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OARM Memorandum 2010-8
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MEMORANDUM

TO: Heads of Offices, Boards, Bureaus, and Divisions
Executive Officers, and Attorney Recruitment Coordinators of Offices, Boards,
Bureaus and Divisions
United States Attorneys
Director of the Executive Office of United States Attorneys
Bureau General Counsel

FROM: Louis DeFalaise 
Director
Office of Attorney Recruitment and Management (OARM)

SUBJECT: Accepting Compensation, Stipends, Benefits or Sponsorship from a Non-Federal Source

This memorandum discusses the limited conditions under which attorneys, law clerks and law students employed by the Department, whether salaried or not, may accept compensation, stipends, benefits or sponsorship from a non-Federal source while working at DOJ. Components must provide this information to all incoming hires.

A. General Rule. The criminal conflict of interest statute, 18 U.S.C. § 209(a), generally prohibits an Executive Branch employee from receiving “any salary, or any contribution to or supplementation of salary, as compensation for his services as an officer or employee of the executive branch of the United States ... from any source other than the Government of the United States.” There are exceptions. The prohibition does not apply to an officer or employee of the government or a special government employee who serves without compensation (*see* 18 U.S.C. § 209(c)). Individuals providing gratuitous services *may* be able to accept compensation from a non-Federal entity under some circumstances.¹ In addition, when certain conditions are met, the Higher Education Opportunity Act, Pub. L. No. 110-315, 112 Stat. 3078 (2008) allows current and former students of institutions of higher education who work for the Federal

¹ The duties that uncompensated law students and attorneys may perform are defined by the appointment authority used to bring the individual on duty and may be extremely constrained. *See* OARM Memorandum 2010-6, Accepting Volunteer Legal Services from Law Students & Outside Compensation, May 17, 2010, and OARM Memorandum 2010-7, Accepting Unpaid Legal Services from Law School Graduates, May 17, 2010, for detailed information.

Government to participate in the institution's loan forbearance or repayment programs (often called Loan Repayment Assistance Programs or LRAP) without violating 18 U.S.C. § 209 or the gift rules. Detailed information on the Higher Education Opportunity Act is at **TAB A**.

In addition, 5 C.F.R. § 3801.106, Outside Employment, generally prohibits Department attorneys from engaging in the compensated outside practice of law. The Deputy Attorney General (DAG) or delegate may approve a waiver of this prohibition on a case-by-case basis. Approval is frequently granted, on a case-by-case basis in the situations listed below (see also, 5 C.F.R. § § 2635.703, .705 & .807).

- “Cross-designated” state and local attorneys (generally SAUSAs). Attorneys in this category are employed by a city, county, or state governments.
- Teaching law. Teaching, speaking and writing are covered by the provisions of 5 C.F.R. § 2635.807 and, if compensated and relating to official duties as defined by the regulation, are prohibited. There is an exception that permits teaching law at a bona fide educational institution. Approval to teach is required and may be granted by component heads, who must also address accompanying issues such as use of nonpublic information, misuse of title or position, and the basic conflict provision of 18 U.S. Code § 208 (taking official action in any matter that affects an outside employer).
- In some instances, when an AUSA leaves the Department for private practice with a large case unfinished, the former AUSA can be appointed as an unpaid SAUSA and, with DAG approval, can retain compensation from the current employer.

B. Specific Rules (By Category of Employee). In addition to the information below, which focuses on the legality of accepting payments from outside entities, all law students, law school graduates and attorneys working at DOJ are subject to the ethical and professional responsibility considerations associated with receipt of compensation from a non-Federal entity highlighted in **Tab B** and must consult with an appropriate ethics official and PRO or PRAO, as necessary.

1. Law Student Volunteers.

As a matter of policy, the Department will not accept volunteer legal interns who receive compensation from law firms while that employment relationship exists due to the administrative burden associated with screening for conflicts of interest, the large number of interns who work at DOJ, and the fast-paced work environment at the Department. Generally speaking, volunteer student interns appointed to GS-0999 positions under the authority of 5 U.S.C. § 3111, as implemented by 5 C.F.R. §§ 308.101- 308.103 may lawfully accept payment from a non-Federal source; they are not covered by the ban on supplementation of federal salary (18 U.S. Code § 209). This situation, however, raises policy questions for the Department relating to who may pay them and what relationship DOJ may have with the non-Federal entity, and increases the burden of proper oversight/screening. Additional issues include potential conflicts of interest (*see Tab B*). Generally speaking, stipends offered to law students by institutions of higher education for general public interest service are permissible. In any other situation, both OARM and the appropriate ethics office and PRAO should be consulted.

