

## § 1604.6

(b) A recipient's written policies which permit a full-time attorney who meets the criteria set forth in §1604.4(c)(1) to engage in the outside practice of law shall permit full-time attorneys to seek and receive personal compensation for work performed pursuant to that section.

### § 1604.6 Use of recipient resources.

(a) For cases undertaken pursuant to §1604.4(c)(1), a recipient's written policies may permit a full-time attorney to use *de minimis* amounts of the recipient's resources for permissible outside practice if necessary to carry out the attorney's professional responsibilities, as long as the recipient's resources, whether funded with Corporation or private funds, are not used for any activities for which the use of such funds is prohibited.

(b) For cases undertaken pursuant to §1604.4(c)(2) through (4), a recipient's written policies may permit a full-time attorney to use limited amounts of the recipient's resources for permissible outside practice if necessary to carry out the attorney's professional responsibilities, as long as the recipient's resources, whether funded with Corporation or private funds are not used for any activities for which the use of such funds is prohibited.

### § 1604.7 Court appointments.

(a) A recipient's written policies may permit a full-time attorney to accept a court appointment if the director of the recipient or the director's designee determines that:

(1) Such an appointment is consistent with the recipient's primary responsibility to provide legal assistance to eligible clients in civil matters;

(2) The appointment is made and the attorney will receive compensation for the court appointment under the same terms and conditions as are applied generally to attorneys practicing in the court where the appointment is made; and

(3) Subject to the applicable law and rules of professional responsibility, the attorney agrees to remit to the recipient any compensation received.

(b) A recipient's written policies may permit a full-time attorney to use program resources to undertake represen-

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tation pursuant to a court appointment.

(c) A recipient's written policies may permit a full-time attorney to identify the recipient as his or her employer when engaged in representation pursuant to a court appointment.

(d) If, under the applicable State or local court rules or practices or rules of professional responsibility, legal services attorneys are mandated to provide pro bono legal assistance in addition to the attorneys' work on behalf of the recipient's clients, the recipient's written policies shall treat such legal assistance in the same manner as court appointments under paragraphs (a)(1), (a)(3), (b) and (c) of this section, provided that the policies may only permit mandatory pro bono activities that are not otherwise prohibited by the LSC Act, applicable appropriations laws, or LSC regulation.

## PART 1605—APPEALS ON BEHALF OF CLIENTS

Sec.

1605.1 Purpose.

1605.2 Definition.

1605.3 Review of Appeals.

AUTHORITY: Secs. 1007(a)(7), 1008(e), 42 U.S.C. 2996f(a)(7), 2996g(e).

SOURCE: 41 FR 18513, May 5, 1976, unless otherwise noted.

### § 1605.1 Purpose.

This part is intended to promote efficient and effective use of Corporation funds. It does not apply to any case or matter in which assistance is not being rendered with funds provided under the Act.

### § 1605.2 Definition.

*Appeal* means any appellate proceeding in a civil action as defined by law or usage in the jurisdiction in which the action is filed.

### § 1605.3 Review of Appeals.

The governing body of a recipient shall adopt a policy and procedure for review of every appeal to an appellate court taken from a decision of any court or tribunal. The policy adopted shall

(a) Discourage frivolous appeals, and

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(b) Give appropriate consideration to priorities in resource allocation adopted by the governing body, or required by the Act, or Regulations of the Corporation; but

(c) Shall not interfere with the professional responsibilities of an attorney to a client.

### **PART 1606—TERMINATION, LIMITED REDUCTION OF FUNDING, AND DEBARMENT PROCEDURES; RE-COMPETITION**

Sec.

- 1606.1 Purpose.
- 1606.2 Definitions.
- 1606.3 Grounds for a termination or a limited reduction of funding.
- 1606.4 Grounds for debarment.
- 1606.5 Procedures.
- 1606.6 Preliminary determination and final decision.
- 1606.7 Corrective action, informal conference, review of written materials, and final decision.
- 1606.8 Hearing for a termination or debarment.
- 1606.9 Recommended decision for a termination or debarment.
- 1606.10 Final decision for a termination, debarment, or limited reduction of funding.
- 1606.11 Qualifications on hearing procedures.
- 1606.12 Time and waiver.
- 1606.13 Interim and termination funding; re-programming, implementation.
- 1606.14 Recompensation.

AUTHORITY: 42 U.S.C. 2996e(b)(1), 2996f(a)(3), and 2996f(d); Pub. L. 105-119, Title V, Secs. 501(b) and (c), 502, 503, and 504, 111 Stat. 2440, 2510-12; Pub. L. 104-134, Title V, Sec. 503(f), 110 Stat. 1321, 1321-53.

SOURCE: 78 FR 10093, Feb. 13, 2013, unless otherwise noted.

#### **§ 1606.1 Purpose.**

The purpose of this rule is to:

(a) Ensure that the Corporation is able to take timely action to deal with incidents of substantial noncompliance by recipients with a provision of the LSC Act, the Corporation's appropriations act or other law applicable to LSC funds, a Corporation rule, regulation, guideline or instruction, or the terms and conditions of the recipient's grant or contract with the Corporation;

(b) Provide timely and fair due process procedures, proportional to the pro-

posed action, when the Corporation has made a preliminary decision to terminate a recipient's LSC grant or contract, to debar a recipient from receiving future LSC awards of financial assistance, or to impose a limited reduction in funding; and

(c) Ensure that scarce funds are provided to recipients who can provide the most effective and economical legal assistance to eligible clients.

(d) None of the following actions are subject to the procedures or requirements of this part:

(1) A reduction of funding required by law, including but not limited to a reduction in, or rescission of, the Corporation's appropriation that is apportioned among all recipients of the same class in proportion to their current level of funding;

(2) A reduction or deduction of LSC support for a recipient under the Corporation's fund balance regulation at 45 CFR part 1628;

(3) A recovery of disallowed costs under the Corporation's regulation on costs standards and procedures at 45 CFR part 1630;

(4) A withholding of funds pursuant to the Corporation's Private Attorney Involvement rule at 45 CFR part 1614.

#### **§ 1606.2 Definitions.**

For the purposes of this part:

*Corporation*, when used to refer to decisions by the Legal Services Corporation, means that those decisions are made by an individual acting with a seniority level at, or equivalent to, the level of an office director or higher.

*Days* shall mean the number of calendar days as determined by the rules for computing time in the Federal Rules of Civil Procedure, Rule 6, except that computation of *business days* shall exclude Saturdays, Sundays, and legal holidays (as defined in those rules).

*Debarment* means an action taken by the Corporation to exclude a recipient from receiving an additional award of financial assistance from the Corporation or from receiving additional LSC funds from another recipient of the Corporation pursuant to any other means, including a subgrant, subcontract or similar agreement, for the period of time stated in the final debarment decision.