



OFFICE OF LEGAL AFFAIRS

February 15, 2000

Brendan E. Gill  
Executive Director  
Bexar County Legal Aid Association Inc.  
434 South Main Ave. Suite 300  
San Antonio, Texas 78204

Re: Leave of Absence to Pursue Judicial Seat

Dear Mr. Gill:

As Executive Director of Bexar County Legal Services, you recently requested an opinion as to whether you may permit a staff attorney to take a leave of absence without pay to pursue a district judge position.

Part 1608 of the Legal Services Corporation (“LSC”) regulations is the applicable law in this case. A purpose of Part 1608 is to ensure LSC funds will not be used to support or promote political activities or interests, and to prevent the identification of LSC with the campaign of any candidate for public partisan office. *See* 42 USC 2996e(e)(1); § 1608.1; and § 1608.4(a).

The relevant prohibition in Part 1608 is that “no staff attorney” shall, “at any time,” be a “candidate for partisan elective public office.” § 1608.5(c). Thus, the first determination you must make is whether your “senior attorney” qualifies as a “staff attorney” under the LSC regulations.

“Staff attorney” is briefly defined as, “an attorney more than one half of whose annual professional income is derived from the proceeds of a grant from the Legal Services Corporation.” § 1600.1. *See also*, 42 USC 2996a(7).

The second element to be considered in the § 1608.5(c) prohibition is “at any time.” The question in your case is whether a staff attorney on a “leave of absence” remains a “staff