Some components and U.S. Attorneys' Offices have established more stringent policies that preclude interns from working for or being paid by a law firm, fellowship, or similar entity while working with the component, or from participating in any law school or other legal clinic involving litigation with or proceedings before the United States or any federal entity during the time the intern works with the component. *See* OARM Memorandum 2010-6, Accepting Volunteer Legal Services from Law Students & Outside Compensation, May 17, 2010, for more detailed information and specific guidance.

2. Compensated Legal Interns. Compensated legal interns, including students hired through the Summer Law Intern Program (SLIP), are hired under the authority of the Student Temporary Employment Program (STEP), 5 U.S.C. § 3320, as implemented by 5 C.F.R. § 213.3202(a) and are appointed as GS-0950 (SLIP) or GS-0901 (other compensated interns). These appointments fall within the excepted service and have a minimum salary fixed by statute. Compensated interns may *not* waive their salary in order to receive compensation from a non-Federal entity. They are subject to 18 U.S.C. § 209, so they may *not* accept compensation from a non-Federal source, including funding from educational institutions, while they are employed by the Department; however, they could accept payment from a non-Federal source if it was received before entering on duty. This payment may constitute an "extraordinary payment" under the standards of conduct, 5 C.F.R. § 2635.503, which would extend the recipient's period of disqualification with respect to the source to a period of 2 years. Consultation with an ethics official is indicated if a component intends to hire a compensated intern who accepted such payment.

3. Law Clerks. The Department routinely hires law school graduates who are not yet admitted to the bar through both the Attorney General's Honors Program and the Summer Law Intern Program under the authority of 5 C.F.R. §213.3102(e). In rare occasions and with prior OARM approval, this authority is used to hire other entry-level attorneys. Appointments under this authority are limited to periods not to exceed 14 months pending admission to the bar. These excepted service, GS-0904 "Law Clerk" positions have a minimum salary fixed by statute. Law clerks may not waive their salaries in order to receive compensation from a non-Federal entity and are subject to 18 U.S.C. §209, so may not accept compensation from a non-Federal source while employed by the Department. They may, however, accept payment from a non-Federal source *provided* it was received before they enter on duty as a federal employee, is generally available to individuals in public service (e.g., not limited to federal service), *and is not conditioned* on their completion of a certain length of service. ***If a stipend or supplement is limited to Federal government employees or requires the recipient to complete a certain length of federal service, then it violates 18 U.S.C. § 209(a) because its intent is to supplement the individual's salary as compensation for Federal Executive Branch service.*** Such stipends or supplements may not be accepted and, if erroneously accepted, must be returned. This payment may constitute an "extraordinary payment" under the standards of conduct, 5 C.F.R. § 2635.503, which would extend the recipients period of disqualification with respect to the source to a period of 2 years. Consultation with an ethics official is required in such circumstances. Law clerks may participate in a LRAP offered by their own educational institution(s) if it meets the

criteria of the Higher Education Opportunity Act of 2008 or if it is generally offered to graduates entering public service. Consultation with an ethics advisor is required prior to accepting other forms of LRAP.

4. Attorneys. DOJ attorneys are appointed under various authorities. The type of appointment in large part controls whether the individual may accept compensation from a non-Federal source while employed at the Department. All attorneys may participate in a LRAP offered by their own educational institution(s) if it meets the criteria of the Higher Education Opportunity Act of 2008 or if it is generally offered to graduates entering public service. Consultation with an ethics official is required prior to accepting other forms of LRAP. For information on attorneys providing gratuitous services, see OARM Memorandum 2010-7, Accepting Unpaid Legal Services from Law School Graduates, May 17, 2010.

