

OFFICE OF LEGAL AFFAIRS

ago. You have asked if LSEM may endorse the check so that the staff attorney may deposit it in his private bank account. LSEM would at no time hold or accept the check or any of the funds from it.

The LSC regulations state that “no recipient or employee of a recipient may claim, or collect and retain attorneys’ fees in any case undertaken on behalf of a client of the recipient.” 45 C.F.R. §1642.3. The case that generated this fee was not undertaken on behalf of a client of LSEM and does not fall within the scope of the regulation. A related issue had been addressed in an external opinion dated July 29, 1997, stating that “a recipient’s part-time attorneys may engage in the outside practice of law on their own time and seek and retain attorneys’ fees from such outside cases” because they are not cases undertaken on behalf of a client of the recipient.

Furthermore, this situation does not involving LSEM ‘claiming or collecting and retaining’ attorneys’ fees as prohibited in Part 1642. LSEM has not claimed the fees in this case nor asserted any rights to them. Regarding collecting and retaining, we have interpreted this to mean that recipients are prohibited from “receiving and cashing or otherwise holding onto the check [for fees] for any period of time, including time sufficient to take action to donate or assign the funds ” and thus recipients cannot assign attorneys fees to a third party. External Opinion Letter on July 29, 1997. In this situation though, LSEM is not assigning the check to a third party, but is instead merely allowing the attorney to whom the check is also made out, and who is the only one entitled to the fees, to deposit it. There is no reason to believe that the State intended that any of the fees go to LSEM; the settlement did not provide for any fees for LSEM, which was not involved in the case. LSEM is merely correcting a clerical error without ever exercising any actual control or possession over the check or the funds and obtaining no benefit from the