

Legal Opinion: GMP-0024

Index: 6.600, 6.625

Subject: Employee Participation in Volunteer Programs

November 22, 1991

MEMORANDUM FOR: All Regional Counsel  
All Associate General Counsel

FROM: George L. Weidenfeller, Deputy General Counsel  
(Operations)

SUBJECT: Employee Participation in Volunteer Programs

During the conference in Santa Fe, several of you expressed some concern about the use of administrative leave for an employee's participation in volunteer programs. The purpose of this memorandum is to provide guidance on some of the issues you have raised concerning volunteer activities other than pro bono legal activities.

The use of administrative leave for certain volunteer programs is permitted under the guidelines set forth in the enclosed FPM Letter 992-1, on "Employee Community Service" issued by OPM on April 19, 1991. OPM has limited the granting of administrative leave (or, in its terms, an "excused absence") to volunteer service which meets one or more of the following criteria:

- (1) the service is directly related to the agency's mission;
- (2) the service is officially sanctioned by the head of the agency; or
- (3) the service will enhance the professional development of the employee in his or her current position.

As the discussion beginning at page 3 of the enclosed Letter reflects, OPM has cautioned that granting administrative leave for any purpose can have potentially negative ramifications. It also should be noted that injuries suffered by employees who are performing activities that meet one of the above criteria are covered under the Workers' Compensation statute, 5 USC Section 8100 et. seq., FPM Chapter 810 (see page 6 of the Letter). The "Adopt-a-School Program" is the only volunteer program that has been sanctioned by the Secretary, fulfilling the second criterion set forth in the FPM Letter. The Department is currently reformulating its policy regarding the granting of administrative leave for the "Adopt-a-School" volunteer activity in light of this FPM letter.

HUD Handbook 600.1, Rev. 3 at section 3-42 lists common instances when administrative leave may be granted by management. Additionally, it should be kept in mind that an informal policy of

granting administrative leave for certain activities, consistently applied over an extended period of time, may have created a "past practice." A change in that policy may constitute a change in working conditions requiring bargaining with the union.

Some volunteer activities may raise Standard of Conduct issues. The Standard of Conduct regulations prohibit employees from participating in activities that may create the appearance of giving preferential treatment or losing their impartiality. 24 CFR 0.735-201. The provisions of 24 CFR 0.735-203 prohibit an employee from engaging in outside activities that may be construed by the public to be official acts of the Department or from establishing relationships that result in conflicts between an employee's private interest and his or her official duties. Your attention also is directed to the General Counsel's memorandum to all employees of April 5, 1990, concerning service in state and local government organizations. In that memorandum the General Counsel advised that employees may not participate in volunteer efforts with state or local governmental organizations "whose activities could create an actual or apparent conflict of interest with the interests of the Department." This admonition applies to other volunteer activities as well.

The related issue of use of government vehicles for volunteer activities was also raised during the Regional Counsel meeting. It is the agency's current position that government vehicles are not to be used for the purpose of transporting volunteer employees. Additionally, there is no current authorization for the use of any other government property in volunteer programs.

We hope that this information is helpful to you. If you have any questions or comments concerning volunteer activities in your Region, please contact a member of the staff of the Personnel and Ethics Law Division in my office at FTS 458-2203.

Attachment