(a) GS-905 Attorney. Attorneys appointed to these excepted service positions have a minimum salary fixed by statute. They are subject to 18 U.S.C. §209, so may not accept compensation from a non-Federal source while employed by the Department. They may, however, accept payment from a non-Federal source *provided* it was received before they enter on duty as a federal employee, is generally available to individuals in public service (e.g., not limited to federal service), and is not conditioned on their completion of a certain length of service. ***If a stipend or supplement is limited to Federal government employees or requires the recipient to complete a certain length of federal service, then it violates 18 U.S.C. § 209(a) because its intent is to supplement the individual's salary as compensation for Federal Executive Branch service.*** Such stipends or supplements may not be accepted and, if erroneously accepted, must be returned. In addition, this payment may constitute an “extraordinary payment” under the standards of conduct, 5. C.F.R. § 2635.503, which would extend the recipient’s period of disqualification with respect to the source to a period of 2 years. Attorneys may not waive their salaries.

(b) Assistant U.S. Attorneys (AUSA). AUSAs are appointed under the position occupational series AD-905. Pursuant to 28 U.S.C. § 548, the Attorney General fixes the annual salaries of AUSAs. The salary has a specific statutory maximum; however, there is no mandatory minimum salary. Assuming that the AUSA does not have a salary fixed at zero, he or she is subject to 18 U.S.C. §209, and may not accept compensation from a non-Federal source while employed by the Department. AUSAs may, however, accept payment from a non-Federal source *provided* it was received before they enter on duty as a federal employee, is generally available to individuals in public service (e.g., not limited to federal service), and is not conditioned on their completion of a certain length of service. ***If a stipend or supplement is limited to Federal government employees or requires the recipient to complete a certain length of federal service, then it violates 18 U.S.C. § 209(a) because its intent is to supplement the individual's salary as compensation for Federal Executive Branch service.*** Such stipends or supplements may not be accepted and, if erroneously accepted, must be returned. In addition, this payment may constitute an “extraordinary payment” under the standards of conduct, 5. C.F.R. § 2635.503, which would extend the recipient’s period of disqualification with respect to

the source to a period of 2 years. AUSA's with salaries not set at zero may not waive their salaries in order to accept compensation from a non-Federal source.

(c) Special Assistant U.S. Attorney (SAUSA). Title 28 U.S. Code § 543 grants the Attorney General authority to appoint "special attorneys" to assist U.S. Attorneys (Special Assistant U.S. Attorneys or SAUSAs). Attorneys appointed under § 543 are subject to a salary fixed by the Attorney General with a specific statutory maximum (28 U.S.C. § 548); however, there is no mandatory minimum salary. Accordingly, §§ 543 and 548 give the Department authority to appoint SAUSAs for no compensation. SAUSAs occupy a position for which there is no minimum salary set by statute; accordingly, 18 U.S.C. § 209 does not apply and they may accept payment from a non-Federal source if uncompensated by the United States, subject to policy restrictions established by EOUSA. If, however, the individual is appointed as a compensated employee, 18 U.S.C. § 209 would apply and issues associated with accepting compensation from non-Federal entities should be coordinated with the Departmental Ethics Office or other appropriate ethics official.

d) Special Attorney (SA). SAs are appointed under the authority of 28 U.S. Code § 515 and occupy a position for which there is no minimum salary set by statute; accordingly, if uncompensated by the United States, 18 U.S.C. § 209 does not apply. SAs appointed by EOUSA or a U.S. Attorney's Office may accept payment from a non-Federal source subject to policy restrictions established by EOUSA. Other components appointing SAs may allow payment from a non-Federal source only with prior coordination with the Departmental Ethics Office or other appropriate ethics official. If, however, the individual is appointed as a compensated employee, 18 U.S.C. § 209 would apply and issues associated with accepting compensation from non-Federal entities should be coordinated with the Departmental Ethics Office or other appropriate ethics official.

(e) Expert or Consultant. Experts and consultants are appointed under the authority of Title 5, U.S. Code § 3109, as implemented by 5 C.F.R. §§ 304.101 – 304.108. If the individual is appointed as an uncompensated employee to perform unclassified duties, 18 U.S.C. § 209 does not apply and the individual could accept compensation from a non-Federal source. If, however, the individual is appointed as a compensated employee, 18 U.S.C. § 209 would apply, and issues associated with acceptance of compensation from non-Federal entities while serving as a compensated expert or consultant must be coordinated with the Departmental Ethics Office.

C. Ethical Considerations. When a prospective or actual Department employee receives compensation in any form from an entity other than DOJ, the Department must address issues relating to potential conflicts of interests, confidential client information, and standards of conduct. The identity of the non-Federal entity is also important. Individuals contemplating accepting compensation in any form from an entity other than the Department should review this memorandum and consult with an ethics officer and PRAO prior to accepting payment. Detailed information on these issues is at **Tab B**.

