

PROPOSED RULES

§ 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 Section 1612.5.

THOMAS EHRLICH,
President,
Legal Services Corporation.

[FR Doc.76-12956 Filed 5-4-76;8:45 am]

[45 CFR Part 1609]
FEE-GENERATING CASES

Guarantee to Clients

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996f ("the Act"). Section 1007(b) (1) of the Act, 42 U.S.C. 2996f(b) (1), prohibits the use of Corporation funds to provide legal assistance with respect to any fee-generating case, except in accordance with guidelines promulgated by the Corporation.

Pursuant to Section 1008(e) of the Act, the Corporation hereby affords notice and publishes for comment the following proposed regulations concerning fee-generating cases. Public comment will be received by the Corporation at its headquarters offices, Suite 700, 733 15th Street, N.W., Washington, D.C. 20005 on or before June 3, 1976. Comments must be in writing and may be accompanied by a memorandum or brief in support thereof. Comments received may be seen at the above offices during business hours Monday through Friday.

Final regulations will be issued by the Corporation after review and consideration of public comments received pursuant to this notice.

Part 1609 is added in proposed form as follows:

PART 1609—FEE-GENERATING CASES

- Sec.
1609.1 Purpose.
1609.2 Definitions.
1609.3 Prohibition.
1609.4 Authorized representation in a fee-generating case.
1609.5 Acceptance of fees.
1609.6 Acceptance of reimbursement.

AUTHORITY: Sec. 1007(b) (1), 1008(e) (4) U.S.C. 2996f(b) (1), 2996g(e)).

§ 1609.1 Purpose.

This Part is designed to insure that recipients do not compete with private attorneys and, at the same time, to guarantee that eligible clients are able to obtain appropriate and effective legal assistance.

§ 1609.2 Definitions.

(a) "Fee-generating case" means any case or matter which, if undertaken on

behalf of an eligible client by an attorney in private practice, reasonably may be expected to result in a fee for legal services from an award to a client, from public funds, or from the opposing party;

(b) "Recipient", as used in this Part, means any grantee or recipient of funds for the provision of legal assistance under the Act.

§ 1609.3 Prohibition.

No recipient shall use funds received from the Corporation to provide legal assistance in a fee-generating case unless other adequate representation is unavailable. All recipients shall establish procedures for the referral of fee-generating cases.

§ 1609.4 Authorized Representation in a Fee-Generating Case.

Adequate representation is deemed to be unavailable when

(a) an eligible client has sought unsuccessfully to obtain representation from two private attorneys or through the local referral service; or

(b) the recipient has determined that referral is not possible because

(1) it has attempted unsuccessfully to refer the case or matter to the local lawyer referral service, or to two private attorneys; or

(2) the case is of the type that private lawyers in the area ordinarily do not accept; or

(3) emergency circumstances compel immediate action before referral can be made; or

(c) Recovery of damages is not the principal object of the case and a request for damages is merely ancillary to an action for equitable or other non-pecuniary relief; or inclusion of a counterclaim requesting damages is necessary for effective defense or because of applicable rules governing joinder of counterclaims.

§ 1609.5 Acceptance of Fees.

(a) A recipient may accept a fee awarded or approved by a court or administrative body, or included in a settlement, if

(1) the requirements of Section 1609.4 are met, and

(2) funds received are used for purposes authorized by the Act and are reported to the Corporation.

(b) If a fee awarded or approved by a court or administrative body is made to an attorney, it shall be remitted promptly to the recipient.

§ 1609.6 Acceptance of Reimbursement.

When a case or matter results in an award of damages, other than statutory benefits, to a client, a recipient may accept reimbursement from the client for out-of-pocket costs and expenses incurred in connection with the case or matter, if

(a) the requirements of Section 1609.4 are met, and

(b) the deduction of costs and expenses will not reduce the client's re-

covery below the amount necessary to compensate the client fully, and

(c) the client has agreed in writing to reimburse the recipient for such costs and expenses.

THOMAS EHRLICH,
President,

Legal Services Corporation.

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[45 CFR Part 1610]

USE OF FUNDS FROM SOURCES OTHER THAN THE CORPORATION**Prohibitions and Accounting**

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355 88 Stat. 378, 42 U.S.C. 2996-2996f ("the Act"). Section 1010(c) of the Act, 42 U.S.C. 2996i(c), restricts the use of funds received by any recipient from a source other than the Corporation.

Pursuant to section 1008(e) of the Act, the Corporation hereby affords notice and publishes for comment the following proposed regulations concerning use of funds from sources other than the Corporation. Public comment will be received by the Corporation at its headquarters offices, Suite 700, 733 15th Street, N.W., Washington, D.C. 20005 on or before June 3, 1976. Comments must be in writing and may be accompanied by a memorandum or brief in support thereof. Comments received may be seen at the above offices during business hours Monday through Friday.

Final regulations will be issued by the Corporation after review and consideration of public comment received pursuant to this notice.

Part 1610 is added in proposed form as follows:

PART 1610—USE OF FUNDS FROM SOURCES OTHER THAN THE CORPORATION

- Sec.
1610.1 Definition.
1610.2 Prohibition.
1610.3 Authorized use of other funds.
1610.4 Accounting.

AUTHORITY: Sec. 1010(c), 1008(e) (4) U.S.C. 2996i(c), 2996g(e)).

§ 1610.1 Definition.

"Recipient", as used in this Part, means any grantee or contractor receiving financial assistance from the Corporation under Section 1006(a) (1) (A) of the Act, but does not include any private attorney, law firm, state or local entity of attorneys, or a legal aid organization that has a separate public defender program.

§ 1610.2 Prohibition.

No recipient shall use funds received from any source for purposes prohibited by the Act or Corporation Regulations, unless such use is authorized by Section 1610.3.

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§ 1610.3 Authorized Use of Other Funds.

A recipient may receive public or tribal funds and use them in accordance with the purposes for which they were provided.

§ 1610.4 Accounting.

Funds received by a recipient from a source other than the Corporation shall be accounted for and reported to the Corporation as separate and distinct receipts and disbursements in the manner directed by the Corporation.

**THOMAS EHRLICH,
President,
Legal Services Corporation.**

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