preventive law, and tax programs.

1.2.1.2. Manages these programs through the Civil Law and Litigation Directorate (AF/JAC) and Legal Assistance Policy Division (AF/JACA).

1.2.2. Air Force Legal Assistance Policy Division (AF/JACA):

1.2.2.1. Monitors and administers the Department of the Air Force's legal assistance, notary, preventive law, and tax programs.

1.2.2.2. Provides advice to field legal offices on legal assistance, notary, preventive law, and tax program matters that affect those eligible for legal assistance worldwide.

1.2.2.3. Oversees current and future web-based systems furthering legal assistance, notary, preventive law, and tax programs, including but not limited to the Web-based Legal Information Online System (WebLIONS), programs for drafting wills and estate planning documents, the legal assistance sections of Federal Legal Information Through Electronics (FLITE) Knowledge Management (KM), the Air Force Legal Assistance Website (LAWS), the U.S. Armed Forces Legal Services Locator, and the Tax Program Reporting System.

1.2.2.4. Facilitates service of legal process in coordination with the appropriate installation legal office in cases involving paternity and child support (see Title 5, Code of Federal Regulations Part 581, Appendix B, *List of Agents Designated to Facilitate Service of Legal Process on Federal Employees*).

1.2.2.5. In consultation with the Air Force Judge Advocate General's School, provides education and training on the Department of the Air Force's legal assistance, notary, preventive law, and tax programs.

1.2.3. Air Force Legal Information Services (JAS):

1.2.3.1. Provides software and technical support for WebLIONS, FLITE's KM legal assistance related materials, LAWS, the U.S. Armed Forces Legal Services Locator, and any other successor or other computer systems or software pertaining to the legal assistance, notary, preventive law, and tax programs.

1.2.4. The Air Force Judge Advocate General's School:

1.2.4.1. In consultation with AF/JACA, provides education and training on the legal assistance, notary, preventive law, and tax programs, including entry-level legal assistance training for students.

1.2.4.2. In consultation with AF/JACA, develops a comprehensive program to meet the continuing legal assistance training needs of the Judge Advocate General's Corps.

1.2.5. Major Command (MAJCOM), Field Command (FLDCOM), Field Operating Agency, and Direct Reporting Unit (and equivalent Space Force command) staff judge advocates (SJA):

1.2.5.1. Supervise functional programs within their commands.

1.2.5.2. Perform necessary inspection over functional programs within their commands to ensure compliance with this instruction.

1.2.5.3. Subject to the guidance in [paragraph 2.4](#), may add requirements for mobilization- or deployment-related legal assistance and impose limits on other legal assistance subject areas to ensure mission readiness.

1.2.6. Numbered Air Force SJAs: subject to the guidance in [paragraph 2.4](#), may add requirements for mobilization- or deployment-related legal assistance and impose limits on other legal assistance subject areas to ensure mission readiness. For purposes of this instruction, Numbered Air Force SJAs include joint base and similarly situated legal offices that function as a Numbered Air Force.

1.2.7. Base, Wing, Delta or Group SJAs:

1.2.7.1. Manage the personnel, training, and operation of the legal assistance, notary, preventive law, and tax programs at their offices consistent with this instruction.

1.2.7.2. Ensure their office staff, including assigned Reserve Component (RC) attorneys and any volunteers, are aware of the purposes of legal assistance, notary, preventive law, and tax programs, and this instruction.

1.2.7.3. Review LAWS client feedback and WebLIONS data to evaluate the legal assistance, notary, and preventive law programs; training needs for the office; process efficiency and responsiveness to the needs of the base community; statistical indicators and trends; and problem areas.

1.2.7.4. At joint bases or other installations with multiple SJAs providing legal assistance, as allowable under the installation's Department of Defense (DoD) joint basing agreements concerning legal assistance, the installation commander's SJA may consolidate functions and administration to gain efficiencies and unity of effort to ensure consistent services across the installation.

Chapter 2

LEGAL ASSISTANCE SERVICES: SCOPE AND ELIGIBILITY

2.1. Overview. This chapter describes the scope of, and limitations to, the legal assistance program, eligibility of persons for legal assistance, and a description of legal assistance services a legal office may provide, subject to the availability of legal staff, resources, and expertise. This chapter also describes legal office compliance requirements associated with the provision of authorized legal assistance services.

2.2. Scope of Attorney-Client Relationship.

2.2.1. Within the scope of Attorney-Client Relationship. Air Force attorneys establish an attorney-client relationship when providing advice on personal, civil legal affairs to eligible beneficiaries, to support and sustain command effectiveness and readiness. For guidance pertaining to beneficiary eligibility requirements, see [paragraph 2.3](#), and for guidance pertaining to in-scope legal assistance services, see [paragraph 2.5](#).

2.2.2. Outside the scope of Attorney-Client Relationship. Air Force attorneys do not enter into attorney-client relationships in matters for which the Department of the Air Force remains the client. **(T-0)** Air Force attorneys, acting in an official capacity, shall not enter into an attorney-client relationship in the following areas:

2.2.2.1. Official matters in which the United States Government has an interest or is involved in the investigation or final resolution. **(T-1) Exception:** Title 18 U.S.C. § 205 generally prohibits employees of the United States Government from appearing as counsel before any tribunal for a client concerning a claim against the United States or a civil lawsuit in which the United States has an interest; however, this restriction generally does not apply if the employee is acting within the scope of their official duties. Legal assistance practitioners performing duties as legal assistance attorneys or paralegals may advise and assist clients with matters against the United States insofar as the representation is authorized by this regulation. Legal assistance attorneys and paralegals may provide required services within the following authorized case types even when the interests of the client are against the interests of the United States: taxes (e.g. assisting clients with filing or disputes with the IRS over non-criminal federal income tax matters); immigration and naturalization; military privatized housing (see [paragraph 2.6.5](#)); education law matters involving Department of Defense Education Activity (DoDEA) schools (see [paragraph 2.4.2 and 7.2.2](#)); and a victim as authorized under [paragraph 2.6.6](#) of this instruction, or when acting as a Defense Counsel, a Victim's Counsel, or a Disability Counsel with the Office of Disability Counsel.

2.2.2.2. Legal issues or concerns raised on behalf of third parties, even if the third party is eligible for legal assistance. This does not preclude advice and representation of a parent regarding the legal rights of their minor dependent. **(T-1)**

2.2.2.3. Criminal issues under the Uniform Code of Military Justice, any local or state criminal or quasi-criminal law (as identified by state law), or federal criminal law, unless advising a victim as authorized under [paragraph 2.6.6](#) of this instruction or acting as a Defense Counsel or as a Victims' Counsel. **(T-1)**

2.2.2.4. Issues related to standards of ethical conduct. **(T-1)**

2.2.2.5. Issues related to the Law of War. (T-1)

2.2.2.6. Issues involving personal businesses, employment matters, or commercial enterprises. This includes copyrights, trademarks, patents, and legal matters for a landlord regarding property leased as part of a commercial enterprise. (T-1). See the definitions section for the definition of commercial enterprise and employment matters. **Exception:** See [paragraph 2.5.1](#) regarding legal assistance involving Status of Forces Agreement (SOFA) host nation agreements. Also, Air Force attorneys may provide legal guidance and advice to servicemember business owners if related to Title 50 U.S.C. §§ 3901-4043, *Servicemembers Civil Relief Act (SCRA)*, or related to Title 38 U.S.C. §§ 4301-4333, *Uniformed Services Employment and Reemployment Rights Act (USERRA)*.

2.2.2.7. Issues involving Private Organizations (e.g., spouses' clubs and squadron booster clubs) chartered by appropriate authority to function on Department of the Air Force installations. (T-1) **Note:** This does not prohibit Air Force attorneys, acting outside of their legal assistance role, from advising commanders or other members of leadership on Private Organization issue in accordance with AFI 34-223, *Private Organizations Program*.

