

Legal Services Corporation

§ 1609.4

AUTHORITY: 42 U.S.C. 2996g(e).

SOURCE: 62 FR 19399, Apr. 21, 1997, unless otherwise noted.

§ 1609.1 Purpose.

This part is designed:

(a) To ensure that recipients do not use scarce legal services resources when private attorneys are available to provide effective representation and

(b) To assist eligible clients 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.

(b) *Fee-generating case* does not include a case where:

(1) A court appoints a recipient or an employee of a recipient to provide representation in a case pursuant to a statute or a court rule or practice equally applicable to all attorneys in the jurisdiction;

(2) A recipient undertakes representation under a contract with a government agency or other entity; or

(3) A recipient provides only advice and counsel or limited services, as those terms are defined in 45 CFR 1611.1(a) and (e), to an eligible client.

[62 FR 19399, Apr. 21, 1997, as amended at 82 FR 20446, May 2, 2017]

§ 1609.3 Authorized representation in a fee-generating case.

(a) Except as provided in paragraph (b) of this section, a recipient may not use Corporation funds to provide legal assistance in a fee-generating case unless:

(1) The case has been rejected by the local lawyer referral service, or by two private attorneys; or

(2) Neither the referral service nor two private attorneys will consider the case without payment of a consultation fee.

(b) A recipient may provide legal assistance in a fee-generating case without first attempting to refer the case pursuant to paragraph (a) of this section only when:

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

(2) The recipient, after consultation with appropriate representatives of the private bar, has determined that the type of case is one that private attorneys in the area served by the recipient ordinarily do not accept, or do not accept without prepayment of a fee; or

(3) The director of the recipient, or the director's designee, has determined that referral of the case to the private bar is not possible because:

(i) Documented attempts to refer similar cases in the past generally have been futile;

(ii) Emergency circumstances compel immediate action before referral can be made, but the client is advised that, if appropriate, and consistent with professional responsibility, referral will be attempted at a later time; or

(iii) Recovery of damages is not the principal object of the recipient's client's case and substantial statutory attorneys' fees are not likely to be available.

[62 FR 19399, Apr. 21, 1997, as amended at 75 FR 6818, Feb. 11, 2010; 76 FR 23504, Apr. 27, 2011; 82 FR 20447, May 2, 2017]

§ 1609.4 Requesting and receiving attorneys' fees.

(a) Any petition seeking attorneys' fees for representation supported in whole or in part with funds provided by LSC, shall, to the extent permitted by law and rules in the jurisdiction, be filed in the name of the recipient.

(b) Attorneys' fees received by a recipient or an employee of a recipient for representation supported in whole or in part with funds provided by LSC shall be allocated to the fund in which the recipient's LSC grant is recorded in the same proportion that the amount of LSC funds expended bears to the total amount expended by the recipient to support the representation.

(c) Attorneys' fees received shall be recorded during the accounting period in which the money from the fee award

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is actually received by the recipient and may be expended for any purpose permitted by the LSC Act, regulations, and other law applicable at the time the money is received.

[82 FR 20447, May 2, 2017]

§ 1609.5 Receiving reimbursement from a client.

(a) When a case results in recovery of damages or statutory benefits, a recipient may accept reimbursement from the client for out-of-pocket costs and expenses incurred in connection with the case, if the client has agreed in writing to reimburse the recipient for such costs and expenses out of any such recovery.

(b) A recipient may require a client to pay court costs when the client does not qualify to proceed *in forma pauperis* under the rules of the jurisdiction.

[75 FR 6818, Feb. 11, 2010, as amended at 82 FR 20447, May 2, 2017]

§ 1609.6 Recipient policies, procedures and recordkeeping.

Each recipient shall adopt written policies and procedures to guide its staff in complying with this part and shall maintain records sufficient to document the recipient's compliance with this part.

[62 FR 19399, Apr. 21, 1997. Redesignated at 75 FR 6818, Feb. 11, 2010]

PART 1610—USE OF NON-LSC FUNDS; PROGRAM INTEGRITY

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AUTHORITY: 42 U.S.C. 2996g(e).

SOURCE: 85 FR 63214, Oct. 7, 2020, unless otherwise noted.

Subpart A—General Provisions

§ 1610.1 Purpose.

This part is designed to implement restrictions and requirements on the use of non-LSC funds by LSC recipients and to set requirements for each LSC recipient to maintain program integrity with respect to any organization that engages in LSC-restricted activities.

§ 1610.2 Definitions.

(a) *Use of funds* means the expenditure of funds by an LSC recipient.

(1) *Authorized use of funds* means any use of funds within the purpose for which the funds were provided. The following non-exhaustive list provides examples of some of the types of purposes that a grantor, donor, or other might identify.

(i) A grant stating that the funds provided are available to support legal services for victims of domestic violence regardless of income or financial resources are authorized for those purposes;

(ii) A grant stating that the funds provided are available to support any civil legal services to people with household incomes below 200% of the Federal Poverty Guidelines are authorized for those purposes;

(iii) A private donation stating that the funds are for eviction work are authorized for that purpose; or

(iv) A private donation without any instructions from the donor or grantor regarding the use of the funds are available for any purposes.

(2) *Unauthorized use of funds* means any use of funds that is not an authorized use as defined above.

(b) *Derived from* means the recipient obtained the funds either directly from the source or as the result of a series of grants and subgrants (or similar arrangements) originating from the source. For example, a state provides public funds to a private, non-LSC-