

# Colorado Legal Services

1905 Sherman Street, Suite 400  
Denver, Colorado 80203-1811  
Telephone 303-837-1321 V / TDD  
Fax 303-830-7860

Direct Line: 303-866-9399

March 15, 2010

Mattie Cohan  
Senior Assistant General Counsel  
Legal Services Corporation  
3333 K Street, NW  
Washington, DC 20007

Re: Attorneys' Fees Restriction  
Comments on Interim Final Rule  
Repeal of 45 CFR Part 1642

*Mattie*  
Dear Ms. Cohan:

On behalf of Colorado Legal Services (CLS), these comments express our support for the action taken by the Legal Services Corporation in adopting the Interim Final Rule on Attorneys' Fee, et. al. published in the Federal Register on February 11, 2010. CLS appreciates the prompt attention to the Consolidated Appropriations Act of 2009 which begins the process necessary to effectuate the clear will of Congress to eliminate the restriction on recipients of LSC funds and their staff from claiming, collecting or retaining attorneys' fees. We appreciate the timely and appropriate response of the LSC Board and staff in effectuating the lifting of the attorneys' fees restriction.

Colorado Legal Services supports the Interim Final Rule which completely eliminates Part 1642 and removes the entire regulatory restriction with regard to attorneys' fee claims for any work for which state or federal law authorizes and allows a party or litigant to seek fees. We believe that LSC has adopted the appropriate policy which effectuates the 2009 Act and the will of Congress. The legislative and regulatory restrictions implemented in 1996 prohibit claiming, or collecting and retaining attorneys' fees. The restrictions never included a prohibition on performing work which would allow counsel to earn the underlying fees which might be authorized and claimed under a state or federal law. Congress, in eliminating the restriction, lifted the prohibition on recipients and their staff from seeking, or collecting and retaining fees. The Interim Final Rule eliminating Part 1642 and suspending enforcement of the current Regulation until the effective date of the Interim Final Rule is sound policy and is appropriate in allowing grantees and their staff to seek fees for all work that they may have done in the past and for which fees may now be claimed and possibly awarded. CLS supports the action of LSC and encourages the Board to continue these policies, unchanged or modified, in any Final Rule

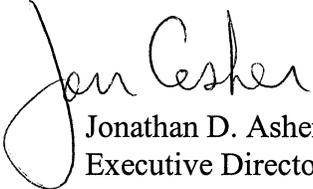
adopted by LSC. CLS believes that the Board would be wise to adopt such a Final Rule without any change or modification to the Interim Final Rule.

CLS also believes that LSC's decision and action to move those provisions currently in Part 1642 that address accounting for and use of attorneys' fees and with the acceptance of reimbursements for cost and expenses from clients to Part 1609 is appropriate. These provisions, not related to the restriction on claiming, or collecting and retaining attorneys' fees, continue to be necessary and now more appropriately belong in Part 1609, which addresses restrictions on and requirements for LSC recipients accepting fee-generating cases. It is also appropriate, and CLS supports LSC's intent and obvious need to remove the references to Part 1642, once eliminated, from Parts 1609 and 1610.

CLS again wishes to express its appreciation for the efforts of the LSC Board and staff to promptly and appropriately effectuate the will of Congress in the lifting of the restriction on LSC recipients from claiming, or collecting and retaining attorneys' fees. As Congress intended, this will serve to level the strategic playing field in litigation on behalf of eligible clients and, in appropriate cases, enhance the resources of LSC grantees.

Thank you for your kind consideration of these comments and for your continued efforts to lift the attorneys' fees restriction as promptly and thoughtfully as you have so ably already begun to do. If you have any questions concerning these comments or CLS' support of the Interim Final Rule, please let me know.

Respectfully,

  
Jonathan D. Asher  
Executive Director

JDA/ccg