

Legal Expense Fund Regulation: Public Meeting

U.S. Office of Government Ethics

October 22, 2019

Agenda

- I. Introduction
 - a. Roundtable Introductions
 - b. Background / Status of Rulemaking
 - c. Purpose of Meeting
- II. Discussion of issues related to legal expense funds
 - a. Scope of a legal expense fund regulation, including:
 - i. Other possible sources of legal expense payments or legal support (*e.g.*, pro bono assistance, established legal aid providers) outside of a legal expense fund; and
 - ii. The types of legal matters to be covered by a legal expense fund regulation if the employee seeks to raise funds for legal expenses arising from those legal matters.
 - b. Structure of a legal expense fund, including:
 - i. Number of eligible beneficiaries for a legal expense fund;
 - ii. Legal structure used to establish a legal expense fund (*e.g.*, trust, limited liability company, etc.); and
 - iii. The possibility of different rules for different types of employees.
 - c. Other issues
- III. Conclude Meeting
 - a. Reminder: Comment period open until Nov. 5

Attendees

Raab, Dean
Mitchell, Clea
Kim, Min Hee

Department of Defense
Foley & Lardner LLP
Office of Science and Technology Policy

Topics Discussed

- I. Scope
 - a. Other possible sources of legal expense payments or legal support outside of a legal expense fund
 - i. Pro bono services
 1. Private law firms
 2. Clinics, fairs, non-profit organizations, bar association-sponsored networks
 - ii. Discounted legal services
 - iii. Crowdsourcing
 - iv. Personal relationship gift exception
 - v. Organizations that provide legal services or funding unrelated to status as a federal employee (public interest legal expense funds)
 - vi. Employee organizations and unions
 - vii. Former employers
 - b. The types of legal matters to be covered by a legal expense fund regulation if the employee seeks to raise funds for legal expenses arising from those legal matters.
 - i. Arising from official position
 - ii. Differentiating between personal matters and official matters
 - iii. Arising from candidacy or election
 - iv. Arising from nomination to a government position
- II. Structure of a legal expense fund
 - a. Number of eligible beneficiaries for a legal expense fund
 - i. Sole beneficiary versus multiple beneficiaries
 - ii. Named vs. unnamed beneficiaries
 - b. Legal structure used to establish a legal expense fund
 - i. Trust versus other forms (LLC, crowdsourcing)
 - ii. Use of crowdsourcing within a trust
 - iii. The possibility of different rules for different types of employees.
 - c. Cost for employees to establish a trust
- III. Limitations on the types of donors and amount of donations to legal expense funds
 - a. Use of “prohibited source” definition versus list of types of prohibited donors
 - b. Organizations versus individual donors
 - c. Contribution limits
- IV. Reporting requirements (transparency of spending)
- V. Tax implications