2.2.2.8. Drafting or reviewing for legal sufficiency real estate sale or closing documents, separation agreements or divorce decrees, transfer on death deeds, and inter vivos (living) trusts, and other types of pleadings prepared for off-base court proceedings. (T-1) **Exception:** This limitation does not exclude a general review to identify potential problems in order to explain the need to make a referral or to protect a client from signing an unconscionable agreement. Additionally, if the SJA determines a legal assistance attorney in the office has the expertise to draft, review, or edit these documents, then the SJA may authorize that attorney to do so. This paragraph does not preclude legal offices from notarizing these types of documents. For guidance pertaining to notarizing the above-referenced documents, see [Chapter 4](#), Notarial Acts and Oaths.

2.2.2.9. Representation of the client in a court or administrative proceeding. (T-1) **Exceptions:** Legal assistance attorneys may represent a client in court or an administrative proceeding when acting as Defense Counsel, Victims' Counsel, or Disability Counsel, or after receiving prior authorization (see [paragraph 2.7](#) regarding expanded legal assistance program (ELAP)). In addition, with the concurrence of the SJA, legal assistance attorneys may attend and represent a client at Individualized Education Program (IEP) meetings or other educational law administrative meetings. Education due process hearings do not fall under this exception. For guidance on obtaining authorization for ELAP, see [paragraph 2.7](#).

2.2.3. Nothing in this instruction requires any legal assistance attorney to provide any legal service they are not competent to provide.

2.3. Eligibility for Legal Assistance. Subject to the availability of legal staff, resources, and expertise, the categories of personnel listed below are eligible for legal assistance. SJAs shall not expand the scope of eligible beneficiaries beyond those listed in [paragraphs 2.3.1 to 2.3.9](#).

2.3.1. Members of the Armed Forces on Active Duty. This includes RC members, United States Air Force Academy cadets, and contract Reserve Officer Training Corps (ROTC) cadets who are serving on federal active duty under Title 10, United States Code. For the purposes

of this paragraph “on active duty” includes RC members performing Active Guard and Reserve duty, including those under 10 U.S.C. § 10211, Policies and Regulations: Participation of Reserve Officers in Preparation and Administration, 10 U.S.C. § 12310, Reserves: for Organizing, Administering, etc. Reserve Components, or 32 U.S.C. § 502(f), Required Drills and Field Exercises. See DoDI 1215.06, *Uniform Reserve, Training, and Retirement Categories for the Reserve Components*, 11 March 2014, for RC duty types and when active duty under Title 10, United States Code.

2.3.2. Former members entitled to retired or retainer pay or equivalent pay, and former members of reserve components entitled to retired pay under 10 U.S.C. § 12731, *Age and Service Requirements*. Persons eligible under this provision include former members receiving retired pay as a result of retirement due to permanent disability or placement on the temporary disability retired list.

2.3.2.1. Individuals presenting a military identification (ID) card indicating that the individual is a 100 percent disabled American veteran are not eligible for legal assistance IAW 10 U.S.C. § 1044. These individuals are not retirees; the ID card reflects their eligibility to commissary, exchange and morale, welfare, and recreation privileges but they are not entitled to legal assistance.

2.3.2.2. Reservists who have retired but are not yet entitled to retirement pay under 10 U.S.C. § 12731(a) (also known as “Gray-Area” Reservists) are not eligible for legal assistance.

2.3.2.3. National Guard members in State Active Duty (SAD) status are not eligible for legal assistance.

2.3.3. Officers of the commissioned corps of the Public Health Service who are on active duty or entitled to retired or equivalent pay.

2.3.4. The following RC members who are not currently on active duty:

2.3.4.1. Members of the RC not covered in paragraphs 2.3.1 and 2.3.2 following release from active duty under a call or order to active duty for more than 30 days issued under a mobilization authority (determined by the Secretary of Defense) for a period of time (prescribed by the Secretary of Defense) that begins on the date of the release and is not less than twice the length of the period served on active duty under that call or order to active duty. SJAs may require that RC members present a copy of the pertinent orders for legal office personnel to verify eligibility for legal assistance under this provision.

2.3.4.2. RC members (not currently on orders), inactive duty reservists or National Guard members in an inactive status but subject to federal mobilization (National Guard, Ready Reserve, contract ROTC cadets) may receive mobilization-and deployment-related legal assistance. See DoDI 1215.06, *Uniform Reserve, Training, and Retirement Categories for the Reserve Components*, 11 March 2014, for guidance on RC duty types, including inactive duty status. Subject areas include wills, advance medical directives, powers of attorney, protections and responsibilities under the SCRA and the USERRA, and notary services; this list is not exhaustive. Legal assistance services should be provided to prepare these members for upcoming mobilizations and deployments as these members may not have time to receive legal assistance services once mobilized or deployed. SJAs should communicate with their local reserve and guard commands regarding upcoming

mobilizations and deployments. SJAs retain discretion to determine whether the circumstances of a RC member warrant the provision of legal assistance to ensure readiness for mobilization and deployment.

2.3.4.3. ANG legal offices see ANGI 51-504, *Air National Guard Legal Assistance Program*, 20 November 2014, for ANG legal assistance eligibility.

2.3.5. Dependents.

2.3.5.1. Dependents of members as described in paragraphs 2.3.1 to 2.3.4. Dependents of RC personnel are only eligible during the time the RC member is on federal active duty under Title 10, U.S.C., or for the period of time after release from active duty noted in paragraph 2.3.4.

2.3.5.2. Eligible former spouses of members and former spouses of former members listed in paragraph 2.3.1 and 2.3.2 who are entitled to a military identification card. See DAFI 36-3026V1, *Identification Cards for Members of the Uniformed Services, Their Eligible Family Members, and Other Eligible Personnel*, 1 June 2023 for former spouse eligibility.

2.3.6. Survivors/Estate Representatives

2.3.6.1. Survivors of a deceased member or former member described in paragraphs 2.3.1 - 2.3.4 who were dependents of the member or former member or otherwise entitled to a military identification card at the time of death.

2.3.6.2. Executors, personal representatives, administrators, or legally recognized estate representatives regarding matters relating to the settlement of estates, including tax assistance, for servicemembers who die on active duty or die as a result of an injury or disability that resulted in retirement from active duty. When uncertainty exists about the status of the estate representatives listed in this paragraph, or when otherwise determined appropriate by the SJA, legal assistance shall be provided to the primary next-of-kin to the same degree as noted in this paragraph.

2.3.7. Civilian Employees of the Federal Government.

2.3.7.1. Civilian employees of the DoD and the military departments, and their dependents residing with them, assigned outside the United States and its territories.

2.3.7.2. Civilian employees deploying to a theater of operations. Services are limited to preparing and executing wills and any necessary notaries or powers of attorney.

2.3.8. Foreign Military Personnel.

2.3.8.1. Foreign military personnel, and their dependents residing with them, assigned to the United States either permanently or temporarily under official orders for purposes of combined missions with United States personnel or for training in programs sponsored by the United States. This assistance does not extend to foreign military personnel present in the United States solely to carry out another nation's unilateral mission, such as use of ranges on a United States installation to test the foreign nation's weapons system without the participation of United States personnel in the training.

2.3.8.2. Legal assistance provided under this section should be limited in scope to matters involving the interpretation or application of United States domestic law only. Such matters involve issues pertinent to a person's relocation and requirement to be present in

the United States to carry out official duties. Examples include, but are not limited to, landlord-tenant, consumer affairs, driver's licenses, customs, and tax relief. Legal assistance should not be provided for matters implicating the laws of the sending foreign nation, such as wills and domestic relations, nor should any legal assistance be provided on matters that would impact the person's status in the United States.

