



Department of Defense

DIRECTIVE

NUMBER 5145.04

April 16, 2012

DA&M

SUBJECT: Defense Legal Services Agency (DLSA)

References: See Enclosure 1

1. PURPOSE. This Directive reissues DoD Directive (DoDD) 5145.4 (Reference (a)) to update the mission, responsibilities and functions, organization and management, relationships, authorities, and administration of the DLSA, pursuant to the authority vested in the Secretary of Defense by sections 113, 191, and 192 of title 10, United States Code (U.S.C.) (Reference (b)).

2. APPLICABILITY

a. This Directive applies to OSD, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the DoD (hereinafter referred to collectively as the "DoD Components").

b. The provisions of subparagraphs 6.f.(6) and 6.f.(7) of this Directive also apply to the U.S. Coast Guard at all times, including when it is a service in the Department of Homeland Security, the Commissioned Corps of the Public Health Service, and the Commissioned Corps of the National Oceanic and Atmospheric Administration, in accordance with Office of Management and Budget Memorandum (Reference (c)).

3. MISSION. The DLSA shall provide legal advice, services, and support to the Defense Agencies, DoD Field Activities, and, as assigned, other organizational entities within the DoD; administer the DoD Standards of Conduct Program; support and assist the Assistant Secretary of Defense for Legislative Affairs (ASD(LA)) in developing the DoD Legislative Program; oversee DoD personnel security processes as authorized by DoDD 5145.3 (Reference (d)) and in accordance with applicable issuances, including DoD Instruction (DoDI) 5220.22 (Reference (e)), DoDD 5200.02 (Reference (f)) and DoD 5200.2-R (Reference (g)); and provide fair and impartial administrative procedures through the Defense Office of Hearings and Appeals (DOHA).

4. DEFINITIONS. See Glossary.

5. ORGANIZATION AND MANAGEMENT

a. The DLSA is established as a Defense Agency, under the authority, direction, and control of the General Counsel of the Department of Defense (GC DoD), who shall serve as the Director, DLSA.

b. The DLSA shall consist of the Director and such subordinate organizational elements as are established by the Director within resources assigned by the Secretary of Defense. It shall also include the legal staffs assigned to the other Defense Agencies, the DoD Field Activities, and other comparable organizations to which attorneys are assigned (excluding the Office of the GC DoD, the Office of the General Counsel to the Inspector General of the Department of Defense, the Office of the Legal Counsel to the Chairman of the Joint Chiefs of Staff, the Military Departments, and the Combatant Commands).

6. RESPONSIBILITIES AND FUNCTIONS. The Director, DLSA, shall:

a. Organize, direct, and manage the DLSA and all its assigned resources.

b. Provide legal advice and services for the Defense Agencies, DoD Field Activities, and other assigned organizations.

c. Provide legal advice and assistance to the ASD(LA) in developing the DoD Legislative Program for each session of a Congress.

d. Jointly develop, with affected offices of primary responsibility, coordinate, and approve DoD positions on Presidential Executive orders and proclamations.

e. Develop DoD policy for standards of conduct and administer the Standards of Conduct Program for OSD and other assigned organizations.

f. Establish, organize, staff, and support the DOHA to provide administrative procedures involving fair and impartial decision making, including, but not limited to:

(1) Adjudicating, issuing statements of reasons, conducting hearings, and issuing decisions in personnel security clearance cases for contractor personnel doing classified work for DOHA-serviced DoD Components and other Federal agencies and departments.

(2) Conducting personal appearance hearings and issuing decisions in security clearance and sensitive national security position cases for DOHA-serviced DoD civilian employees and military personnel serviced by DOHA, in accordance with Reference (g).

(3) Adjudicating, issuing statements of reasons, conducting hearings, and issuing decisions in cases under DOHA jurisdiction requiring trustworthiness decisions for contractor performance of sensitive duties.

(4) Conducting hearings and issuing decisions in cases involving disputes over the provision of special educational services by the DoD Education Activity or the provision of early intervention or related services by the other DoD Components.

