

The proposed rule change recognizes that in every neighborhood where eligible clients are found, there are also social service agencies and affinity groups working to improve the lives of low-income families. LSC grantees can achieve more by cooperating with these agencies and groups than by tackling the same problems in isolation.

b. Retainer Issues

The proposed rules regarding retainers in (§ 1611.9) mark an improvement over the existing regulation in certain respects. First, it is important that the proposed regulation clarifies that retainer agreements are not required in PAI cases nor where only advice and counsel or brief services are provided. PAI attorneys should be allowed to structure their relationship with the client in a manner that affords the greatest flexibility. The new proposal also appropriately recognizes that there is no need to require retainers in all cases that involve only advice and counsel or brief services. Recipients should have the ability to determine when a particular case will require a retainer rather than be saddled with this burden in all cases. The administrative burden of preparing a retainer, or even some substitute notice, in the thousands of simple “advice only” cases would be staggering.

The proposed retainer rule no longer requires recipients to obtain LSC approval of each retainer form. This is a welcome change for programs such as LAF, which have a multitude of offices and projects, necessitating different retainer agreements for different situations. The elimination of the LSC approval of each modification to a retainer form will save us administrative expense and allow us to be able to act more quickly in some matters.

The one provision which LAF believes is not warranted in the proposed retainer regulation is the requirement that retainers be utilized in all extended service cases. There is no such requirement in the Rules of Professional Conduct or the laws of Illinois. Given our urgent need for flexibility in the provision of legal services to great numbers of clients, the regulatory requirement of retainers in every case of extended representation is not warranted. Recipients are quite able to make proper determinations as to which cases would need written retainers.

c. Section 509 (h)

We support the decision not to incorporate Section 509 (h) into this regulation.

Overall, we think the changes to the regulation are very positive.

Very truly yours,

Sheldon Roodman
Executive Director

SHR: as