2.3.9. Unique Situations. When beneficial to the military services, SJAs may authorize legal assistance to persons not specifically identified above as an eligible beneficiary. These situations must involve people, or their dependents, who have a future, present, or past military obligation relevant to the legal problem. Examples include RC members who have demobilized but do not strictly meet the time requirements of [paragraph 2.3.4.](#), ROTC cadets who must meet dependent care responsibilities, Delayed Entry Program enlistees with landlord-tenant issues, guardians of servicemembers or their dependents if related to a legal issue of a servicemember or dependent. This provision does not apply to contractor personnel, who are responsible for having their personal legal affairs in order (including preparing and completing powers of attorney, wills, etc. before reporting to overseas bases and deployment centers) unless legal assistance has been provided for in the contract.

2.4. Limiting Legal Assistance, Mandatory Legal Assistance, and Prioritization.

2.4.1. Limiting Legal Assistance. Legal offices are expected to consistently provide legal assistance to eligible beneficiaries as described in this instruction. Exceptions to the consistent provision of legal assistance should only be granted in exigent circumstances and should be limited in length and scope to the greatest extent possible. The following exceptions may not be implemented for more than 15 consecutive days, or more than 15 non-consecutive days in a 60-day period, without prior MAJCOM/FLDCOM SJA approval: (1) exempt a class of eligible beneficiaries from any service (e.g., not see eligible retirees); (2) limit the scope of legal assistance services (e.g., not see any wills and estates clients); or (3) cease legal assistance services entirely. MAJCOM/FLDCOM SJAs must notify the JAC Director and AF/JACA Chief of any approvals. **(T-1)** This exception is expected to be used sparingly, as the objective is to provide consistent legal assistance services across the DAF and DoD. Despite any exception, legal offices must provide the mandatory legal assistance services noted in [paragraph 2.4.2.](#) This requirement does not apply to the decision to host a tax program under [Chapter 6.](#)

2.4.1.1. RC legal offices may focus their resources on provision of legal assistance services to members of their unit and their dependents, but must seek approval as laid out in [paragraph 2.4.1](#) if not providing these legal assistance services for two consecutive regularly scheduled drill weekends. As resources and expertise permit, legal assistance may also be provided to active duty members, other RC members, and retirees of any military service.

2.4.2. Mandatory Legal Assistance. Legal offices must provide timely legal assistance to (1) eligible victims of crime, (2) eligible tenants of military privatized housing, and (3) eligible clients requesting assistance with special education law. **(T-0)** Legal offices must also provide timely mobilization/deployment related legal assistance to personnel mobilizing or deploying. **(T-1)** If a legal office is unable to provide this mandatory legal assistance in a timely manner, its SJA will ensure another legal office is identified to provide timely assistance to these clients. **(T-1)**

2.4.3. Nothing in the above paragraphs requires or permits legal offices to provide legal assistance outside the scope of legal assistance, outside the rules for client eligibility, or otherwise violate other portions of this instruction. Despite the mandate to provide legal assistance, if the complexity of a legal assistance issue exceeds the competence of the servicing legal office, the client should be referred IAW [paragraph 3.4](#).

2.4.4. Priority. In addition to prioritizing the mandatory areas of legal assistance in [paragraph 2.4.2.](#), SJAs will give the highest priority to personnel needing mobilization or deployment-related legal assistance in support of command readiness. Mobilization- and deployment-related legal assistance is not determined by the subject matter of legal assistance provided, but by the relationship between command readiness and the potential impact on the member's ability to perform duties if legal issues are not addressed prior to deployment. When the Air Force or Space Force is the supporting component at joint installations, SJAs follow their installation's DoD joint basing agreements.

2.5. Legal Services Provided. Potential legal assistance subject areas include: wills, advanced medical directives, powers of attorney; protections and responsibilities under SCRA and USERRA; family law, to include adoptions, dependent care issues, child custody, domestic relations, landlord-tenant law (for both landlords and tenants, subject to the restriction in [paragraph 2.2.2.6](#)), consumer law issues (including but limited to bankruptcy, fraud, identity theft, leases, etc.), immigration and naturalization law, assistance for crime victims, education law (see [Chapter 7](#)), and taxation. This is not an exhaustive list of the subject matters for which clients may receive legal assistance.

2.5.1. Status of Forces Agreements (SOFA) and host nation agreements. To support eligible beneficiaries navigating complex employment requirements related to working overseas while their active-duty service member spouse/sponsor is stationed overseas, legal assistance regarding SOFA and other host nation agreements affecting employment may be provided. **(T-0)** This assistance is limited to the personal civil legal affairs of eligible beneficiaries affected by employment restrictions related to a SOFA or other host nation agreement and does not extend to their employers or the establishment, management, or taxation of any business organization.

2.5.2. The Judge Advocate General, Major Command SJAs, Field Command SJAs, Numbered Air Force SJAs, or base/delta SJAs may expand the scope of legal assistance issues to those they deem connected with personal, civil legal affairs.

2.6. Compliance Requirements. A determination by a staff judge advocate to provide legal assistance services as outlined above may trigger various compliance requirements or limitations. These compliance requirements and limitations are listed below.

2.6.1. Military powers of attorney, advance medical directives, and military testamentary instruments must be prepared IAW 10 U.S.C. §§ 1044b, 1044c, and 1044d. **(T-0)**

2.6.2. Dual Representation. Due to the potential for conflicts of interest during the representation, legal assistance attorneys must use a dual representation letter when providing advice on and drafting wills and related documents for married couples. **(T-0)**. Legal offices must retain dual representation letters in a file dedicated to that purpose for a period of at least one year from the date the clients endorse the letter. **(T-1)** Additionally, attorneys must retain dual representation letters IAW their state and Air Force professional responsibility

requirements. **(T-0)** A sample dual representation letter is available on the AF/JACA KM website.

2.6.3. Documents Not Prepared by a Military-Affiliated Attorney. Legal assistance providers shall generally not participate in the execution of preprinted “fill-in-the-blank” wills, wills prepared with an unaffiliated online service, or prepared by a non-military-affiliated attorney. Eligible clients presenting such documents for execution shall be advised that free estate planning services are available through their legal assistance office. Despite this general prohibition, SJAs may authorize execution of estate planning documents, when prudent and necessary - such as for a client at an OCONUS location who had estate planning documents drafted by a U.S. private attorney because their needs were too complex for the base legal office. Before executing documents under these circumstances, installation legal offices will ensure the client signs an informed consent letter stating that the legal office and Department of the Air Force have not reviewed the documents, make no representation as to the accuracy of the documents, and do not endorse or guarantee the documents. **(T-1)** Attorneys must draft informed consent letters IAW Air Force and State rules of professional responsibility. See DAFI 51-110, *Professional Responsibility Program*. **(T-0)**

2.6.4. Interviews with clients accompanied by a third party. In cases where the client is ill, fragile, or elderly, it is a best practice to interview clients privately outside the presence of the third party to determine the true nature of the client’s intentions without the influence of the third party, and to make a competency determination. After concluding the interview, the legal assistance attorney has sole discretion to determine whether the client is competent to participate in the attorney-client relationship, to include, when applicable, the estate plan drafting and execution process. In determining the extent of the client's diminished capacity, the attorney should consider and balance such factors as: the client's ability to articulate the reasoning leading to a decision, variability of state of mind and ability to appreciate consequences of a decision; the substantive fairness of a decision; and the consistency of a decision with the known long-term commitments and values of the client. Consult Air Force and State rules of professional responsibility. See DAFI 51-110, *Professional Responsibility Program*.

