

**MEMORANDUM CIRCULAR  
NO. 02  
Series of 2010**

**AMENDING SECTIONS 3, 4, and 5, ARTICLE II OF MEMORANDUM CIRCULAR  
NO. 18, S. 2002 (Amended Standard Office Procedures in Extending Legal Assistance)**

Pursuant to the provisions of Republic Act (RA) No. 9406 enacted by Congress and approved by Her Excellency President Gloria Macapagal-Arroyo on March 23, 2007 and its Implementing Rules and Regulations dated July 14, 2008, this Circular hereby amends Sections 3, 4 and 5, Article II, Memorandum Circular (MC) No. 18, Series of 2002,<sup>1</sup> dated May 9, 2002, issued by the Chief Public Attorney.

SEC. 1 - The Indigency Test set forth in Section 3, Article II, MC No. 18, S. 2002, is hereby amended to read as follows:

*“Sec. 3. Indigency Test. – Taking into consideration recent surveys<sup>2</sup> on the amount needed by an average Filipino family to (a) buy its “food consumption basket” and (b) pay for its household and personal expenses, the following applicant shall be considered as an indigent person:*

- 1. If residing in Metro Manila, whose net income does not exceed Php14,000.00<sup>3</sup> a month;*
- 2. If residing in other cities, whose net income does not exceed Php13,000.00<sup>4</sup> a month;*
- 3. If residing in other places, whose net income does not exceed Php 12,000.00<sup>5</sup> a month.*

*The term “net income” as herein employed shall be understood to refer to the income of the litigant less statutory deductions.*

*Statutory deductions shall refer to withholding taxes, GSIS, SSS, Pag-Ibig, Health Insurance and Philhealth premiums as well as mandatory deductions.*

*For purposes of this Section, ownership of land shall not per se constitute a ground for disqualification of an applicant for free legal assistance in view of the ruling*

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<sup>1</sup> Amending Memorandum Circular No. 5, Series of 1997 signed by the then Chief Public Attorney Reynold S. Fajardo

<sup>2</sup> Annual Per Capita Poverty Thresholds by Province, preliminary estimates as of 02 March 2007, National Statistical Coordination Board (NSCB); Figures are based on the basic needs of a family of 5.  
The Annual Per Capita Income required or the amount to be spent to satisfy nutritional requirements (2,000 calories) and other basic needs.

<sup>3</sup> National Statistical Coordination Board (NSCB) data for NCR based on the Annual Per Capita Poverty Thresholds by Province for 2006 - 2007

<sup>4</sup> National Statistical Coordination Board (NSCB) data for Urban Areas based on the Annual Per Capita Poverty Thresholds by Province for 2006 – 2007

<sup>5</sup> National Statistical Coordination Board (NSCB) data for Rural Areas based on the Annual Per Capita Poverty Thresholds by Province for 2006 – 2007

*in Juan Enaje vs. Victorio Ramos, et al. (31 SCRA 141, G.R. No. L-22109, January 30, 1970) that the determinative factor for indigency is the income of the litigant and not his ownership of real property.*

*To ensure that only those qualified shall be extended free legal assistance, the applicant shall be required to execute an Affidavit of Indigency and to submit any of the following documents:*

- 1. Latest Income Tax Return or pay slip or other proofs of income; or*
- 2. Certificate of Indigency from the Department of Social Welfare and Development, its local District Office, or the Municipal Social Welfare and Development Office having jurisdiction over the residence of the applicant; or*
- 3. Certificate of Indigency from the Barangay Chairman having jurisdiction over the residence of the applicant.*

*PAO lawyers and personnel shall exercise diligence in ascertaining the indigency qualification of said applicant/s.*

SEC. 2 - The list of cases which may be provisionally accepted by PAO lawyers as set forth under Section 4, Article II, MC No. 18, S. 2002, is hereby amended to read as follows:

*“Sec. 4. Cases Which May be Provisionally Accepted. – PAO lawyers may accept or handle cases provisionally, pending verification of the applicant’s indigency and an evaluation of the merit of his/her case in the following instances:*

- 1. When a warrant of arrest has been issued and assistance is needed in filing a Motion to Post Bailbond or Reduction thereof for his/her provisional liberty;*
- 2. When a person is arrested and/or detained, and appropriate immediate legal action is necessary to protect his/her rights (Sec. 3, Art. 2, MC No. 003, S.2008)<sup>6</sup>;*
- 3. When a pleading has to be filed immediately to avoid adverse effects to the applicant;*

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<sup>6</sup> **Sec. 3, Art. 2, MC NO. 003, S. 2008 (Guideline to be Observed by Public Attorneys in Handling Criminal Cases Pursuant to the Provisions of the Speedy Trial Act (R.A. 8493) and Its Implementing Rules (S.C. Circular No. 38-98) – Duties Where Accused is Detained.** – If the Public Attorney knows that a person charged of a crime is detained, either because he/she is charged of a bailable crime but has no means to post bail, or is charged of a non-bailable crime, or is serving a term of imprisonment in any penal institution, the Public Attorney shall:

- a. File a Motion manifesting that the detainee/prisoner demands arraignment/trial and, for this purpose, that the custodian of the detainee/prisoner be ordered to bring the detainee/prisoner to the court, from time to time as ordered;
- b. Upon receipt of notice from the custodian that he/she has in his/her custody a detainee/prisoner who demands trial, the public attorney shall file a Motion that said detainee/prisoner be brought to the court for arraignment/trial.