(5) Conducting hearings and issuing decisions in cases involving TRICARE payment for medical services.

(6) Issuing appeal decisions for claims involving uniformed service member (within and outside of the DoD) pay and allowances, unused leave, transportation, travel, retired pay, survivor's benefits, and other financial claims.

(7) Issuing initial and appeal decisions granting or denying waivers of collection of overpayments made to, or on behalf of, uniformed service members (within and outside of the DoD) and employees within the DoD.

(8) Coordinating and monitoring policies and procedures pertaining to DoD alternative dispute resolution (ADR) activities and conflict management within the DoD; and serving as a source of training and obtaining and providing third-party neutrals for ADR.

(9) Performing such further missions as may be assigned to the DOHA, including, but not limited to, the conduct of hearings and issuance of decisions for revocation of DoD credentials to non-cleared contractors pursuant to Homeland Security Presidential Directive 12 (Reference (h)).

(10) Providing legal advice and services for assigned organizations, as deemed necessary and appropriate, through the DOHA Department Counsel.

g. Serve on boards, committees, and other groups concerned with DLSA matters, and represent the Secretary of Defense on DLSA matters outside the DoD.

h. Promote coordination, cooperation, and mutual understanding within the DoD, other Federal agencies, and the public concerning DLSA matters.

i. Design and manage DLSA programs and activities to improve performance standards, economy, and efficiency and demonstrate DLSA attention to the requirements of its organizational clients, both internal and external to the DoD, consistent with the requirements of the Secretary of Defense Biennial Review of Defense Agencies and DoD Field Activities.

j. Perform such other duties as the Secretary or Deputy Secretary of Defense may prescribe.

7. RELATIONSHIPS

a. In the performance of assigned responsibilities and functions, the Director, DLSA, shall:

(1) Use existing systems, facilities, and services of the DoD and other Federal agencies, when possible, to avoid duplication and to achieve maximum efficiency and economy.

(2) Coordinate and exchange information with the OSD Principal Staff Assistants (PSAs) and Heads of the other DoD Components having collateral or related responsibilities and functions.

(3) Maintain appropriate liaison with the other DoD Components, other Government agencies, and foreign governmental and private sector organizations for the exchange of information and programs in the field of assigned responsibilities.

(4) Receive support from the Military Departments and other DoD Components within their respective fields of responsibility to assist in carrying out the assigned responsibilities and functions of the DLSA.

(5) Provide authority, direction, and control, including professional supervision, for DLSA attorneys serving in Defense Agencies, DoD Field Activities, and other organizations to which such attorneys are assigned. This includes, without limitations, in consultation with the DoD Component Head concerned, evaluation of their performance or other actions that may be necessary based on professional performance, including but not limited to awards, promotions, transfers and reassignments, training and professional development, and disciplinary or adverse actions, pursuant to section 140 of Reference (b) and in accordance with DoDI 1442.02 (Reference (i)).

b. The OSD PSAs and Heads of the other DoD Components shall:

(1) Support the DLSA within their respective fields of responsibility in the execution of the DLSA mission, capabilities, and functions, in accordance with applicable DoD issuances.

(2) Coordinate with the Director, DLSA, on all matters under their purview related to the responsibilities and functions assigned to the Director, DLSA.

8. AUTHORITIES. The Director, DLSA, as necessary to carry out assigned responsibilities and functions, is specifically delegated authority to:

a. Communicate directly with the Heads of the other DoD Components, including the transmission of requests for advice and assistance. Communications to the Military Departments shall be transmitted through the Secretaries of the Military Departments, their designees, or as otherwise provided in law or directed by the Secretary of Defense in other DoD issuances. Communications to the Commanders of the Combatant Commands normally shall be transmitted through the Chairman of the Joint Chiefs of Staff.

b. Communicate with other Government officials, representatives of the Legislative Branch, members of the public, and representatives of foreign governments. Communications with representatives of the Legislative Branch shall be coordinated with the ASD(LA) or the Under Secretary of Defense (Comptroller)/Chief Financial Officer, Department of Defense, as appropriate, and be consistent with the DoD Legislative Program.

c. Obtain reports and information, in accordance with DoDI 8910.01 (Reference (j)).

d. Prescribe procedures, standards, and practices governing the execution of assigned responsibilities and functions.

e. Exercise the administrative authorities contained in Enclosure 2.