2.6.5. Military Privatized Housing. Legal offices may render assistance pertaining to landlord-tenant disputes arising out of privatized housing. Legal offices should be aware of the potential for conflict of interest in the privatized housing dispute resolution process. As detailed in Professional Responsibility Opinion 2022/01 (dated 19 January 2022), for clients engaged in or intending to engage in the dispute resolution process, the recommended process is for a legal office to secure another legal office to conduct the representation. Alternatively, the representation can continue with the written informed consent of the client. Before seeing legal assistance clients regarding privatized housing issues, SJAs must ensure the legal assistance attorney seeks a written waiver from the client after fully disclosing the Department of the Air Force’s interest in the privatized housing project and the potential for a conflict of interest to arise. **(T-0)**. Also, the waiver should indicate that confidentiality will be waived, if necessary, to make reports to the Air Force Office of Special Investigations for instances of contract fraud committed by the Privatized Housing Company or to other authorities for quality control issues that may be affecting the larger Department of the Air Force community residing in privatized housing. Waivers shall be maintained on file in the legal office for at least one year from the date the waiver is signed or consistent with the legal assistance attorney’s state

licensing requirements, whichever is longer. (T-0) If the client does not consent, refer the client to an alternate source of assistance as outlined in [paragraph 3.4](#) of this instruction. A copy of the advisory opinion and a sample disclosure and informed consent letter are available on the Legal Assistance KM website.

2.6.6. Victims of Crime.

2.6.6.1. Legal assistance services are available to victims of crime if they are otherwise eligible for legal assistance IAW [paragraph 2.3](#) of this instruction. Legal offices must provide confidential advice and assistance to eligible victims as provided in [paragraph 2.4.2](#), either directly or through referral to the appropriate Victims' Counsel or Victim and Witness Assistance Program contact. See DoDI 1030.02, *Victim and Witness Assistance*. (T-0).

2.6.6.2. The SJA shall ensure processes are established so legal office personnel working on criminal proceedings or adverse actions do not enter into attorney-client relationships with clients on the same matter. If resources limit the ability to provide legal assistance to a crime victim, the SJA shall inform the next SJA in the functional chain of command who will then seek appropriate legal support for the victim.

2.6.6.3. Legal assistance attorneys are not authorized to receive restricted reports of sexual assault. Legal assistance attorneys may facilitate a victim making a restricted report by helping the victim contact officials authorized to receive restricted reports. Legal assistance attorneys should make sexual assault victim clients aware of available Victims' Counsel services and refer victims of sexual assault to their servicing Victims' Counsel office. **Note:** Despite the fact that a disclosure of a sexual assault is not a "restricted report," information a legal assistance attorney receives from any client remains subject to the attorney-client privilege unless a specific exception applies in AFI 51-110, *Professional Responsibility Program*. The disclosure of a sexual assault in-and-of itself is not a basis for breaking attorney-client privilege absent a specific exception from DAFI 51-110.

2.6.6.4. Legal assistance attorneys cannot represent clients during investigative interviews, appear at hearings, or otherwise participate in the criminal justice process (military or civilian) on behalf of clients. Legal assistance attorneys may, with SJA approval and conflict of interest screening, provide the assistance described in [paragraph 2.5](#) to those eligible for legal assistance for matters unrelated to their investigation, involuntary discharge, or pending UCMJ or administrative action. **Exception:** This does not apply to Defense Counsel, Victims' Counsel, or Disability Counsel providing legal assistance services within the scope of their representation.

2.7. Expanded Legal Assistance Program (ELAP). Representation of clients in court or an administrative proceeding through ELAP is permissible if the legal assistance matter/request is coordinated through the functional chain of command to the MAJCOM/FLDCOM SJA and approved by AF/JACA. Direct Reporting Unit SJAs may make a request directly to AF/JACA. See [paragraph 2.2.2.9](#) regarding ability to attend IEP and other educational administrative hearings. See the ELAP Bullet Background Paper (BBP) on the Legal Assistance KM website.

Chapter 3

ADMINISTRATION OF THE LEGAL ASSISTANCE PROGRAM AND TRAINING

3.1. Overview. This chapter outlines legal office requirements in support of the administration of the Department of the Air Force's legal assistance program.

3.2. Communications.

3.2.1. Within the professional responsibility boundaries of client confidentiality and privilege, legal assistance practitioners may communicate directly with other legal assistance attorneys, paralegals, or non-lawyer assistants within the Judge Advocate General's Corps.

3.2.2. SJAs of offices with a legal assistance mission must ensure at least one member of the office is a member of the Legal Assistance Team on Microsoft Teams™, or a future announcement-sharing platform, to enable timely and mass distribution of general legal assistance-related information. **(T-1)**

3.3. Professional Responsibilities and Rules. SJAs must administer the legal assistance program in strict compliance with the professional responsibilities outlined in DAFI 51-110, *Professional Responsibility Program*. **(T-0) Note:** In the event of conflicts or differences between the applicable provisions of DAFI 51-110 and the equivalent state rules, the Air Force provisions will control. The Judge Advocate General's Professional Responsibility Administrator serves as the dedicated focal point for professional responsibility advice and counsel. The following paragraphs are listed accordingly with due consideration for AFIs and state rules:

3.3.1. Only attorneys give legal advice. Paralegals and non-lawyer assistants shall not provide any legal advice to a client or render any other services to a client that constitutes the practice of law unless under the direct supervision of an attorney. **(T-0)**. Qualified legal office staff may provide legal assistance support as follows:

3.3.1.1. Paralegals and non-lawyer assistants may question prospective clients to determine the subject matter and whether it is within the scope of the legal assistance program.

3.3.1.2. Paralegals and non-lawyer assistants may prepare and maintain legal documents under the direct supervision of an attorney and perform such acts as notarizations and the preparation of routine powers of attorney using approved legal office forms.

3.3.1.3. A paralegal may conduct an initial client interview, preliminary to an attorney-client meeting. During this interview, the paralegal may ascertain the general nature and pertinent facts of the client's legal problem or concern. Because of the likelihood that privileged information may be discussed, this interview should occur in a confidential setting. The paralegal may provide the client with handouts or references providing basic information about laws, regulations, rules, policies, and procedures that may be relevant to the client's situation.

3.3.1.4. Trained paralegals may participate in the production and execution of wills and advance medical directives under the direct supervision of an attorney. In-person supervision is not required for every execution. In accordance with the Air Force Rules of Professional Conduct (DAFI 51-110), supervisors shall make reasonable efforts to ensure their professional obligations are still met, such as by ensuring paralegal notaries are

trained and familiar with the will execution guide and by periodically spot checking will execution ceremonies. Prior to execution, attorneys will provide legal advice to clients regarding these documents and ensure they are accurate, comply with applicable law, and meet the client's needs.

3.3.1.5. Legal services volunteers may perform paralegal-type functions or provide other legal services, including advice and assistance to clients, if acting under the direction, supervision, and control of an Air Force military or civilian attorney, IAW [paragraph 3.5](#) of this instruction.

3.3.2. SJAs and their staff must ensure information received from a client during the course of providing legal assistance is kept confidential. **(T-0)**. This includes worksheets, attorney work-product, and documents relating to the client. Such information should be released only with the client's express permission, pursuant to a court order, or as otherwise permitted by DAFI 51-110.

3.3.2.1. Conflict of interest screening. WebLIONS provides a mechanism to screen for potential conflicts of interest. Attorneys must enter their potential conflicts into WebLIONS for the system to effectively screen future legal office clients. **(T-1)**

3.3.2.2. SJAs must ensure judge advocates (JAGs) and civilian attorneys who perform legal assistance have private offices. **(T-0)**

3.3.3. When contacting third parties, legal assistance attorneys must avoid creating the impression they represent the Department of the Air Force's interests in resolving the client's concerns or that the Department of the Air Force has an interest in the outcome of the matter. **(T-0)** Legal assistance attorneys may use official letterhead for client correspondences, consistent with the JER, Chapter 5 of the CFR (*i.e.* 5 CFR § 2635.702(b)), and DAFI 51-110, provided that in any written correspondence a disclaimer, such as "This letter is written by a legal assistance attorney on behalf of an individual client and does not represent an official position of the Department of the Air Force or the United States Government," is included.