4. *When an appeal or petition for certiorari or prohibition has to be perfected or filed immediately;*
5. *When the PAO lawyer is appointed by the court as counsel de oficio to represent the defendant during the trial of the case, provided, however, that if a subsequent investigation discloses that the client is not an indigent, the lawyer should respectfully request the court to relieve him/her by filing a Motion for Withdrawal of Appearance from the case;*
6. *When the PAO lawyer is designated on the spot as counsel de oficio for the purpose only of arraignment, pre-trial or promulgation of decision;*
7. *In cases involving violence against women and their children under Republic Act No. 9262<sup>7</sup>, where immediate preparation and filing of pleading/s is necessary to avoid adverse effects to the victims, except when there is conflict of interest (Sec. 2, Art. IV, MC No. 08, S. 2007)<sup>8</sup>;*
8. *In cases involving Children In Conflict with the Law (CICLs), where there is an immediate need of counsel (Sec. 2, Art. IV, MC No. 07, S. 2007)<sup>9</sup>;*
9. *In cases involving credit card holder/s considered as “delinquent” by the credit card company, and immediate action is necessary; and*
10. *Cases which require provisional assistance pursuant to Section 3 of R.A. 9406 (Section 14-A Chapter 5, Title III, Book IV of Executive Order No. 292, otherwise known as the “Administrative Code of 1987”), to wit:*

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<sup>7</sup> **Sec. 13, RA 9262 – Legal Representation of Petitioners for a Protection Order.** – If the woman or her child requests in the application for a protection order for the appointment of counsel because of lack of economic means to hire a *counsel de parte*, the court shall immediately direct the Public Attorney’s Office (PAO) to represent the petitioner in the hearing of the application. If the PAO determines that the applicant can afford to hire the services of a *counsel de parte*, it shall facilitate the legal representation of the petitioner by a *counsel de parte*. The lack of access to family or conjugal resources by the applicant, such as when the same are controlled by the perpetrator, shall qualify the petitioner to legal representation by the PAO.

**Sec. 35(b), RA 9262 – Rights of Victims.** – In addition to their rights under existing laws, victims of violence against women and their children shall have the following rights: xxx

(b) to avail of legal assistance from the PAO of the Department of Justice (DOJ) or any public legal assistance office; x x x

<sup>8</sup> **Sec. 2, Art. IV, MC No. 08, S. 2007 (Standard Office Procedures in Extending Legal Assistance to Women and their Children Subjected to Violence under RA 9262 and Other Related Laws) – Provisional Legal Assistance** – Pending verification on the applicant’s indigency and evaluation of the merit of her/his case, the Public Attorney’s Office may provide legal assistance to women and their children who are victims of violence in cases where a pleading has to be filed immediately to avoid adverse effects to the applicant, except when the same would give rise to conflict of interest.

When at anytime, during the hearing of the application for protection order, the Public Attorney finds the petitioner/applicant is not qualified for PAO legal assistance, he/she should be referred to any other public and/or free legal aid organization and/or be duly advised to retain the services of a counsel of his/her own choice.

<sup>9</sup> **Sec. 2, Art. IV, Mc No. 07, S. 2007 (Standard Office Procedure in Extending Legal Assistance to Children in Conflict with the Law under RA 9344 and Other Related Laws) – Provisional Legal Assistance** – Pending the qualification on the Merit and Indigency Tests, the Public Attorneys shall provide legal assistance to CICLs in the following instances:

- a) When placed under detention or otherwise deprived of liberty, and is in immediate need of counsel;
- b) When placed under custodial investigation without the assistance of a member of the BAR;
- c) When the Public Attorney is designated, as counsel *de oficio* for purposes of arraignment , pre-trial, or promulgation of decision and suspension of sentence; and
- d) Other cases of similar nature.