If you have any questions about this memorandum, please contact, Deana Willis, Assistant Director, at 202-514-8902 or Deana.Willis@usdoj.gov.

**TAB A: IMPACT OF THE HIGHER EDUCATION OPPORTUNITY ACT OF 2008
(Earlier versions were designated the College Opportunity and Affordability Act)**

Authorities:

- Pub. L. No. 110-315, 112 Stat. 3078 (2008);
- Memorandum from the General Counsel, U.S. Office of Government Ethics, Subject: Recent legislative activity affecting the executive branch ethics program, dated November 6, 2008 (DO-08-037)
- H.[110-803](#) (in Congressional Record [H7353-7517](#), Conference Committee Report Language accompanying Part F, Section 961, Section 961, Institutional Loan Forgiveness Programs.

This information must be read in conjunction with the guidance in Tab B: Ethical Considerations.

The Higher Education and Opportunity Act, Pub. L. No. 110-315, 122 Stat. 3078 (2008) provides a limited exception to 18 U.S.C. § 209 and the rules relating to gifts from outside sources (5 C.F.R. Part 2635, Subpart B). It allows current and former students of institutions of higher education working for the Federal government to participate in such an institution's loan forbearance or repayment programs without violating 18 U.S.C. § 209 (ban on supplementation of salary) or the gift rules *if* certain conditions are met. These programs are often called Loan Repayment Assistance Programs or LRAPs. 18 U.S.C. § 209 prohibits a Government employee from receiving, and anyone other than the Federal government from giving, payment for performing Government duties, i.e., a supplementation of salary. Subpart B of the Standards of Ethical Conduct for Employees of the Executive Branch (5 C.F.R. Part 2635) prohibits a Government employee from accepting gifts from outside sources given because of his or her official position.

The following criteria must be met in order to avoid a violation of 18 U.S.C. § 209:

- The LRAP exemption is effective January 1, 2008.
- Payments may be made only from the Government employee's institution of higher education.
- LRAP must be provided in accordance with an institution of higher education's written and published loan policy.
- The institution's policy must have been in place before the employee ceased to be a student at the school.

TAB B: ETHICAL CONSIDERATIONS: Conflicts of Interest & Standards of Conduct

This information provides general guidance and is not intended to serve as a substitute for the opinion of an ethics official and/or PRO or PRAO.

Authorities:

1. 5 C.F.R. Parts 2635 & 3801 (Subpart B of the Standards of Ethical Conduct for Employees of the Executive Branch (5 C.F.R. Part 2635) prohibits a Government employee from accepting gifts from outside sources given because of his or her official position.)
2. 28 C.F.R. Part 45
3. 18 U.S.C. § 208 (Prohibits a Government employee from participating in matters affecting his or her own financial interests or the financial interests of other specified persons or organizations.)
4. 18 U.S.C. § 209 (Prohibits a Government employee from receiving salary or any contribution to or supplementation of salary as compensation for Government services from a source other than the United States. It is a criminal statute with both misdemeanor level and felony level maximum punishments.)
5. Other authorities listed in 5 C.F.R. §§ 2635.901, 2635.902
6. ABA Model Rules of Professional Conduct

A. Professional Responsibility Overview

Potential conflicts and confidentiality issues under applicable Rules of Professional Conduct² arise when the Department employs volunteer law students, law clerks, or attorneys who are compensated by non-federal entities.³ The analysis is even more complex when the law student, law clerk, or attorney maintains an employment relationship with the compensating

² References herein are to the ABA Model Rules of Professional Conduct; however, generally the Rules of one or more States will govern particular situations. Components are encouraged to consult with their PRO or with PRAO for assistance in analyzing specific situations. Rules of Professional Conduct apply directly only to attorneys; however, many of the Rules' obligations would extend to volunteer law students and law clerks, just as they do to other non-lawyer assistants who work with lawyers.

³ This subsection focuses primarily on issues associated with law student volunteers who are compensated by non-federal entities. PRAO must be consulted in cases involving law clerks, attorneys, SAUSAs or SAs, who receive any form of compensation from non-federal entities, including institutions of higher education, because the analysis is more complex.