3.3.4. Legal assistance attorneys will not interfere with an existing attorney-client relationship. **(T-0)** In some situations, the legal assistance attorney may consult with the individual represented by counsel, provided the other counsel and the represented individual consent. Otherwise, advising a client already represented by an attorney (*i.e.*, providing a "second opinion") is not permitted. See DAFI 51-110 for additional guidance.

3.4. Referrals. The nature of a client's legal problem may exceed the competence of the initial legal assistance attorney consulted or the scope of the Department of the Air Force's legal assistance program. In such cases, the legal assistance attorney should refer the client, as appropriate, to another Air Force legal assistance attorney, another Armed Forces legal assistance office, an appropriate federal or state agency, or a civilian attorney referral service. Before referring a client to a civilian attorney, the legal assistance attorney will consider any free or reduced fee services available. **(T-1)** See AF/JACA KM page for information on referral services. Additionally, all referrals should be free from federal endorsement or other impropriety. RC attorneys may not refer clients to their civilian practices for matters that originated under the scope of providing legal assistance as judge advocates. See DAFI 51-110, *Professional Responsibility Program*, Attachment 4, Rule 7.

3.5. Legal Services Volunteers. SJAs may accept the services of a licensed attorney, paralegal, or other legal professional to provide legal assistance under 10 U.S.C. § 1044 and 1588(a)(5); DoDI 1100.21, *Volunteer Services in the Department of Defense*; and DAFI 51-110.

3.6. Judge Advocate and Civilian Attorney Legal Assistance Training Requirements. All active duty judge advocates (JAGs), ARC JAGs, and civilian attorneys with legal assistance in their position description, must complete the Legal Assistance Annual Refresher Course. **(T-1)** See DAFI 51-101, *The Air Force Judge Advocate General's Corps (AFJAGC) Operations, Accessions, and Professional Development*, for details. Civilian attorneys currently practicing legal assistance or who have legal assistance in their position description may be required to complete additional legal assistance training IAW DAFI 51-101.

3.6.1. Military attorneys who have yet-to-be designated as Judge Advocates may not provide advice or assistance under this instruction unless acting under the direct supervision and control of a designated judge advocate or a qualified civilian attorney. Exception: SJAs may permit a yet-to-be designated military attorney to provide legal assistance in the jurisdiction in which the attorney is licensed. IAW DAFI 51-101.

3.7. Records/Reports. The SJA will ensure legal assistance visits and workloads are recorded in WeblIONS. **(T-1)** Statistical data of each office will be available to that office and its higher headquarters through WeblIONS on demand.

3.7.1. The SJA will ensure the office retains AF Form 1175s, *Legal Assistance Record*, for temporary use in the event of interruption of WeblIONS access or service. **(T-1)** On these occasions, the legal assistance attorney or paralegal shall enter the information recorded on the form into WeblIONS when service resumes and then properly destroys the form.

3.7.2. When recording legal assistance visits, offices will report cases meeting “special identifier” criteria in the WeblIONS system, such as legal assistance for deployers, victims, and special needs families. **(T-1)**

3.8. Protection of Personally Identifying Information (PII).

3.8.1. Offices will not keep formal files on legal assistance clients nor maintain copies of the following: executed wills; advance medical directives; or powers of attorney. To better protect PII, offices should remove drafts of these documents from electronic files once they are executed by the client.

3.8.2. Attorneys will keep dual representation letters and waivers by clients seeking advice as tenants in military privatized housing for a minimum of one year IAW paragraphs [2.6.2](#) and [2.6.5](#) of this instruction. **(T-1)**

3.8.3. If necessary, the legal assistance attorney will copy only those documents needed during the course of active representation and immediately return original documents to clients. **(T-1)** Legal assistance attorneys should advise clients that copies will be properly destroyed upon resolution of the matter giving rise to legal assistance, or IAW with their State bar rules.

3.8.4. Software used to produce legal assistance documents containing PII and the documents themselves may not be loaded or stored on any personal digital devices. **(T-1)**

3.8.5. Legal offices may make copies of official badges, identification cards, or other insignia, necessary to administer a military-related benefit to an eligible beneficiary (i.e. legal

assistance) IAW 18 U.S.C. § 701, *Official Badges, Identification Cards, Other Insignia*, 32 C.F.R. 161.6(b)(1), and DoDI 1000.13. **(T-0)**

3.9. Virtual Legal Assistance. In-person legal assistance services are preferred, but legal assistance services may be provided via remote or virtual means with the concurrence of the SJA and in accordance with the guidance in this paragraph. In making the determination whether to provide legal assistance via remote or virtual means, the SJA should consider if adequate and timely in-person legal assistance cannot be reasonably provided, if competent legal services can be rendered remotely, and if the assistance will be consistent with the goals described in this publication.

3.9.1. When providing remote legal assistance, the client's eligibility to receive legal assistance must be verified, such as by a photo or live video chat displaying the client's identification card. **(T-1)**

3.9.2. The means and setting by which remote/virtual legal assistance services are provided must be secure and private to maintain attorney/client confidentiality and privilege. **(T-0)** This includes the transmission of communications and other matters (e.g. emails, contracts, leases, etc.). Ensure the client consents to the provision of services via these remote means.

3.9.3. Legal assistance attorneys should review the Air Force professional responsibility rules in DAFI 51-110 and their state bar ethics guidelines to ensure they are maintaining their individual professional responsibility standards when providing remote legal assistance.

3.10. See Chapter 4 regarding use of remote and electronic notary.

Chapter 4

NOTARIAL ACTS AND OATHS

4.1. Overview. This chapter covers policies and procedures for Department of the Air Force military and civilian personnel performing notarial acts as part of their official duties.

4.2. Notarial Acts.

4.2.1. Federal Authority. Notarial acts performed under 10 U.S.C. § 1044a are legally binding for federal and non-federal purposes. This authority is distinct from the notary authority created by each state's laws.

4.2.2. Role of Notary/Consul. A notary/consul acts as an official, unbiased witness to the identity and signature of the person who comes before the notary. A notary has the authority to administer oaths and affirmations. Every notarial act affects the legal rights of others.

4.2.3. The signature of a notary and that person's title and office are prima facie evidence that the notary's signature is genuine, the person holds the designated title, and the person is authorized to perform a notarial act.

4.3. Military Notary Authority. Persons named in this paragraph have the general powers of a notary public and of a consul of the United States in the performance of all notarial acts to be executed for eligible beneficiaries:

4.3.1. All JAGs, including all RC JAGs in any duty status, and whether or not in a duty status.

4.3.2. All civilian attorneys serving as legal assistance attorneys;

4.3.3. All adjutants, assistant adjutants, and personnel adjutants, including reserve members when not in a duty status;

4.3.4. Enlisted paralegals on active duty or performing inactive duty training; and

4.3.5. Other Department of the Air Force members on active duty if all three of the following criteria are met:

4.3.5.1. A commissioned officer or senior non-commissioned officer (holding the rank of Master Sergeant (E-7) or higher);

4.3.5.2. Stationed at a geographically separated unit or remote location without an assigned JAG or qualified paralegal notary; and

4.3.5.3. Appointed in writing by the unit's servicing SJA.

4.3.6. At locations outside the United States, any employee of the Department of the Air Force, including foreign national personnel serving in a legal assistance office and supervised by a legal assistance attorney, who is appointed by the SJA servicing the base.

4.3.7. All civilian paralegals serving at military legal assistance offices, who are supervised by a military legal assistance counsel. A military legal assistance counsel is a person identified in paragraph 4.3.1 or 4.3.2 of this instruction.