*“SEC. 14-A. Powers and Functions. – The PAO shall independently discharge its mandate to render, free of charge, legal representation, assistance and counselling to indigent persons in criminal, civil, labor, administrative and other quasi-judicial cases. In the exigency of the service, the PAO may be called upon by proper government authorities to render such service to other persons, subject to existing laws, rules and regulations.” (emphasis supplied)*

*11. Other similar urgent cases.*

SEC. 3 - The list of persons qualified for assistance pursuant to existing Memorandum of Agreements (MOAs) and Department of Justice (DOJ) Directives, as set forth under Section 5, Article II, MC No. 18, S. 2002, is hereby amended to read as follows:

*“Sec. 5. Persons Qualified for Legal Assistance Pursuant to Memorandum of Agreements, Department of Justice Directives and special laws are as follows:*

- 1. Department of Agrarian Reform lawyers against whom criminal and administrative complaints have been filed for acts in connection with the performance of their official duties (Directive of the Minister of Justice);*
- 2. Farmer-beneficiaries of the Agrarian Reform Law,*
  - (a) in agrarian-related civil or criminal cases pending before the courts and*
  - (b) in cases against fellow beneficiaries pending before the courts or the Department of Agrarian Reform Adjudication Board (DARAB) where one of the parties is already represented by a lawyer from the Department of Agrarian Reform (Memorandum of Agreement, dated May 8, 1991, between DAR and DOJ);*
- 3. Indigent laborers in meritorious labor cases (Memorandum Order of the Secretary of Justice, dated May 19, 1988);*
- 4. Indigent aliens (2<sup>nd</sup> Indorsement of the Undersecretary of Justice, dated March 25, 1974)<sup>10</sup>;*
- 5. Qualified overseas contract workers in all cases within the original and exclusive jurisdiction of the Philippines Overseas Employment*

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<sup>10</sup> **Pertinent portion of the 2<sup>nd</sup> Indorsement of the Undersecretary of Justice** – “x x x the undersigned finds well-taken the conclusion, and the reasons therefore, reached by the Legal Research and Statistics Division of that Office to the effect that the services of that Office may be extended to indigent aliens. Nonetheless, considering its limited facilities and personnel, that office is directed to adopt the policy of giving preference to deserving citizens in extending its legal services; x x x”

*Administration (Memorandum of Agreement between PAO, DOLE, POEA, OWWA and some NGOs, dated April 2, 1993);*

6. *Barangay Health Workers (Sec. 16, Rule II, and Part 5, Rule VII of the Implementing Rules and Regulations of Republic Act No. 7883);*
7. *Department of Social Welfare and Development in the filing of petitions for the involuntary commitment of minors, as well as the filing of petitions for the declaration that a child is abandoned or neglected (Directive of Minister of Justice Neptali Gonzales, dated February 10, 1987);*
8. *Members of the Association of Local Social Welfare and Development Officers of the Philippines, Incorporated (ALSWDOPI) in criminal and administrative complaints/cases related to or in connection with the exercise of their profession or performance of duties, unless there is a conflict of interest or when a member does not qualify under the PAO's Indigency Test, in which case, a provisional assistance shall be afforded to him/her (Memorandum of Agreement between the ALSWDOPI and the Public Attorney's Office, dated August 27, 2009)<sup>11</sup>;*
9. *Qualified Print and Broadcast Media Practitioners, as well as their staff and crew, who are harassed into incarceration (Memorandum Circular No. 01, S. 2009, dated January 5, 2009 in relation to Memorandum of Agreement between the National Press Club (NPC) and PAO dated May 29, 2009);*
10. *Dangerous Drugs Board, its authorized representatives and drug offenders, in the filing of petitions for voluntary confinement, except when there is conflict of interest (Memorandum of Agreement between the Dangerous Drugs Board and the Public Attorney's Office, dated July 15, 2008)<sup>12</sup>;*
11. *Filipino complainants against foreigners for violations of immigration, alien registration and other local laws; respondent foreigners in deportation cases; Bureau of Immigration clients in the notarization of applications; and such other legal services assigned by the Commissioner (Memorandum of Agreement between the Bureau of Immigration and the Public Attorney's Office, dated February 4, 2009)<sup>13</sup>*

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<sup>11</sup> **Par. No. 2 (Memorandum of Agreement, dated August 27, 2009)** – However, where the member concerned does not qualify as an indigent in accordance with the PAO's Indigency Test, the PAO shall nonetheless, render provisional assistance and temporary service to the same on urgent matters; such as, where a warrant for the arrest of the applicant has been issued, where a pleading has to be filed immediately to avoid adverse effects and other similar cases. Said member is, however, urged to secure immediately the services of his/her private counsel.

<sup>12</sup> **Par. B (Memorandum of Agreement, dated July 15, 2008) Duties and Responsibilities of PAO –**

1. To act as counsel for petitions on voluntary confinement filed by DDB, and by DDB authorized representatives, except when there is conflict of interest;
2. Provide legal assistance to drug offenders regarding cases involving Voluntary Confinement as referred by the DDB;
3. Provide legal assistance to children charged under Republic Act No. 9165;
4. Provide list of duty inquest lawyers who may be called upon to assist drug offenders;
5. Submit periodic accomplishment reports to the DDB of its work activities under this AGREEMENT;
6. Recommend measures or strategies to enhance the implementation of this AGREEMENT.