This section does not address the complex issues that arise when compensation is provided by private law firms, as the Department has determined that it will not accept services from attorneys, recent law school graduates, or law students who receive such compensation except in rare cases when a departing AUSA is appointed as a SAUSA to complete a complex case. See OARM Memoranda 2010-6, Accepting Volunteer Legal Services from Law Students & Outside Compensation, May 17, 2010, and 2010-7, Accepting Unpaid Legal Services from Law School Graduates, May 17, 2010.

entity while working at the Department.⁴ Components confronting potential confidentiality or conflicts issues should consult with a PRO or PRAO to identify and resolve such issues before an individual receiving compensation in any form from an outside entity enters on duty with the Department

In connection with professional responsibility issues, it is important to identify the client. Certain professional responsibility obligations, such as the duties of confidentiality and loyalty, are owed only to the client. Defining the client will affect what, if any, conflicts arise, when client confidences can be used and disclosed; whose interests should be paramount; and whether the client's consent must be obtained to permit continued representation or disclosure of information. Only the client may consent to the disclosure of confidential information and to a lawyer's representation despite a conflict of interest.

Generally speaking, conflicts of interest may be personal and/or imputed (i.e., when the employee is also employed by a private firm or organization).⁵ Receiving compensation provided by entities other than the Department also raise issues relating to protecting confidential client information on behalf of the United States and developing adequate screening where the prospective employee (or his firm/organization) has performed work for clients in cases against the United States.

1. Issues Associated with Receiving Compensation from a Non-Federal Entity Where No Employment Relationship Exists.

Confidentiality and conflicts of interest are the primary issues of concern that arise when a component employs a volunteer law student, a law clerk, or an attorney who receives compensation from, but is not employed by a non-federal entity.

a. Confidentiality: Confidentiality is an issue when a funding entity, as a condition of funding, requires a sponsored individual to provide periodic or ongoing information about the work he or she performs for the Department. Absent the informed consent of an appropriate Department official, such disclosures likely are prohibited. When working at the Department, law students and law clerks are effectively held to the same confidentiality obligations that apply to DOJ attorneys under the applicable Rules of Professional Conduct. DOJ attorneys owe a

⁴ Although this subsection discusses confidentiality and conflicts issues that may arise in situations where compensation (any form) is provided by a non-federal entity, other issues under Rules of Professional Conduct may arise as well. Components should consult with a PRO or PRAO about specific situations.

⁵ Certain conditions may create the *appearance* of a conflict of interest, even when no actual conflict exists. The Rules of Professional Conduct no longer address the appearance of impropriety; however, PRAO routinely advises inquirers to consult with their ethics officials when a situation is likely to raise an appearance problem under the Standards of Conduct.

broad duty of confidentiality to the Department under ABA Model Rule 1.6 (and analogous State Rules) which, subject to exceptions, prohibit an attorney from revealing information relating to a representation. In some cases, even the fact that DOJ is involved in a particular matter may be covered under the confidentiality Rules. The practical effect is that sponsored individuals would be unable to fulfill an entity's reporting requirements about the work they perform without the informed consent of an appropriate DOJ official. Components must identify and resolve any such confidentiality issues before a volunteer law student, law clerk, or attorney enters on duty.

b. Conflicts of Interest: Conflicts may arise under ABA Model Rule 1.7 (and analogous State Rules) which, subject to exceptions, prohibit an attorney from representing a client in a matter when "there is a significant risk that the representation will be materially limited by the lawyer's responsibility . . . to a third person or by a personal interest of the lawyer." This Rule may be implicated when a student volunteer, a law clerk, or an attorney is compensated by outside entities. For example, when such entities have a relationship with the Department or the Department's cases (at the broadest level), compensated individuals may be motivated to favor the entity in their work, potentially adversely affecting the Department's handling of a matter. A personal conflict of interest could occur if the judgment of the law student, law clerk or attorney could arguably be affected by personal loyalty to the payor entity when the interests of the payor diverge from the interests of the United States. For a DOJ attorney, this factor likely would be a disqualifying conflict (absent compliance with the Rule's consent provision), and, by extension, this factor would be disqualifying for a student volunteer or law clerk as well.⁶ Conflicts issues also may arise when, as a condition of funding, the non-federal entity requires a compensated individual to provide additional services on its behalf (e.g., speaking engagements, "mentoring" other individuals associated with the non-federal entity, etc.).