4.4. Civilian Employees as State Notaries (Other Than Civilian Legal Assistance Attorneys). SJAs may designate civilian employees to serve as notaries as part of their official

duties if necessary for the provision of legal assistance. A designated civilian employee must qualify as a state notary under the laws of the state where he or she performs notarial duties. **(T-0)**

4.4.1. Designations of employees as state-licensed notaries must be in writing and state reimbursement for expenses is authorized IAW Title 5 U.S.C. § 5945, *Notary Public Commissions Expenses*. **(T-0)** These expenses may not exceed the actual cost of any fees, bonds, seals, perforating devices, and any other expenses actually incurred. Make reimbursements IAW local procedures.

4.4.2. Where an installation has multiple SJAs, each SJA may make this designation for his or her respective command or agency.

4.5. Individuals Eligible to Use Military Notary Services.

4.5.1. Because notary services are considered a form of legal assistance, all individuals defined in [paragraph 2.3](#) of this instruction are eligible for notary services. In addition, the following personnel are eligible for notary services:

4.5.1.1. Persons (including contractors and their dependents) serving with, employed by, or accompanying the armed forces outside the United States, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands; and

4.5.1.2. Department of the Air Force personnel, to include civilian and non-appropriated fund employees, on matters related to their official duties.

4.5.2. Despite eligibility, military and civilian employee notaries may refuse to notarize documents that could create a conflict of interest in their duties as an attorney or paralegal.

4.6. Staff Judge Advocates Must:

4.6.1. Ensure compliance with applicable laws and this instruction regarding the provision of all notarial services within their commands. **(T-0)**

4.6.2. Not allow paralegals to perform notary duties under 10 U.S.C. § 1044a until they have been trained to perform notarial acts as specified by the Career Field Education and Training Plan. **(T-1)**

4.6.3. Ensure when a document requires signatures of multiple persons, only the signatures of those persons eligible for military notary services under 10 U.S.C. §1044a(a) and [paragraph 2.3](#) of this instruction are notarized. **(T-0)**

4.7. Authenticity and Seals. When signing documents in their official capacity under 10 U.S.C. § 1044a, in addition to their name and rank or civilian grade, notaries must specify the notarization date and location and list their title and office. The use of a raised seal or inked stamp citing 10 U.S.C. § 1044a is desirable as it enhances the acceptability of the document notarized; however, it is not required. State notaries must follow the laws of the state for all notarial requirements. **(T-0)**

4.8. Oaths and Affirmations. The U.S.C. authorizes military members to administer oaths and affirmations. SJAs will ensure their staff members are familiar with the following:

4.8.1. 10 U.S.C. § 936(a), *Article 136. Authority to Administer Oaths*, which grants specific people the authority to administer oaths and affirmations for military administration, including military justice; and

4.8.2. 10 U.S.C. § 936(b), which authorizes specific people to administer oaths and affirmations when necessary to perform their duties.

4.8.3. 10 U.S.C. §§ 502 and 1031, which authorize United States Armed Forces commissioned officers to administer oaths of enlistment (§ 502) and oaths of enlistment or appointment in the armed forces (§ 1031).

4.9. Notary Logs. All legal assistance notaries, both military and civilian, shall maintain a personal log of notarial acts performed. The notary log must include the signer's name and signature, type of document, date, and location. Military notaries take their notary logs with them when they have a permanent change of station, except non-judge advocate military notaries, appointed IAW [paragraph 4.3.5](#) of this instruction who will provide their logs to the servicing base SJA upon completing their notary duties. **(T-1)** Military notary logs shall be retained by the member until they separate or retire. **(T-1)** Active Duty members who transition to ARC JA positions shall retain their notary logs until separation/retirement. On separation or retirement, military notaries will leave the notary log at their last duty station. **(T-1)**. The "last duty station" of the retiring/ separating member shall retain military notary log for two years before destroying, unless that member transitions to an ARC JA position. **(T-1)**. Civilian employee notaries must follow the applicable state law regarding retention and disposition of notary logs, or the DAF Records Disposition Schedule. **(T-0)** If state law is silent, civilian employee notaries moving to a new position or location in federal civil service may take their notary logs with them. Retiring civilian employee notaries and those leaving government service will leave their notary logs at their last office of employment. **(T-1)** Civilian notary logs shall be disposed of in accordance with applicable state law; if there is no applicable state law, destroy civilian notary logs after two years or in accordance with the DAF Records Disposition Schedule. **(T-1)**

4.10. Remote and Electronic Notary. Remote and Electronic notaries may not be used, except in the following limited circumstances:

4.10.1. State Notary. A state notary (see [paragraph 4.4](#)) may notarize documents by remote and electronic means in accordance with their State notary laws. The following documents may not be notarized under this paragraph: any estate planning document; any document which expires more than one year from date of execution; and any document which may be used in a different State than the one in which it is executed.

4.10.2. Emergencies. Remote and electronic notaries, under the authority of 10 U.S.C. § 1044a, may be used in emergency situations where in-person notary and a designated notary (see [paragraph 4.3.5](#)) cannot be accomplished.

4.10.2.1. Procedure. Remote/Electronic Notary will be accomplished via recorded live video. Identity of the client will be made via live video (showing ID) and transmission of a copy of client's ID to the notary. Signature of both the notary and client will be accomplished electronically, and the notary must take reasonable steps to confirm that the record before the notary is the same record with respect to which the remotely located client executed a signature.

4.10.2.2. The recording will be saved in accordance with the same rules for notary logs under [paragraph 4.9](#).

4.10.2.3. The following documents may not be notarized under this paragraph: any estate planning document, and any document which expires more than six months from date of

execution. This exception is intended to be used rarely and only in emergency situations when no alternative (e.g. designation under [paragraph 4.4](#)) is available.

Chapter 5

PREVENTIVE LAW PROGRAM

5.1. Overview. This chapter describes guidelines for a legal office to run and maintain an effective preventive law program. Effective preventive law activities require full communication and cooperation among Department of the Air Force legal office staff members, commanders, first sergeants, and base personnel - both uniformed and civilian.

5.2. Purpose. A legal assistance program cannot succeed without a vigorous preventive law program. Educating commanders, first sergeants, servicemembers, and their families on legal issues prevents legal problems and reduces the time and resources needed to resolve legal problems. Preventing legal problems enhances command effectiveness and readiness, especially during periods of mobilization and deployment of personnel.

5.3. Scope. Every base SJA will ensure their office has an active preventive law program. **(T-1)** The SJA implements the program for his or her installation or organization. At joint bases or other installations with multiple SJAs providing legal assistance, the installation commander's SJA may combine resources to implement a consolidated preventive law program. See **paragraph 1.2.7.4** of this instruction.

5.3.1. All attorneys have a responsibility to integrate preventive law messages into legal assistance consultations and base presentations on legal programs. Legal assistance attorneys should maintain vigilance to identify novel legal concerns, such as new consumer scams.

5.3.2. Preventive law programs focus on education and recommend preventive measures in legal areas where the Department of the Air Force has a direct interest in the outcome, as well as areas likely to impact base readiness and morale. Example subject areas for education include:

5.3.2.1. Mobilization and Deployment Preparation. SJAs and their staff will work to educate servicemembers on their personal legal needs to ensure readiness for mobilization and deployment.

5.3.2.2. Commander and First Sergeant Awareness. Commanders and first sergeants play a vital role in highlighting and emphasizing the importance of seeking legal assistance as part of readiness preparations. SJAs and their staff should educate commanders, first sergeants, and staff agency chiefs on the full range of legal services provided by the legal office (not just legal assistance matters) and the advantages to the command or organization of timely use of these legal services.