<sup>13</sup> **Par. 3 (Memorandum of Agreement, dated February 4, 2009)** – The detailed Public Attorneys shall be under the Office of the

12. *Members of the Press Photographers of the Philippines (PPP) under investigation for a complaint or on trial for a case, including cases under inquest proceedings, related to or in connection with the exercise of profession or performance of duties, and to the families of PPP members who are victims of media killings (Memorandum of Agreement between the Press Photographers of the Philippines and the Public Attorney's Office, dated May 25, 2009)*<sup>14</sup>;
13. *Officials of the Philippine National Police holding the ranks of Police Officer I (POI) to Senior Police Officer 4 (SPO4) when sued in the performance of their police duties (DOJ Department Circular No. 78, dated October 26, 2009 and Memorandum, dated November 9, 2009)*<sup>15</sup>.

SEC. 4. – All circulars and memoranda or any portion thereof inconsistent herewith, are hereby repealed or modified accordingly.

SEC. 5 – This Memorandum Circular shall take effect immediately.

Quezon City, Metro Manila  
January 27, 2010

**(Sgd.) PERSIDA V. RUEDA-ACOSTA**  
Chief Public Attorney

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Commissioner and shall perform work assignments upon the directive of the Commissioner, which include, but not limited to, the following:

- a. To render legal counsel or representation to Filipino complainants against foreigners for violations of immigration, alien registration and other local laws who are without counsel or cannot afford such counsel;
- b. To render legal counsel or representation to detained foreigners who are respondents in deportation cases who are likewise without counsel or cannot afford one;
- c. To extend notarial services to BI clients whose transactions require notarization of applications, documents and other papers; and
- d. To perform such other legal services which the Commissioner may assign from time to time.

<sup>14</sup> **(Memorandum of Agreement, dated May 25, 2009) –**

1. Where a member of the PPP is under investigation for a complaint or on trial for a case, related to or in connection with the exercise of his/her profession or performance of his/her duties as such, and is in need of legal assistance, the member concerned, upon endorsement by the PPP, may request for legal assistance from the PAO;
2. The PAO shall provide, subject to its merit and indigency tests, the appropriate legal representation, assistance and/or counseling to such member of the PPP including inquest proceedings;
3. The PAO shall likewise provide legal assistance subject to its merit and indigency tests, to the PPP or its members concerned, who are complainants or complaining witnesses in cases related to or in connection with the exercise of their profession or performance of their duties, as such;
4. The same legal assistance shall be provided to the families of the PPP members who are victims of media killings;
5. Where the member concerned does not qualify as an indigent in accordance with the PAO's indigency test, the PAO shall, nonetheless, render provisional assistance and temporary service to the same until a private counsel shall have been engaged by the latter. Said member is, however, urged to secure immediately the services of his/her private counsel; xxx

<sup>15</sup> **DOJ Department Circular No. 78 – Legal Assistance to Certain Police Officials of the Philippine National Police** - In the interest of the service and pursuant to the provisions of existing laws, the Public Attorney's Office (PAO), through its Chief Public Attorney, Hon. Persida Rueda-Acosta, is hereby directed to render free legal assistance, within the limits prescribed by law, to the officials of the Philippine National Police (PNP) holding the rank of Police Officer I (POI) to Senior Police Officer 4 (SPO4), in all cases where these officials are sued in the performance of their police duties.

**WE**, the undersigned officials of the **PUBLIC ATTORNEY'S OFFICE (PAO)**, pursuant to existing laws, rules and regulations, do hereby ratify Memorandum Circular No.002, series of 2010, **Amending Sections 3, 4 and 5, Article II of Memorandum Circular No. 18, series of 2002**, on the occasion of the Public Attorney's Office Management Strategies and Core Planning Seminar with Regional Public Attorneys and Senior Officials held on January 25-27, 2010 at Bayview Park Hotel Manila.

Done at the City of Manila, January 27, 2010.

**(Sgd.) Atty. Cynthia M. Vargas**  
OIC, NCR

**(Sgd.) Atty. Frisco F. Domalsin**  
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**(Sgd.) RPA Tomas B. Padilla**  
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**(Sgd.) RPA Salvador S. Hipolito**  
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Region VII

**(Sgd.) RPA Florencio M. Diloy**  
Region VIII

**(Sgd.) Atty. Ernie A. Masorong**  
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**(Sgd.) RPA Datumanong A. Dumamba**  
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**(Sgd.) RPA Edgar Q. Balansag**  
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APPROVED:

**(Sgd.) PERSIDA V. RUEDA-ACOSTA**  
Chief Public Attorney

February 8, 2010  
Date

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