

RULES AND REGULATIONS

the outside practice of law were given full consideration and the following issues were taken into account in re-drafting the regulation:

Purpose. Section 1007(a) (4) of the Act and its legislative history show that Congress contemplated that outside practice by legal services lawyers would be regulated by the Corporation. Some outside practice is both unavoidable and desirable, if a lawyer is to satisfy the legitimate demands made upon him or her as an officer of the Court and as a responsible participant in community life. At the same time, it is essential to insure that a legal services lawyer does not compete with lawyers in private practice, is not burdened by excessive court appointments, and does not undertake other professional commitments that might prevent the rendering of the highest quality full time legal assistance to eligible clients.

Definition. In response to comments received, a technical change was made in the definition of "outside practice" in Section 1604.2, to make clear that work done for a client, not eligible for services under the Act, who is a client of the attorney's employer, is not "outside practice". The change was necessary because some recipients receive funds from other sources for the purpose of serving a particular category of clients, e.g., the aged, who may not be eligible under the Act. In addition, the change permits the Corporation to make grants to, or contracts with, private law firms. Teaching, consulting, evaluating, and other similar activities are also excluded from the coverage of this Part.

Safeguards. Section 1604.3 prohibits outside practice if the director of a recipient has determined that such practice will interfere with the attorney's full time responsibilities. There are only two situations in which a recipient may permit an attorney to engage in compensated outside practice of law. If Section 1604.3 is satisfied, a newly employed attorney may conclude cases from a previous practice if he or she does so expeditiously; and an attorney may accept appointment under a court rule or practice of general applicability. Uncompensated outside practice may be authorized under Section 1604.5 if the requirement of Section 1604.3 is met, and the practice is undertaken on behalf of a close friend or family member, or for a civic or charitable group, or pursuant to court appointment under a generally applicable rule or practice.

Accordingly, the Board of the Legal Services Corporation adopts the final regulation, as set forth below, to become effective on June 3, 1978, pursuant to section 1008(e) of the Act.

Sec.

1604.1 Purpose.

1604.2 Definitions.

1604.3 General policy.

1604.4 Compensated outside practice.

1604.5 Uncompensated outside practice.

Authority: Sec. 1007(a) (4), 1008(e) (42 U.S.C. 2996f(a) (4) 2996g(e)).

§ 1604.1 Purpose.

This Part is designed to permit an attorney to comply with the reasonable demands made upon all members of the Bar and officers of the Court, so long as those demands do not hinder fulfillment of the attorney's overriding responsibility to serve those eligible for assistance under the Act.

§ 1604.2 Definitions.

(a) "Attorney", as used in this Part, means 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.

(b) "Outside practice of law" means the provision of legal assistance to a client who 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.

§ 1604.3 General policy.

No attorney shall engage in any outside practice of law if the director of the recipient has determined that such practice is inconsistent with the attorney's full time responsibilities.

§ 1604.4 Compensated outside practice.

A recipient may permit an attorney to engage in the outside practice of law for compensation if Section 1604.3 is satisfied, and

(a) The attorney is newly employed and has a professional responsibility to close cases from a previous law practice, and does so as expeditiously as possible; or

(b) The attorney is acting pursuant to an appointment made under a court rule or practice of equal applicability to all attorneys in the jurisdiction, and remits to the recipient all compensation received.

§ 1604.5 Uncompensated outside practice.

A recipient may permit an attorney to engage in uncompensated outside practice of law if Section 1604.3 is satisfied, and the attorney is acting

(a) Pursuant to an appointment made under a court rule or practice of equal applicability to all attorneys in the jurisdiction; or on behalf of

(b) A close friend or family member; or

(c) A religious, community, or charitable group.

THOMAS ERLICH,

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Legal Services Corporation.

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PART 1604—OUTSIDE PRACTICE OF LAW

General Policy

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-368, 88 Stat. 378, 42 U.S.C. 2996-2996f ("the Act"). Section 1007(a) (4), 42 U.S.C. 2996f(a) (4) provides that the Corporation shall issue guidelines concerning the outside practice of law by attorneys employed full time in legal assistance activities.

On March 12, 1978 (41 FR 10629) a proposed regulation on outside practice of law was published. Interested persons were given until April 11, 1978 to submit comments on the proposed regulation.

Y comments submitted with respect to