5.3.2.3. Servicemember and Dependent Awareness. SJAs and their staff should work to identify common legal problems encountered by servicemembers and their families in the subject areas described in **paragraph 2.5** and then develop materials providing information and guidance to minimize exposure to these legal problems. While not authorized for legal assistance under **paragraph 2.5**, other preventative law topics can be addressed for informational purposes (e.g. OCONUS legal offices addressing pertinent host nation laws and customs during in-processing briefs).

5.3.2.4. Servicemembers Civil Relief Act (SCRA), 50 U.S.C. Section 3938a, Notification Requirement. This section of the SCRA requires the Air Force to notify each

servicemember with dependents that he or she is protected under the SCRA against the entry of a child custody court order in the absence of the servicemember and the right to put child custody court cases on hold while the servicemember parent is unavailable due to military service. The notification is required annually and prior to each deployment. **(T-0)**

5.3.2.4.1. AF/JACA will provide the required annual notification to all servicemembers. **(T-0)**

5.3.2.4.2. Staff judge advocates should ensure that servicemembers deploying from their installation are provided the required notification prior to each deployment. **(T-0)**

Chapter 6

TAX ASSISTANCE PROGRAM

6.1. Overview. Tax assistance programs are command programs, separate and distinct from the legal assistance program, designed to provide free tax assistance and filing services for eligible beneficiaries. Although not required, a healthy tax assistance program often involves base volunteers in addition to legal office personnel. When resourced and managed properly, an active, aggressive, well-publicized program can enhance morale and help beneficiaries address some of the unique income tax aspects associated with a military lifestyle.

6.2. Scope. Each installation is distinct in its population, size, mission, and location, all of which directly impact the availability and scope of installation tax assistance programs. As such, installation commanders (or equivalent), in consultation with their servicing SJAs, determine what is best for their installation, including the possibility of not operating a tax assistance program.

6.2.1. When deciding whether to have a tax assistance program and the scope of the program, commanders and SJAs should consider factors such as:

6.2.1.1. Competing mission requirements;

6.2.1.2. Demand for tax services;

6.2.1.3. Available volunteer support;

6.2.1.4. Potential negative impacts on program continuity (e.g., future loss of Internal Revenue Service [IRS] support, volunteer support, and institutional knowledge) if the installation continues the program;

6.2.1.5. Budgetary constraints;

6.2.1.6. Impact on base morale;

6.2.1.7. Availability of IRS software and training support;

6.2.1.8. Availability of free, online filing services and other nearby Volunteer Income Tax Assistance Programs accessible for all beneficiaries; and

6.2.1.9. Availability of other professional filing services near the installation.

6.2.2. Commanders and SJAs for commands serving in a host or supporting role on joint bases are advised to review support agreements for any provisions regarding the tax program.

6.3. Oversight. If the installation commander (or equivalent) decides to have a tax assistance program, SJAs provide program oversight. Consistent with the installation commander's (or equivalent) intent, SJAs supervise and manage these programs at their bases. In doing so, they exercise discretion regarding the scope of assistance provided, the determination of eligible beneficiaries, and the selection of sources of support for training and electronic filing.

6.4. Eligible Beneficiaries. Tax assistance program beneficiaries are those entitled to full legal assistance services under [Chapter 2](#) of this instruction. In consultation with, and consistent with the installation commander's (or equivalent) intent, SJAs can further limit eligible beneficiaries for the tax program. Additionally, SJAs may authorize preparation and electronic filing of tax returns for federal civilian employees, to the extent permitted by the IRS Volunteer Income Tax Assistance Program. In making this determination, SJAs should consider whether the resources

and volunteer support available are sufficient to support the increased demands such an extension of support would entail.

6.5. Reporting. Base legal assistance offices hosting a tax program must file an annual statistics report for their tax assistance programs in the Tax Program Reporting System within FLITE. This reporting requirement does not apply to ANG legal offices. **(T-1)** Do not use WebLIONS to input tax preparation client information or tax program workload. SJAs must ensure interim reports are submitted each year by 15 June for CONUS activities and 15 July for programs based OCONUS. **(T-1)** SJAs must ensure final reports are submitted by 1 February of the next calendar year. **(T-1)**

Chapter 7

EDUCATION LAW LEGAL ASSISTANCE FOR EXCEPTIONAL FAMILY MEMBERS

7.1. Overview. This chapter describes additional instruction, guidance, and procedures for education law legal assistance to Exceptional Family Member (EFM) families. A successful education law legal assistance program relies upon training, reach back to AF/JACA's Education Law Branch for support, and integration with local Exceptional Family Member Program (EFMP) points of contact. Base legal offices provide legal assistance to EFM families, primarily on issues related to special education law.

7.2. Scope.

7.2.1. Legal offices shall provide legal assistance to eligible clients subject to the scope, competence, and general procedures previously described in [Chapter 2](#) and elsewhere in this instruction. **(T-1)**

7.2.2. As authorized in [paragraph 2.2.2.1](#), legal offices shall render assistance pertaining to education law matters involving DoDEA schools.

7.2.3. With the concurrence of the SJA, legal assistance attorneys may attend and represent a client at an Individualized Education Program (IEP) meetings or other educational law administrative meetings. Education due process hearings do not fall under this exception. See [paragraph 2.2.2.9](#) and [2.7](#).

7.3. Education Law Legal Assistance Construct.

7.3.1. AF/JACA's Education Law Branch serves as the primary point of contact for education law legal assistance. In this role, the branch works with base legal offices to accomplish several main tasks:

7.3.1.1. Training. The Education Law Branch provides training on education law topics to legal assistance practitioners. Each base legal office is required to have at least one attorney who has attended AF/JACA's "*Special Education Legal Assistance to EFMP families – foundation training.*" **(T-1)** This training can be accessed through the AFJAGS' CAMPUS site. The training enables practitioners to understand key laws and legal concepts in special education, and to identify critical issues while assisting EFM clients. Legal assistance attorneys are also encouraged to further build competence in education law topics by taking advantage of additional education trainings offered by AF/JACA. Legal assistance attorneys seeking more training should consult CAMPUS, the education law KM site, and other resources provided by the Education Law Branch.

7.3.1.2. Reachback Support. AF/JACA maintains a variety of resources on the Legal Assistance Policy Division KM site and CAMPUS. Where additional support is needed, legal assistance attorneys should reach out to the Education Law Branch as necessary to support education law clients. Provided that an attorney's state bar rules do not prohibit it and with the client's consent, attorneys may share confidential client information with the Education Law Branch when it is appropriate for carrying out the representation—except when the client has explicitly directed that certain information be confined to designated attorneys.

7.3.1.3. Education Law Legal Outreach. As with other areas of the law, Education Law Branch legal assistance capabilities should be included in the base legal office's preventive law program (see [Chapter 5](#)). Legal offices should leverage local EFMP points of contact at their installations to ensure effective outreach to eligible clients. In addition, legal offices should coordinate and partner with EFMP family service coordinators and school liaisons to increase awareness of education law legal services and to provide enhanced client support.

7.3.1.4. Representation in Exceptional Cases. The Education Law Branch may engage in direct client representation in cases where a systemic problem is identified such as an educational agency's chronic non-compliance with state and federal special education laws. Direct client representation by the Branch may also be appropriate based on the nature and content of a specific case and the legal office's ability to assist the client. Base legal offices should reach out to the Branch to discuss cases that might meet this criteria.

