



LEGAL SERVICES CORPORATION

750 1st St., NE, 11th FL, Washington, D.C. 20002-4250

(202) 336-8800

Fax (202) 336-8855

John McKay
President

Writer's Direct Telephone
(202)

336-8817

July 27, 1998

Gretchen Coll Marti, Executive Director
Puerto Rico Legal Services
Ave Ponce de Leon 1859 -- Pda. 26
Santurce, Puerto Rico 00908-9134

Dear Ms. Coll Marti:

This is in response to your request, pursuant to §1618.4(c) for an opinion on whether your interpretation of the Legal Services Corporation Act (Act) is consistent with Corporation policy before Legal Services of Puerto Rico (LSPR) sanctions an employee for a violation of the Act.¹

According to the information you provided in your June 12, 1998 letter, one of your attorneys knowingly and willfully represented a person who was not a client of your program without seeking or obtaining authorization from LSPR. You claim the employee violated §1007(a)(4) of the LSC Act as well as your program's procedures for case acceptance.

Section 1007(a)(4) of the LSC Act, 42 U.S.C. §2996f(a)(4) requires the Corporation to insure that:

attorneys employed full time in legal assistance activities

¹ 45 CFR Part 1618.4(c) provides that:

Before suspending or terminating the employment of any person for violating a prohibition of the Act, a recipient shall consult the Corporation to insure that its interpretation of the Act is consistent with Corporation policy.

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supported in major part by the Corporation refrain from (A) any compensated outside practice of law, and (B) any uncompensated outside practice of law except as authorized in guidelines promulgated by the Corporation.

The guidelines promulgated by the Corporation to implement this statutory provision are found at 45 CFR Part 1604, the Corporation's regulations on the outside practice of law (outside practice). Part 1604 prohibits recipient attorneys from engaging in outside practice² unless the recipient's director determines that the outside practice is not inconsistent with the attorney's full time responsibilities.³ This means that the attorney must get approval from the recipient's director before engaging in any outside practice. According to your letter, the program attorney in question did not seek or receive authorization from the recipient's director to take the outside case. Therefore, the representation of an outside client by the attorney violates Section 1007(a)(4) and Part 1604.⁴

I hope this adequately responds to your inquiry. Please let me know if I can provide any additional assistance.

Sincerely,



Suzanne B. Glasow
Senior Assistant General Counsel

² Part 1604 defines "outside practice of law" as:

the provision of legal assistance to a client who is not entitled to receive legal assistance from the employer of the attorney rendering assistance, but does not include, among other activities, teaching, consulting, or performing evaluation.

45 CFR §1604.2(b).

³ This opinion assumes that the attorney in question meets the definition of attorney in Part 1604. Section 1604.2(a) defines "attorney" as "a person who is employed full time in legal assistance activities supported in major part by the Corporation and who is authorized to practice law in the jurisdiction where assistance is rendered." §1604.2(a).

⁴ Please note that, if approval had been sought by the attorney, the Executive Director must also determine whether the outside practice would be consistent with §§1604.4 (Compensated outside practice) and 1604.5 (Uncompensated outside practice).