

PRO BONO LEGAL SERVICES

I. Purpose

This Directive clarifies Department of Homeland Security (DHS) policy on personnel provision of pro bono legal services during normal work hours.

II. Scope

This Directive applies throughout DHS.

III. References and Authorities

- A. Executive Order 12988, "Civil Justice Reform," February 5, 1996.
- B. U.S. Office of Personnel Management (OPM) Memorandum, "Participation of Federal Employees in Volunteer Activities," April 6, 2004, with attached "Guidance on Scheduling Work and Granting Time Off to Permit Federal Employees to Participate in Volunteer Activities."
- C. DHS Directive 254-01, Volunteer Community Service, March 19, 2008.
- D. Memorandum from DHS General Counsel Ivan K. Fong to All OGC Employees, "Pro Bono Legal Services in the Office of the General Counsel," October 4, 2012.

IV. Responsibilities

- A. The **DHS General Counsel**:
 - 1. Provides leadership and support for DHS personnel who provide pro bono legal services.
 - 2. Appoints members of the DHS Pro Bono Committee, including at least one attorney from DHS Office of the General Counsel (OGC) to serve as DHS OGC Pro Bono Coordinator(s) and a representative from each DHS Component's legal office.

B. **Supervisors:**

1. Support DHS personnel who provide pro bono legal services, as statute, regulation, and policy permit.
2. Oversee personnel working hours as appropriate.

V. Policy and Procedures

A. **Policy:**

DHS encourages and supports DHS personnel efforts to provide pro bono legal services within their communities on their own time, and consistent with applicable federal statutes and regulations governing conflicts of interest and outside activities. This entails a recognition of the need for certain human capital flexibilities, as outlined in the procedures below.

B. **Procedures:**

1. Supervisors should use existing human capital flexibilities in scheduling work hours and time off for personnel to engage in pro bono legal services. Supervisors should also consider the effect of the personnel absence or change in duty schedule on work operations and productivity.
2. Supervisors consider any applicable collective bargaining agreements when determining the appropriate personnel scheduling to allow for participation in pro bono legal services. Consistent with applicable bargaining agreements, regulations, and directives, supervisors may consider the following options:
 - a. **Alternative Work Schedules:** Supervisors may establish flexible and compressed work schedules for their personnel who wish to provide pro bono legal services during normal work hours. Personnel may use credit hours to participate in pro bono legal services under a flexible work schedule, with supervisor approval.
 - b. **Annual Leave/Compensatory Time Off:** Supervisors should be as accommodating as possible when considering requests for annual leave or compensatory time off from personnel who wish to provide pro bono legal services.
 - c. **Leave Without Pay (LWOP):** Supervisors, in their discretion, may grant LWOP to their personnel who wish to provide pro bono legal services during normal work hours.

d. **Excused Absence (Administrative Leave)**: Supervisors, in their discretion, may grant up to 40 hours of administrative leave each leave year for personnel to provide pro bono legal services that cannot take place outside of normal work hours, so long as the personnel absence and pro bono activity are not prohibited by law or an applicable collective bargaining agreement, and the pro bono activity satisfies one or more of the following criteria:

- i. The pro bono activity directly relates to the DHS mission;
- ii. “ The DHS Secretary or a DHS Component Head sponsors or sanctions the pro bono activity;
- iii. “ The pro bono activity clearly enhances the personnel’s professional development or skills in his or her current position; or
- iv. “ The pro bono activity is brief and is determined to be in the interest of DHS.

In general, providing pro bono legal services enhances DHS personnel’s professional development and skills, and is in the interest of DHS.

3. This Directive relates to scheduling matters, and does not establish or modify other agency policy with respect to pro bono legal services, including outside employment approval procedures.

VI. Questions

Address any questions or concerns regarding this Directive to the Chief of Staff, Office of the General Counsel.



Chip Fulghum
Deputy Under Secretary for Management and
Chief Financial Officer

1/19/2017

Date