2. Issues Associated with Receiving Compensation from a Non-Federal Entity Where An Employment Relationship Exists.

More complicated confidentiality and conflicts issues arise when law student, law clerk or attorney maintains an employment relationship with a non-federal entity while working at the Department. In this situation, the interests of more than one client are at issue – the United

⁶ When no employment or representational issue exists, the only client at issue would be DOJ's client, in most cases the Executive Branch of the United States or the Department. Where such a conflict exists, a waiver of the conflict of interest (informed consent to representation despite the conflict of interest) must be obtained from the Government official responsible for the appointment of the employee to his position (or their designee). See 5 C.F.R. § 2640.301. Management should consult with their respective General Counsel's Office, PRAO, the Departmental Ethics Office, and/or DAEO, as appropriate, for guidance on seeking such a waiver.

States, the Executive Branch, the Department itself, on the one hand, and the clients of the payor firm or organization, on the other.

a. Confidentiality: The confidentiality and conflicts issues become more complex when an individual maintains an employment relationship with a funding entity while working for the Department. A law school student or graduate/associate who continues to associate with a sponsoring non-federal entity during and/or after his tenure at DOJ poses an additional concern relating to confidentiality of information. It is important to remember that ABA Model Rule 1.6 (and similar rules) protects not only privileged information or confidential client communications, but “all information relating to the representation whatever its source.”

To the extent that individuals working at DOJ while employed by a non-federal entity obtains confidential information about cases on which they are working that is relevant to matters of interest to the funding entity, there is a risk that the individual may feel more pressure or have more opportunity to disclose this information to lawyers or other persons in that entity. In addition, there may be information that the individual learns about other cases through conversations he hears about in the workplace or documents he may see in office files or in the courtroom, or discussions between other attorneys/individuals in the office that the United States would not want disclosed. And it is possible that the individual may not realize the information is related to a case involving his non-federal employer at the time he is exposed to the information.

Similarly, the ongoing employment relationship may increase the likelihood of the individual disclosing the non-federal entity’s own confidential information to the Department. These confidentiality concerns further increase when a funding entity has its own lawyer-client relationships, or when the individual otherwise knows another client’s confidential information, because the Department’s exposure, via the individual, to such information could have significant adverse consequences for the Department’s handling of a matter, such as prompting calls for disqualifying the Department’s attorneys or for precluding the use of certain evidence.

Because of these increased risks, the component should carefully assess the practical implications of employing individuals who both receive compensation from and have an employment relationship with an outside entity. If employment goes forward, the supervising DOJ office should take great care to limit the individual’s exposure to the Department’s confidential information, and should implement timely screening measures, where appropriate.

b. Conflicts of Interest: Conflicts issues are also more complex when individuals maintain employment relationships with funding entities while at the Department. Students and law school graduates may be deemed employees of non-federal entities that are third-party payors of their salary or who otherwise compensate them during their term of service at DOJ.

In particular, where a funding entity, itself or through its clients, has some relationship with the Department or one of its matters, there is a risk that the individual’s dual employment

will expose both the Department and the entity to imputed conflict issues or conflict screening obligations, and a failure to timely address such issues (such as by obtaining appropriate consents or implementing timely screening) could have significant adverse consequences for the work of the Department, the entity, or both.

Because of the significant risk of such conflicts and imputed conflicts, component considering employing a law student, law clerk or attorney who is compensated by and has an employment relationship with a non-federal entity while employed at the Department must consult with a PRO or PRAO about the specific details of such situations.

B. Ethical Issues Impacting Volunteers and Individuals Providing Gratuitous Services

Specific issues impacting law student volunteers are discussed in OARM 2010-6 Accepting Unpaid Legal Services from Law Students & Outside Compensation, May 17, 2010.

Additional issues impacting law school graduates providing gratuitous services are discussed in OARM Memorandum 2010-7, Accepting Unpaid Legal Services from Law School Graduates, May 17, 2010. As stated in that memorandum, absent emergencies involving imminent danger to human life or the protection of property, there are *no* circumstances when the Department can accept volunteer legal services from law school graduates. Further, the statutory appointment authority used to bring a law school graduate providing gratuitous services on duty with the Department determines the type of services he or she may perform, and, as a general rule, imposes stringent limitations. Most often, permissible duties do not encompass the type of duties, responsibilities or experience that such individuals are seeking to acquire. The combination of professional responsibility concerns, ethical issues, and the limitations on the type of services that may be provided gratuitously are generally so burdensome that they outweigh any benefit associated with accepting the services.