

11 Denials.

(1) A denial of a written request for a record that complies with the requirements of § 1602.3 shall be in writing and shall include the following:

(1) A reference to the applicable exemption or exemptions in § 1602.9(a) on which the denial is based;

(2) An explanation of how the exemption applies to the requested records;

(3) A statement explaining why it is deemed unreasonable to provide segregable portions of the record after deleting the exempt portions;

(4) The name and title of the person or persons responsible for denying the request; and

(5) An explanation of the right to appeal the denial and of the procedures for submitting an appeal, including the address of the official to whom appeals should be submitted.

(b) Whenever the Corporation makes a record available subject to the deletion of a portion of the record, such action shall be deemed a denial of a record for purposes of paragraph (a) of this section.

(c) All denials shall be treated as opinions and shall be maintained and indexed accordingly, subject only to the necessity of deleting identifying details the release of which would constitute a clearly unwarranted invasion of personal privacy.

§ 1602.12 Appeals of denials.

(a) Any person whose written request has been denied is entitled to appeal the denial within ninety days writing to the President of the Corporation at the headquarters in Washington, D.C. The envelope and letter should be clearly marked: "Freedom of Information Appeal." An appeal need not be in any particular form, but should adequately identify the denial, if possible, by describing the requested record, identifying the official who issued the denial, and providing the date on which the denial was issued.

(b) No personal appearance, oral argument, or hearing will ordinarily be permitted on appeal of a denial. Upon request and a showing of special circumstances, however, this limitation may be waived and an informal conference may be arranged with the President, or the President's specifically designated representative, for this purpose.

(c) The decision of the President on an appeal shall be in writing and, in the event the denial is in whole or in part upheld, shall contain an explanation responsive to the arguments advanced by the requesting party, the matters described in § 1602.11(a) (1)-(4), and the provisions for judicial review of such decision under section 552(a)(4) of the FOIA. The decision

shall be dispatched to the requesting party within twenty working days after receipt of the appeal, unless an additional period is justified pursuant to § 1602.8(c) and such period taken together with any earlier extension does not exceed ten days. The President's decision shall constitute the final action of the Corporation. All such decisions shall be treated as final opinions under § 1602.5(b).

§ 1602.13 Fees.

(a) Information provided routinely in the normal course of doing business will be provided at no charge.

(b) The Records Officer may waive or reduce fees where special circumstances, including but not limited to the benefit of the general public, warrant. A Records Officer shall waive fees where the requesting party is indigent unless the fees would exceed \$25 and may waive or reduce fees for the request of an indigent where the fees would exceed \$25. These provisions will be subject to appeal in the same manner as appeals from denial under § 1602.12.

(c) There shall be no fee charged for services rendered by the Corporation pursuant to this Part, unless the charges, as calculated in paragraph (e) of this section, exceed \$6.50. Where the charges are calculated to exceed \$6.50, the fee shall be the difference between \$6.50 and the calculated charges.

(d) Ordinarily, no fee shall be levied where the records requested are not provided or made available. However, if the time expended in processing the request is substantial, and if the requesting party has been notified of the estimated cost pursuant to paragraph (f) of this section, and has been specifically advised that it cannot be determined in advance whether any records will be made available, fees may be charged.

(e) The schedule of charges for services regarding the production or disclosure of the Corporation's records is as follows:

(1) Search for records and production of information based on the following schedule of direct labor charges:

(a) Programmer - \$6.25/quarter hour
(b) Analyst - \$3.50/quarter hour
(c) Processor/Clerical - \$1.50/quarter hour

(2) Computer time: Actual charges as incurred.

(3) Reproduction, duplication, or copying of records: \$0.10 per page.

(4) Reproduction, duplication, or copying of microfilm: Actual charges as incurred.

(5) Certification of true copies: \$1.00 each.

(f) Where it is anticipated that the fee chargeable under this Part will

amount to more than \$25, and the requesting party has not indicated in advance his willingness to pay so high a fee, the requesting party shall be notified of the amount of the anticipated fee or such portion thereof as can readily be estimated. In such cases, a request will not be deemed to have been received until the requesting party is notified of the anticipated cost and agrees to bear it. Such a notification shall be transmitted as soon as possible, but in any event within five working days, giving the best estimate then available. The notification shall offer the requesting party the opportunity to confer with appropriate representatives of the Corporation for the purpose of reformulating the request so as to meet his needs at a reduced cost.

(g) Where the anticipated fee chargeable under this Part exceeds \$25, an advance deposit of 25 percent of the anticipated fee may be required. Where a requesting party has previously failed to pay a required fee, an advance deposit of the full amount of the anticipated fee together with the fee then due and payable may be required.

(h) The Corporation reserves the right to limit the number of copies that will be provided of any document to any one requesting party, or to require that special arrangements for duplication be made in the case of bound volumes or other records representing unusual problems of handling or reproduction.

ALICE DANIEL,
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Legal Services Corporation.

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[6820-35-M]

PART 1609—FEE-GENERATING CASES

Authorized Representation

AGENCY: Legal Services Corporation.

ACTION: Final regulation.

SUMMARY: Under provisions of the Legal Services Corporation Act, legal services lawyers are restricted from undertaking fee-generating cases. In cases of this type, an attempt must be made to refer the client to a private lawyer. In 1977 that particular provision of the Act was amended to exclude those cases which involve clients seeking either social security or supplemental security income benefits. This rule implements that statutory change. It would eliminate the need for a legal services program to attempt to refer eligible clients to private attorneys.

EFFECTIVE DATE: December 1, 1978.

ADDRESS: Legal Services Corpora-
33 Fifteenth Street NW., Suite
Washington, D.C. 20005.

**FURTHER INFORMATION
CONTACT:**

Stephan S. Walters, 202-376-5113.

SUPPLEMENTARY INFORMATION:

On August 1, 1978, the Legal Services Corporation published for notice and comment a proposal to amend Part 1609—Fee-Generating Cases, by adding a new § 1609.4(d). The proposal was designed to implement the statutory change permitting the exclusion of Social Security and Supplemental Income Cases from the statutory prohibition on accepting fee-generating cases. After reviewing the comments that were received, the Board of Directors has authorized republication of new § 1609.4(d) in final form.

§ 1609.4 Authorized representation in a fee-generating case.

Other adequate representation is deemed to be unavailable when:

(d) An eligible client is seeking benefits under Title II of the Social Security Act, 42 U.S.C. 401, *et seq.*, Federal Old Age, Survivors, and Disability Insurance Benefits; or Title XVI of the Social Security Act, 42 U.S.C. 1381, *et seq.*, Supplemental Security Income for Aged, Blind, and Disabled.

ALICE DANIEL,
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