9. ADMINISTRATION

a. The appointment of personnel to the DLSA shall be subject to the approval of the Director, DLSA.

b. The Military Departments shall assign military personnel to the DLSA in accordance with approved authorizations and procedures for assignment to joint duty.

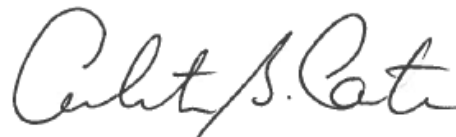
c. Budgeting, management of ceiling spaces, personnel services, and other administrative support for DLSA personnel shall be the responsibility of the Defense Agency, DoD Field Activity, or other organization to which those personnel are assigned, in accordance with Reference (i).

10. RELEASABILITY. UNLIMITED. This Directive is approved for public release and is available on the Internet from the DoD Issuances Website at <http://www.dtic.mil/whs/directives>.

11. EFFECTIVE DATE

a. This Directive is effective upon its publication to the DoD Issuances Website.

b. If this Directive is not otherwise reissued or cancelled in accordance with DoD Instruction 5025.01 (Reference (k)), it will expire effective April 16, 2022 and be removed from the DoD Issuances Website.



Ashton B. Carter
Deputy Secretary of Defense

Enclosures

1. References
2. Delegations of Authority

Glossary

ENCLOSURE 1

REFERENCES

- (a) DoD Directive 5145.4, "Defense Legal Services Agency," December 15, 1989 (hereby cancelled)
- (b) Sections 113, 140, 191, and 192 of title 10, United States Code
- (c) Office of Management and Budget Memorandum, "Determination With Respect to Transfer of Functions Pursuant to Public Law 104-53," June 28, 1996¹
- (d) DoD Directive 5145.3, "Surveillance of the DoD Security Programs," October 19, 1962
- (e) DoD Instruction 5220.22, "National Industrial Security Program (NISP)," March 18, 2011
- (f) DoD Directive 5200.2, "DoD Personnel Security Program," April 9, 1999
- (g) DoD 5200.2-R, "Personnel Security Program," January 1, 1987
- (h) Homeland Security Presidential Directive 12, "Policies for a Common Identification Standard for Federal Employees and Contractors," August 27, 2004
- (i) DoD Instruction 1442.02, "Personnel Actions Involving Civilian Attorneys," September 30, 2010
- (j) DoD Instruction 8910.01, "Information Collection and Reporting," March 6, 2007
- (k) DoD Instruction 5025.01, "DoD Directives Program," October 28, 2007
- (l) Joint Publication 1-02, "Department of Defense Dictionary of Military and Associated Terms," current edition

¹ Available at http://www.whitehouse.gov/omb/foia_transfer_gao_auth/.

ENCLOSURE 2

DELEGATIONS OF AUTHORITY

Pursuant to the authority vested in and subject to the authority, direction, and control of the Secretary of Defense, and in accordance with DoD policies and issuances, the Director, DLSA, or in the absence of the Director, the person acting for the Director, is hereby delegated authority, as required for DLSA administration and operation, to:

a. Enforce regulatory procedures pursuant to Executive Order (E.O.) 10450; E.O. 10865, as amended; E.O. 12333, as amended; E.O. 12968, as amended; E. O.13467; E.O. 12829; and in accordance with Reference (e), Reference (f), and DoDD 5220.6, as appropriate, and:

(1) Designate any position in the DLSA as sensitive.

