



**LEGAL SERVICES CORPORATION**

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

(202) 336-8800

Fax (202) 336-8959

John McKay  
President

Writer's Direct Telephone  
(202)

336-8817

April 9, 1998

Transmitted via facsimile: 404-525-5710

Steve Gottlieb, Executive Director  
Atlantic Legal Aid Society, Inc.  
151 Spring Street, N.W.  
Atlanta, Georgia 30303-2097

Dear Mr. Gottlieb:

This is a response to your January 16, 1998 letter requesting an opinion on whether Atlantic Legal Aid Society (ALAS) may enter into a contract with local courts to provide assistance to persons, some of whom may be aliens, who have filed *pro se* before the court, without the need to comply with the alien eligibility requirements of 45 CFR Part 1626 and the retainer agreement requirement of 45 CFR Part 1611.<sup>1</sup> You stated that the assistance to the *pro se* litigants would be entirely funded with non-LSC funds and that it would be provided entirely at the courthouse. You also stated that the assistance would include: helping *pro se* litigants fill out and file forms; advising litigants on whether appearing *pro se* is in their best interest; educating them on court procedures and referring them to private counsel if they decide they need legal assistance. No attorney-client relationship would be established and no ongoing assistance would be provided.

Based on the information you have provided, ALAS may provide assistance under the court contract without the need to comply with the aforementioned requirements of Parts 1611 and 1626.

---

<sup>1</sup> This letter affirms the advice I already provided you over the phone. I apologize for the delay in responding to your letter.

**BOARD OF DIRECTORS - Douglas S. Eakeley, Chairman, Roseland, NJ**

Hulett H. Askew  
Atlanta, GA

LaVeeda M. Battle  
Birmingham, AL

John T. Broderick, Jr.  
Manchester, NH

John N. Erlenborn  
Issue, MD

Maria L. Mercado  
Galveston, TX

F. Wm. McCalpin  
St. Louis, MO

Nancy H. Rogers  
Columbus, OH

Thomas F. Smegal, Jr.  
San Francisco, CA

Ernestine P. Watlington  
Harrisburg, PA

Edna Fairbanks-Williams  
Fairhaven, VT

Part 1611: Retainer Agreement. Part 1611 requires that a recipient “shall execute a written retainer agreement, in a form approved by the Corporation, with each client who receives legal services from the recipient.” Based on your description of activities envisioned under the court contract, the litigants will not be receiving legal services from ALAS. The litigants would be representing themselves and would not be entering into any attorney-client relationship with the recipient. In addition, §1611.8(b) clarifies that a retainer agreement is not required “when the only service to be provided is brief advice and consultation.” The type of assistance provided under the court contract appears to be similar to and is not more substantive than brief advice and consultation. Accordingly, ALAS may enter into the court contract without the need to execute retainer agreements with the litigants served.

Part 1626: Alien Eligibility. Section 1626.3 provides that, except for certain categories of aliens, “recipients may not provide **legal assistance** for or on behalf of an ineligible alien.”[emphasis added]. It also clarifies that “legal assistance does not include normal intake and referral services.” In addition, §1626.6(a) requires that:

A recipient shall require all **applicants for legal assistance** who claim to be citizens to attest in writing in a standard form provided by the Corporation that they are citizens, unless the only service provided for a citizen is brief advice and consultation by telephone which does not include continuous representation. [emphasis added].

Finally, §1626.7(a) provides that:

An alien **seeking representation** shall submit appropriate documents to verify eligibility, unless the only service provided for an eligible alien is brief advice and consultation by telephone which does not include continuous representation of a client. [emphasis added].

These provisions respectively apply to persons who are provided legal assistance, are applicants for legal assistance or who are seeking representation from the recipient. The *pro se* litigants you would assist under the court contract are not “applicants for legal assistance;” they are not “seeking representation” from ALAS; and they are not provided legal assistance by ALAS. ALAS attorneys would not represent the litigants before the court or establish any attorney-client relationship with the litigants. Rather, they would

merely help them fill out forms, understand court procedures, help them understand the consequences of appearing *pro se*, and provide referrals or information on referrals if they decide they would like legal representation. No ongoing assistance would be provided by the ALAS attorneys and all assistance under the contract would be provided at the court.

In summary, involvement by ALAS in activities under the court contract are permissible and do not require ALAS to comply with the client retainer provision in Part 1611 or the alien eligibility requirements discussed above as long as the litigants are *pro se* litigants, they do not enter into an attorney-client relationship with an ALAS attorney, they are not applicants for or are not seeking legal representation from ALAS, and the assistance provided remains as described in your January 18, 1998 letter.

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

Sincerely,

A handwritten signature in cursive script that reads "Suzanne B. Glasow".

Suzanne B. Glasow

Senior Assistant General Counsel