

Legal Services Corporation

§ 1608.1

changes in such bylaws within a reasonable time after the change is made.

§ 1607.5 Compensation.

(a) While serving on the governing body of a recipient, no attorney member shall receive compensation from that recipient, but any member may receive a reasonable per diem expense payment or reimbursement for actual expenses for normal travel and other reasonable out-of-pocket expenses in accordance with written policies adopted by the recipient.

(b) Pursuant to a waiver granted under §1607.6(b)(1), a recipient may adopt policies that would permit partners or associates of attorney members to participate in any compensated private attorney involvement activities supported by the recipient.

(c) A recipient may adopt policies that permit attorney members, subject to terms and conditions applicable to other attorneys in the service area:

(1) To accept referrals of fee-generating cases under part 1609 of these regulations;

(2) To participate in any uncompensated private attorney involvement activities supported by the recipient;

(3) To seek and accept attorneys' fees awarded by a court or administrative body or included in a settlement in cases undertaken pursuant to §§1607.5(c)(1) and (2); and

(4) To receive reimbursement from the recipient for out-of-pocket expenses incurred by the attorney member as part of the activities undertaken pursuant to §1607.5(c)(2).

[59 FR 65254, Dec. 19, 1994, as amended at 60 FR 2330, Jan. 9, 1995]

§ 1607.6 Waiver.

(a) Upon application, the president shall waive the requirements of this part to permit a recipient that was funded under §222(a)(3) of the Economic Opportunity Act of 1964 and, on July 25, 1974, had a majority of persons who were not attorneys on its governing body, to continue such nonattorney majority.

(b) Upon application, the president may waive any of the requirements of this part which are not mandated by applicable law if a recipient demonstrates that it cannot comply with

them because of: (1) The nature of the population, legal community or area served; or (2) Special circumstances, including but not limited to, conflicting requirements of the recipient's other major funding source(s) or State law.

(c) A recipient seeking a waiver under §1607.6(b)(1) shall demonstrate that it has made diligent efforts to comply with the requirements of this part.

(d) As a condition of granting a waiver under §1607.6(b)(2) of any of the requirements imposed upon governing bodies by §1607.3, the president shall require that a recipient have a policy body with a membership composed and appointed in the manner prescribed by §1607.3. Such policy body shall be subject to the meeting requirements of §1607.4(a) and its attorney members shall be subject to the restrictions on compensation contained in §1607.5. The policy body shall have such specific powers and responsibilities as the President determines are necessary to enable it to formulate and enforce policy with respect to the services provided under the recipient's LSC grant or contract.

PART 1608—PROHIBITED POLITICAL ACTIVITIES

Sec.

1608.1 Purpose.

1608.2 Definition.

1608.3 Prohibitions applicable to the Corporation and to recipients.

1608.4 Prohibitions applicable to all employees.

1608.5 Prohibitions applicable to Corporation employees and staff attorneys.

1608.6 Prohibitions applicable to attorneys and to staff attorneys.

1608.7 Attorney-client relationship.

1608.8 Enforcement.

AUTHORITY: Secs. 1001(5), 1005(b)(2), 1006(b)(3), 1006(b)(5)(B), 1006(d)(3), 1006(d)(4), 1006(e)(1), 1006(e)(2), 1007(a)(6), 1007(b)(2); 42 U.S.C. 2996(5), 2996d(b)(2), 2996e(b)(3), 2996e(b)(5)(B), 2996e(d)(3), 2996e(d)(4), 2996e(e)(1), 2996e(e)(2), 2996f(a)(6), 2996(b)(2).

SOURCE: 43 FR 32773, July 28, 1978, unless otherwise noted.

§ 1608.1 Purpose.

This part is designed to insure that the Corporation's resources will be

§ 1608.2

used to provide high quality legal assistance and not to support or promote political activities or interests. The part should be construed and applied so as to further this purpose without infringing upon the constitutional rights of employees or the professional responsibilities of attorneys to their clients.

§ 1608.2 Definition.

Legal assistance activities, as used in this part, means any activity.

- (a) Carried out during an employee's working hours;
- (b) Using resources provided by the Corporation or by a recipient; or
- (c) That, in fact, provides legal advice, or representation to an eligible client.

§ 1608.3 Prohibitions applicable to the Corporation and to recipients.

- (a) Neither the Corporation nor any recipient shall use any political test or qualification in making any decision, taking any action, or performing any function under the act.
- (b) Neither the Corporation nor any recipient shall contribute or make available Corporation funds, or any personnel or equipment
 - (1) To any political party or association;
 - (2) To the campaign of any candidate for public or party office; or
 - (3) For use in advocating or opposing any ballot measure, initiative, or referendum.

§ 1608.4 Prohibitions applicable to all employees.

- (a) No employee shall intentionally identify the Corporation or a recipient with any partisan or nonpartisan political activity, or with the campaign of any candidate for public or party office.
- (b) No employee shall use any Corporation funds for activities prohibited to attorneys under § 1608.6; nor shall an employee intentionally identify or encourage others to identify the Corporation or a recipient with such activities.

45 CFR Ch. XVI (10–1–04 Edition)

§ 1608.5 Prohibitions applicable to Corporation employees and to staff attorneys.

While employed under the act, no Corporation employee and no staff attorney shall, at any time,

- (a) Use official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for office, whether partisan or nonpartisan;
- (b) Directly or indirectly coerce, attempt to coerce, command or advise an employee of the Corporation or of any recipient to pay, lend, or contribute anything of value to a political party, or committee, organization, agency or person for political purposes; or
- (c) Be a candidate for partisan elective public office.

§ 1608.6 Prohibitions applicable to attorneys and to staff attorneys.

While engaged in legal assistance activities supported under the act, no attorney shall engage in

- (a) Any political activity,
- (b) Any activity to provide voters with transportation to the polls, or to provide similar assistance in connection with an election, or
- (c) Any voter registration activity.

§ 1608.7 Attorney-client relationship.

Nothing in this part is intended to prohibit an attorney or staff attorney from providing any form of legal assistance to an eligible client, or to interfere with the fulfillment of any attorney's professional responsibilities to a client.

§ 1608.8 Enforcement.

This part shall be enforced according to the procedures set forth in § 1612.5.

PART 1609—FEE-GENERATING CASES

- Sec.
- 1609.1 Purpose.
- 1609.2 Definition.
- 1609.3 General requirements.
- 1609.4 Recipient policies, procedures and recordkeeping.

AUTHORITY: 42 U.S.C. 2996f(b)(1) and 2996e(c)(6).