**Persons Qualified for Legal Assistance**

**A. PERSONS QUALIFIED FOR LEGAL ASSISTANCE**

Under R. A. 9406, 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.”

**The Merit Test**

Under PAO M.C. No. 18 series of 2002, a case shall be considered meritorious if an assessment of the law and evidence on hand discloses that the legal services of the office will assist or be in aid of or in the furtherance of justice, taking into consideration the interests of the party and those of the society.  In such cases, the Public Attorney should agree to represent the party concerned.  On the other hand, a case is deemed unmeritorious if it appears that it has no chance of success, or is intended merely to harass or injure the opposite party or to work oppression or wrong.  In such situation, the Public Attorney must decline the handling of the case.

A Public Attorney may represent an indigent client even if his cause of action is adverse to a public officer, government office, agency or instrumentality provided the case is meritorious.   Caution should however be exercised that the office be not exposed to charges of harassment, unfairness or undue haste in the filing of suits.

In criminal cases, the accused enjoys the constitutional presumption of innocence until the contrary is proven. Hence, cases of defendants in criminal actions are considered meritorious.

**The Indigency Test**

Pursuant to PAO MEMORANDUM CIRCULAR NO. 02 Series of 2010 dated January 27, 2010 and entitled as "AMENDING SECTIONS 3, 4, and 5, ARTICLE II OF MEMORANDUM CIRCULAR NO. 18, S. 2002 (Amended Standard Office Procedures in Extending Legal Assistance)" in relation 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, the Indigency Test set forth in Section 3, Article II, MC No. 18, S. 2002, is hereby amended to read as follows:

Indigency Test. – Taking into consideration recent surveys 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 a month;

           2.      If residing in other cities, whose net income does not exceed Php13,000.00 a month;

           3.      If residing in other places, whose net income does not exceed Php 12,000.00 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 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.

**Cases Which May be Provisionally Accepted**

Cases Which May be Provisionally Accepted by PAO lawyers 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) ;

3.      When a pleading has to be filed immediately to avoid adverse effects to the applicant;

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, 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) ;

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);

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:

                “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.”

11. Other similar urgent cases.

**Persons Qualified for Assistance Pursuant to MOAs and DOJ Directives**

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:

  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 (2nd Indorsement of the Undersecretary of Justice, dated March 25, 1974);

5.          Qualified overseas contract workers in all cases within the original and exclusive jurisdiction of the Philippines Overseas Employment 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 beafforded to him/her (Memorandum of Agreement between the ALSWDOPI and the Public Attorney’s Office, dated August 27, 2009);

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);

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);

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);

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)

 **Other Persons Qualified for Assistance**

Immediate members of the family and relatives within the 4th civil degree of consanguinity or affinity of Public Attorneys may avail of the latter’s services regardless of qualification under the indigency test, with the approval of the Regional Public Attorney, if the case is within his region or the Chief Public Attorney, if the case is outside of his region and provided further that the said lawyer files a leave of absence on the day of the hearing.

PAO personnel may also avail of the legal services of PAO lawyers in criminal cases: Provided, that the PAO is not the adverse party.

**B. PERSONS NOT QUALIFIED FOR LEGAL ASSISTANCE**

(PAO Memorandum Circular No. 18, Series of 2002, Article II, Section 6)

Public Attorneys are prohibited from assisting the following parties:

1. Juridical persons; except those juridical entities which are non-stock, non-profit organization whose individual members will pass the indigency test of the office, provided their cases involve land disputes and that they are not the lessor thereof;
2. Parties who do not pass the Merit and Indigency Tests, unless appointed as counsel de oficio in criminal cases only under existing laws, rules and regulations;
3. Parties represented by de parte counsel; and
4. Landlords of residential lands and building with respect to the filing of collection or unlawful detainer suits against their tenants.

**C. CASES NOT TO BE HANDLED**
    (PAO Memorandum Circular No. 18, Series of 2002, Article II, section 7)

1. PAO lawyers shall not handle cases where they would be representing conflicting interests. Neither shall they handle the prosecution of criminal cases in court.
2. As a matter of office policy, PAO lawyers should, likewise, refrain from undertaking the defense of persons accused of violating BP 22, unless they are appointed by the court as counsel de oficio under existing laws, rules and regulations.PAO lawyers shall, likewise, not handle Adoption cases, except when either parent of the person to be adopted is the petitioner-adopter and provided that he/she passes the indigency test.

http://www.pao.gov.ph/28/Persons-Qualified-for-Legal-Assistance