(2) Authorize, in an emergency, the appointment of a person to a sensitive position in the DLSA for a limited time even though an appropriate security investigation has not been completed.

(3) Initiate personnel security investigations and, if necessary, in the interest of national security, suspend access to classified information for personnel assigned or employed by the DLSA. Any action under this subparagraph shall be taken in accordance with procedures described in Reference (g).

b. Authorize, set, or approve:

(1) The regularly scheduled administrative workweek, alternative work schedules, and telework arrangements for DLSA civilian employees in billets assigned or detailed to the DLSA in accordance with mission requirements of DLSA organizational activities. However, this delegation does not include administrative functions related to routine timekeeping for DLSA employees working in General Counsel Offices of the Defense Agencies and the DoD Field Activities.

(2) Temporary duty travel for military personnel assigned or detailed to the DLSA, in accordance with the Joint Federal Travel Regulations, Volume 1.

(3) Official travel for DLSA civilian personnel in billets assigned or detailed to the DLSA, in accordance with the Joint Travel Regulations, Volume 2.

(4) Overtime work for DLSA civilian personnel in billets assigned or detailed to the DLSA, pursuant to chapter 55, subchapter V of title 5, U.S.C., and applicable Office of Personnel Management regulations.

(5) Funds available for travel by military personnel assigned or detailed to the DLSA for expenses incident to attendance at meetings of technical, scientific, professional, or other similar

organizations in such instances when the approval of the Secretary of Defense is required by section 412 of title 37, U.S.C., and sections 4110 and 4111 of title 5, U.S.C.

c. Develop, establish, and maintain an active and continuing Records Management Program, pursuant to section 3102 of title 44, U.S.C., and in accordance with DoDD 5015.2.

d. Use the Government purchase card for making appropriate purchases of material and services, other than personal services, for the DLSA when it is determined to be more advantageous and consistent with the best interests of the Government.

e. Authorize the publication of advertisements, notices, or proposals in newspapers, magazines, or other public media, as required for effective DLSA administration and operation, pursuant to section 3702 of title 44, U.S.C.

f. Establish and maintain, for the functions assigned, an appropriate publications system for common supply and service regulations, instructions, and reference documents, and changes thereto, in accordance with the policies and procedures prescribed in DoDI 5025.01.

g. Enter into support and service agreements with the Military Departments, other DoD Components, or other Government agencies, as required, for the effective performance of DLSA functions and responsibilities.

h. As necessary, use advisory committees and employ temporary or intermittent experts or consultants, as approved by the Secretary of Defense or the Director of Administration and Management, in support of DLSA functions pursuant to section 173 of title 10, U.S.C.; section 3109(b) of title 5, U.S.C.; appendix 2 of title 5, U.S.C. (also known as "The Federal Advisory Committee Act of 1972, as amended"); and in accordance with DoDI 5105.04 and DoDI 5105.18.

i. Enter into and administer contracts, directly or through a Military Department, a DoD contract administration services component, or other Federal agency, as appropriate, for supplies, equipment, and services required to accomplish the DLSA mission. To the extent that any law or Executive order specifically limits such authority to persons at the secretarial level of a Military Department, such authority shall be exercised by the General Counsel of the Department of Defense.

j. Redelegate these authorities as appropriate, and in writing, except as otherwise restricted in this enclosure or by law, Executive order, or regulation.

GLOSSARY

PART I. ACRONYMS AND ABBREVIATIONS

| | |
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| ADR | alternative dispute resolution |
| ASD(LA) | Assistant Secretary of Defense for Legislative Affairs |
| DLSA | Defense Legal Services Agency |
| DOHA | Defense Office of Hearings and Appeals |
| DoDD | DoD Directive |
| DoDI | DoD Instruction |
| E.O. | Executive order |
| GC DoD | General Counsel of the Department of Defense |
| PSA | Principal Staff Assistant |
| U.S.C. | United States Code |

PART II. DEFINITIONS

uniformed services. Defined in Joint Publication 1-02 (Reference (1)).