

§ 1607.4

45 CFR Ch. XVI (10–1–24 Edition)

§ 1607.3 Composition.

* * * *

(b) A recipient's governing body must be composed of:

(1) At least 33% attorneys;

(i) Attorney members may be selected by the recipient's governing body or may be selected by other organizations designated by the recipient which have an interest in the delivery of legal services to low-income populations.

(ii) Selections shall be made to ensure that the attorney members reasonably reflect the diversity of the legal community and the population of the areas served by the recipient, including race, ethnicity, gender, and other similar factors.

(2) At least one-third eligible client members who are eligible client members when initially selected by the recipient.

(i) Recipients must solicit recommendations for eligible client members from a variety of appropriate groups designated by the recipient that may include, but are not limited to, client and neighborhood associations and community-based organizations that advocate for or deliver services or resources to the client community served by the recipient.

(ii) Recipients should solicit recommendations from groups in a manner that reflects, to the extent possible, the variety of interests within the client community, and eligible client members should be selected so that they reasonably reflect the diversity of the eligible client population served by the recipient, including race, gender, ethnicity, and other similar factors.

(3) Other members selected by the recipients' governing body or in another manner described in the recipient's bylaws or policies.

(i) Recipients must appoint or select members so that the governing body as a whole reasonably reflects the diversity of the areas served by the recipient, including race, ethnicity, gender, and other similar factors.

(ii) Recipients should consider recruiting and selecting members possessing fiscal or nonprofit governance expertise or other skills necessary to effectively govern the recipient's operations.

(iii) Members of a governing body shall not be dominated by persons serving as the representatives of a single association, group or organization, except that eligible client members may be selected from client organizations that are composed of coalitions of numerous smaller or regionally based client groups.

(c) Members of a governing body may be selected by appointment, election, or other means consistent with this part and with the recipient's bylaws and applicable State law.

(d) Recipients shall make reasonable and good faith efforts to ensure that governing body vacancies are filled as promptly as possible.

(e) Recipient staff may recommend candidates for governing body membership to its governing body and other appointing groups and should consult with the appointing organizations to ensure that:

(1) Appointees meet the criteria for board membership set out in this part, including financial eligibility for persons appointed as eligible clients, bar admittance requirements for attorney board members, and the general requirements that all members be supportive of the purposes of the Act and have an interest in and knowledge of the delivery of legal services to low-income populations;

(2) The particular categories of board membership and the board as a whole meet the diversity requirement described in paragraphs (b)(1)(ii), (b)(2)(ii), and (b)(3)(ii) of this section;

(3) Appointees do not have actual and significant individual or institutional conflicts of interest with the recipient or the recipient's client community that could reasonably be expected to influence their ability to exercise independent judgement as members of the recipient's governing body.

* * * *

§ 1607.4 Functions of a governing body.

(a) A governing body shall have at least four meetings a year. A recipient shall give timely and reasonable prior public notice of all meetings, and all meetings shall be public except for those concerned with matters properly discussed in executive session in accordance with written policies adopted by the recipient's governing body.

(b) In addition to other powers and responsibilities that may be provided for by State law, a governing body shall establish and enforce broad policies governing the operation of a recipient, but neither the governing body nor any member thereof shall interfere with any attorney's professional responsibilities to a client or obligations as a member of the profession or interfere with the conduct of any ongoing representation.

(c) A governing body shall adopt bylaws which are consistent with State law and the requirements of this part. Recipients shall submit a copy of such bylaws to the Corporation and shall give the Corporation notice of any

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