recipient in an outside practice case even if the client is also receiving legal assistance from the recipient, as long as the recipient is representing the client on a different matter.

This definition is not intended to include work done by legal services attorneys when serving in the military reserves as JAG Corps attorneys. Although the Committee chose not to include language on this issue in the rule, it intends to continue the policy established in prior General Counsel opinions, which have consistently found that an attorney is not engaged in the outside practice of law while serving as a JAG Corps reserve officer. Comments are solicited as to whether the rule should include language expressly stating this policy.

Section 1604.2(c) ''Court Appointment''

The essence of the current definition of ''court appointments'' is incorporated into this proposed provision. The regulatory definition is used rather than the following language in § 1006(d)(6) of the Act:

Attorneys employed by a recipient shall be appointed to provide legal assistance without reasonable compensation only when such appointment is made pursuant to a statute, rule, or practice applied generally to attorneys practicing in the court where the appointment is made.

The regulatory definition on appointments is broader than the statutory one, which applies only to uncompensated appointments; but the regulatory definition is more protective of program resources.

Section 1604.3 General Policy

Paragraph (a) would require recipients to adopt written policies relating to outside practice, rather than permitting programs to determine, on an ad hoc basis, whether outside practice is to be permitted in a particular instance. However, the policies would give the project director substantial discretion to decide.

Paragraph (b) addresses the concern that, in revising this regulation to take account of the evolving obligations of all attorneys to do pro bono work, recipients would be subject to pressures from their attorneys to do outside practice that was not absolutely required by professional obligations and that interfered with the program's ability to serve the clients it is funded to serve. This concern is especially important in view of the fact that LSC recipients lack adequate resources to serve more than a small fraction of the eligible clients who have real legal needs. This provision is included in order to insure that recipients can adopt policies that balance the demands of the profession, the attorney's desire to do outside work, and the needs of the community served by the program.

The restrictions of this part apply only to full-time attorneys. Although recipients are not required to do so, paragraph (c) would allow them to adopt restrictions on outside practice by part-time attorneys.

Section 1604.4 Permissible Outside Practice

Section 1604.4(a)

Proposed paragraph (a) states the rule in the affirmative, rather than as a restriction. It also refers to a full-time attorney's responsibilities to clients, rather than ''full-time responsibilities.'' The Committee intends a director to make a case-by-case determination as to whether involvement in a specific case or matter would be consistent with a full-time attorney's responsibilities to the program's clients. An full-time attorney's responsibilities to program clients should be determined by reference to the program's definition of ''full-time,'' not by reference to a specific attorney's working habits. Thus, an attorney in the habit of working substantial amounts of overtime on program activities should not be penalized for deciding to allot some of that overtime to an outside practice case rather than to program activities. In addition, an attorney should be permitted to take reasonable amounts of leave to engage in permitted outside practice.

Section 1604.4(b)

Paragraph (b) is included to address a concern that, if program attorneys handled outside practice cases that were controversial or dealt with areas prohibited to the recipient (e.g., abortion litigation), the recipients would be seen as handling the cases and viewed as using outside practice as a way to get around other restrictions. This language, which is similar to language in the regulation on prohibited political activities, would require the attorney to make it clear that this was not a program case, and to do whatever was necessary to insure that it not be perceived as such.

In practical terms, the restriction might require the attorney to use a home address or post office box for correspondence, or a home telephone number or direct dial number that would not go through the recipient's switchboard or voice mail greeting, or other similar processes to insure that the recipient was not identified as the sponsor of the representation.

The restriction on identification does not apply to court appointments, which are treated separately throughout this part, since attorneys handle these cases as officers of the court. Recipients do not have great discretion to refuse to permit attorneys to accept them, as long as they are made under a statute, rule or practice that is generally applicable. The restriction also does not apply to cases which are undertaken to fulfill a mandatory pro bono obligation, see § 1604.7(d).

Section 1604.4(c)

Paragraph (c)(1) is intended to make explicit what has always been implicit under the current Part 1604, i.e., that work for a client from a previous practice should not be done on program time.

The Committee proposes to add language to paragraph (c)(2) to make it clear that an attorney may represent another member of the recipient's staff without having to prove that the individual is a close friend. The Committee also proposes to add language to make it clear that the attorney may represent him or herself.

The Committee proposes to revise paragraph (c)(4) to make it clear that, in addition to representing a religious, community, or charitable group, an attorney may represent a client who has been referred to him or her by such a group through a formal pro bono or referral program that does regular referrals. For example, it is permissible for an attorney to represent a client who has been referred by the ACLU, NAACP or Catholic Charities. This is an issue that was raised in a recent case involving Evergreen Legal Services. LSC said that an Evergreen attorney could not handle a case for an individual who had been referred to her by the Lawyers' Guild, although presumably she could have represented the Guild itself. Prior General Counsel opinions permitted outside practice both on behalf of organizations such as the ACLU as well as on behalf of individuals referred by those organizations, but those opinions did not distinguish between those two situations.

The Committee added paragraph (c)(5) to make it clear that legal services attorneys should be permitted to act in the same way as other attorneys with respect to pro bono work that is undertaken to meet professional obligations, whether the obligation is aspirational, as under state rules that are modeled on Rule 6.1 of the American Bar Association's (''ABA'') Model Rules of Professional Conduct, or mandatory,