MITCHEL NEUROCK
Major General, USAF
Performing the Duties of

The Judge Advocate General

Attachment 1

GLOSSARY OF REFERENCES AND SUPPORTING INFORMATION

References

- 5 U.S.C. § 5945, *Notary Public Commission Expenses*
- 10 U.S.C. § 502, *Enlistment Oath: Who May Administer*
- 10 U.S.C. § 936, *Art. 136, Authority to Administer Oaths*
- 10 U.S.C. § 1031, *Administration of Oath*
- 10 U.S.C. § 1044, *Legal Assistance*
- 10 U.S.C. § 1044a, *Authority to Act as Notary*
- 10 U.S.C. § 1044b, *Military Powers of Attorney: Requirement for Recognition by States*
- 10 U.S.C. § 1044c, *Advance Medical Directives of Members and Dependents: Requirement for Recognition by States*
- 10 U.S.C. § 1044d, *Military Testamentary Instruments: Requirement for Recognition by States*
- 10 U.S.C. § 1588, *Authority to Accept Certain Voluntary Service*
- 10 U.S.C. § 9013, *Secretary of the Air Force*
- 10 U.S.C. § 9037, *Judge Advocate General, Deputy Judge Advocate General: Appointment; Duties*
- 10 U.S.C. § 10211, *Policies and Regulations: Participation of Reserve Officers in Preparation and Administration*
- 10 U.S.C. § 12310, *Reserves: For Organizing, Administering, etc., Reserve Components*
- 10 U.S.C. § 12731, *Age and Service Requirements*
- 18 U.S.C. § 205, *Activities of Officers and Employees in Claims Against Other Matters Affecting the Government*
- 18 U.S.C. § 701, *Official Badges, Identification Cards, Other Insignia*
- 32 U.S.C. § 502, *Required Drills and Field Exercises*
- 32 U.S.C. § 502(f), *Required Drills and Field Exercises*
- 50 U.S.C. § 3901-4043, *Servicemembers Civil Relief Act*
- 5 C.F.R. Part 581 Appendix B, *List of Agents Designated to Facilitate Service of Legal Process on Federal Employees*
- Executive Order 9397, *Numbering System for Federal Accounts Relating to Individual Persons*
- Executive Order 14100, *Advancing Economic Security for Military and Veteran Spouses, Military Caregivers, and Survivors*
- DoDI 1030.02, *Victim and Witness Assistance*, 27 July 2023

DoDI 1215.06, *Uniform Reserve, Training, and Retirement Categories for the Reserve Components*, 11 March 2014

AFPD 51-3, *Civil Law, Acquisition Law, and Litigation*, 28 November 2018

DAFI 51-101, *The Air Force Judge Advocate General's (AFJAG) Corps Operations, Accessions, and Professional Development*, 20 June 2023

DAFI 51-110, *Professional Responsibility Program*, 11 December 2018

AFI 33-322, *Records Management and Information Governance Program*, 23 March 2020

DAFMAN 90-161, *Publishing Processes and Procedures*, 17 Oct 2023

DAFI 36-3026 Volume 1, *Identification Cards for Members of the Uniformed Services, Their Eligible Family Members, and Other Eligible Personnel*, 1 June 2023

Prescribed Forms

DAF Form 1175, *Legal Assistance Record*

Adopted Forms

AF Form 847, *Recommendation for Change of Publication*

Abbreviations and Acronyms

AFI—Air Force Instruction

AFPD—Air Force Policy Directive

AFR—Air Force Reserve

ANG—Air National Guard

DAFI—Department of the Air Force Instruction

DoD—Department of Defense

EDMS—Exceptional Family Member Data/Case Management System

EFM—Exceptional Family Member

EFMP—Exceptional Family Member Program

ELAP—Expanded Legal Assistance Program

FLITE—Federal Legal Information Through Electronics

IAW—In accordance with

IRS—Internal Revenue Service

JACA—Legal Assistance Policy Division

JAG—Judge Advocate General

KM—Knowledge Management

LAWS—Legal Assistance Website

OPR—Office of Primary Responsibility

PCS—Permanent Change of Station

RC—Reserve Component

ROTC—Reserve Officer Training Corps

SCRA—Servicemembers Civil Relief Act

SJA—Staff Judge Advocate

U.S.C.—United States Code

USAF—United States Air Force

USERRA—Uniformed Services Employment and Reemployment Rights Act

WebLIONS—Web-based Legal Information Online System

Terms

Advance medical directive—Any written declaration that 1) sets forth directions regarding the provision, withdrawal, or withholding of life-prolonging procedures, including hydration and sustenance, for the declarant whenever the declarant has a terminal physical condition or is in a persistent vegetative state, or 2) authorizes another person to make health care decisions for the declarant, under circumstances stated in the declaration, whenever the declarant is incapable of making informed health care decisions.

Commercial Enterprise—An organization or venture carried on for profit. When providing legal assistance to landlords, indicators that a servicemember/landlord is engaging in a commercial enterprise and is not just renting out a house due to circumstances (PCS, etc.) include: 1) servicemember owns more than two homes at the PCS location and is renting one out; 2) servicemember owns an apartment building; and 3) servicemember is renting out a house purchased specifically for rental purposes (never lived in the home as a primary residence). The SJA has broad discretion to limit services to landlords due to workload or other factors.

Dependent—For the purposes of legal assistance, the definition of “dependent” is found in DAFI 36-3026, Volume 1 - “An individual whose relationship to the sponsor leads to entitlement to benefits and privileges, including same-sex marriage spouse and their children.”

Dual representation—Both parties consent to allow one attorney to represent both parties. It is usually used for simple legal matters in which both parties share a common interest, such as a married couple creating a last will and testament.

Employment matters—Government or private employment issues, such as hiring decisions, adverse personnel actions (including firing and revocation of security clearances), discrimination, unemployment benefits, workers' compensation, and other such employment matters.

Estate Planning—The continuing process of arranging for the use, conservation, and transfer of one’s property and wealth during life and upon death. The process produces a plan including some or all of the following: a will, military testamentary instrument, a trust, life insurance, an advance medical directive, a healthcare power of attorney, designation of anatomical gifts, and other dispositive documents.

Exceptional Family Member—A family member with ongoing special, medical, or educational needs.

Exceptional Family Member Program (EFMP)—A DoD-wide program that provides special assignment considerations for those military sponsors who have one or more family members with ongoing special medical or educational needs.

Expanded Legal Assistance Program (ELAP)—A program enabling military attorneys to represent clients in court or administrative proceedings.

Inter vivos—Legal term referring to a transfer or gift made during one's lifetime.

Law of War—That part of domestic and international law that regulates the conduct of armed hostilities. It is often called the Law of Armed Conflict or LOAC. The law of war encompasses all international law for the conduct of hostilities binding on the United States or its individual citizens, including treaties and international agreements to which the United States is a party, domestic law implementing those treaties, and applicable customary international law.

Military legal assistance counsel—A military legal assistance counsel is either a JAG or a civilian attorney serving as a legal assistance officer.

Military power of attorney—Any general or special power of attorney notarized in accordance with this 10 U.S.C. Section 1044a or other applicable State or Federal law.

Military testamentary instrument—An instrument prepared with testamentary intent in accordance with this instruction and: 1) is executed in accordance with this instruction by (or on behalf of) a person, who is eligible for military legal assistance; and 2) makes a disposition of his or her property and takes effect upon his or her death. It has the same legal effect as a testamentary instrument prepared and executed in accordance with the laws of the State in which it is presented.

Preventive law—A branch of law that endeavors to minimize the risk of litigation or to secure more certainty as to legal rights and duties.

Quasi-criminal law—A civil proceeding that may result in a penalty akin to a criminal penalty.

Service of process—The procedure by which a party to a lawsuit gives an appropriate notice of initial legal action to another party (such as a defendant), in an effort to exercise jurisdiction over that person to enable that person to respond to the proceeding before the court. Notice is furnished by delivering a set of court documents (called “process”) to the person to be served.

Unconscionable agreement—Describes an agreement with terms that are so extremely unjust, or overwhelmingly one-sided, that they are contrary to good conscience.

Will—A written instrument prepared consistent with State law for an individual to dispose of his or her property upon his or her death. A will is often the principal document in an individual's estate plan.