Special Pay is effective on December 19, 2009, the enactment date of the 2010 Department of Defense Appropriations Act.

FOR FURTHER INFORMATION CONTACT: LTC Brigitte Williams, (703) 614–3973.

SUPPLEMENTARY INFORMATION:

Need for Correction

The words of issuance that were set out within the final rule must be corrected to allow for the proper codification of the rule's regulatory text.

Correction

In rule FR Doc. 2010–8739, published on April 16, 2010 (75 FR 19878) make the following correction. On page 19879, in the first column, in the words of issuance, correct the word "added" to read "revised".

Dated: April 20, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2010–9541 Filed 4–23–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

34 CFR Part 280

RIN 1855–AA07

[Docket ID ED–2010–OII–0003]

Magnet Schools Assistance Program

AGENCY: Office of Innovation and Improvement, Department of Education.

ACTION: Interim final rule; reopening comment period.

SUMMARY: On March 4, 2010, the Department of Education published in the **Federal Register** an interim final rule and requested comments on that rule for the Magnet Schools Assistance Program (MSAP). The rule became effective March 4, 2010, and the comment period for the interim final rule ended on April 5, 2010. During the comment period, the Department received requests asking that the Department extend the comment period for the interim final rule. This document announces the reopening of the comment period.

DATES: The Department reopens the public comment period for the interim final rule that was published in the **Federal Register** on March 4, 2010 (75 FR 9777). Comments must be received on or before May 17, 2010.

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments by fax or by e-mail. Please submit your comments only one time, in order to ensure that we do not receive duplicate copies. In addition, please include the Docket ID at the top of your comments.

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* to submit your comments electronically. Information on using Regulations.gov, including instructions for accessing agency documents, submitting comments, and viewing the docket is available on the site under "How To Use This Site."
- *Postal Mail, Commercial Delivery, or Hand Delivery:* If you mail or deliver your comments about these interim final regulations, address them to Anna Hinton, U.S. Department of Education, 400 Maryland Avenue, SW., Room 4W229, Washington, DC 20202.

Privacy Note: The Department's policy for comments received from members of the public (including those comments submitted by mail, commercial delivery, or hand delivery) is to make these submissions available for public viewing in their entirety on the Federal eRulemaking Portal at: *http://www.regulations.gov.* Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available on the Internet.

FOR FURTHER INFORMATION CONTACT: Anna Hinton, U.S. Department of Education, 400 Maryland Avenue, SW., Room 4W229, Washington, DC 20202. Telephone: (202) 260–1816 or by e-mail: *FY10MSAPCOMP@ed.gov.*

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

Individuals with disabilities may obtain this document in an accessible format (*e.g.,* braille, large print, audiotape, or computer diskette) on request to the contact person listed above.

SUPPLEMENTARY INFORMATION: The Department reopens the public comment period for the interim final rule that was published in the **Federal Register** on March 4, 2010 (75 FR 9777) because we have determined that a longer comment period would provide local educational agencies submitting grant applications under the MSAP for fiscal year (FY) 2010 funding and other interested parties an opportunity to submit comments on the interim rule after the May 3, 2010 application deadline date announced for the FY 2010 grant competition in the notice inviting applications published on March 4, 2010 (75 FR 9879).

The Department believes this approach will improve the quality of information available for rulemaking, so the Secretary is reopening the comment period.

Dated: April 16, 2010.

James H. Shelton, III,

Assistant Deputy Secretary for Innovation and Improvement.

[FR Doc. 2010–9195 Filed 4–23–10; 8:45 am]

BILLING CODE 4000–01–P

LEGAL SERVICES CORPORATION

45 CFR Parts 1609, 1610, and 1642

Fee-Generating Cases; Use of Non-LSC Funds, Transfers of LSC Funds, Program Integrity; Attorneys' Fees

AGENCY: Legal Services Corporation.

ACTION: Final rule.

SUMMARY: On February 11, 2010, LSC issued an Interim Final Rule and Request for Comments repealing its regulatory prohibition on the claiming of, and the collection and retention of attorneys' fees pursuant to Federal and State law permitting or requiring the awarding of such fees. The action was taken in accordance with the elimination on the statutory prohibition on attorneys' fees in LSC's FY 2010 appropriation legislation. The rule moved provisions on accounting for and use of attorneys' fees and acceptance of reimbursements from clients from part 1642 (which was eliminated) to part 1609 of LSC's regulations. LSC also made technical changes to its regulations to remove cross references to the obsolete statutory and regulatory citations. With this document, LSC is responding to the comments received and confirming the February 11 rule as final without change.

DATES: This final rule is effective April 26, 2010.

FOR FURTHER INFORMATION CONTACT: Mattie Cohan, Senior Assistant General Counsel, Office of Legal Affairs, Legal Services Corporation, 3333 K Street, NW., Washington DC 20007; 202–295–1624 (ph); 202–337–6519 (fax); *mcohan@lsc.gov.*

SUPPLEMENTARY INFORMATION:

Background

LSC's FY 1996 appropriation legislation provided that none of the funds appropriated in that Act could be used to provide financial assistance to any person or entity (which may be referred to in this section as a recipient) that claims (or whose employee claims), or collects and retains, attorneys' fees pursuant to any Federal or State law permitting or requiring the awarding of such fees. Section 504(a)(13), Public Law 104–134, 110 Stat. 1321 (April 26, 1996). Since appropriations legislation expires with the end of the Fiscal Year to which it applies, for the statutory restriction on attorneys' fees to remain in place by statute, it needed to be, and was, carried forth in each subsequent appropriation law by reference. *See, e.g.,* Consolidated Appropriations Act, 2009, Public Law 111–8, 123 Stat. 524 (March 11, 2009).

LSC adopted regulations found in 1996 and 1997 which implemented the statutory attorneys' fees restriction. 45 CFR Part 1642; 61 FR 45762 (August 29, 1996); 62 FR 25862 (May 12, 1997). The attorneys' fees regulation restates the basic prohibition on claiming or collecting and retaining attorneys' fees, providing that except as permitted by § 1642.4 (providing exceptions cases filed prior to the prohibition and for cases undertaken by private attorneys providing pro bono services in connection with a recipient's private attorney involvement program), 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. 46 CFR 1642.3. The regulation provides further guidance to recipients by, among other things, providing a regulatory definition of attorneys' fees; setting forth rules for the applicability of the restriction to private attorneys providing legal assistance to a recipient's private attorney involvement program; and providing express authority to recipients to accept reimbursements of costs from a client. The regulation also sets forth rules for the accounting for and use of those attorneys' fees which recipients are not prohibited from claiming, collecting or retaining.

On December 16, 2009 President Obama signed the Consolidated Appropriations Act of 2010 into law. Public Law 111–117. This act provides LSC's appropriation for FY 2010. Like its predecessors, this law incorporates the various restrictions first imposed by the FY 1996 legislation by reference. However, section 533 of that same law also provides that Section 504(a) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1996 (as contained in Pub. L. 104–134) is amended by striking paragraph (13). Taken together, these provisions serve to incorporate by reference all of the restrictions in section 504 of the FY 1996 law, except for paragraph (a)(13), which contained the restriction on attorneys' fees. As such, there is no current statutory restriction on LSC providing the money FY 2010 appropriated to it to any recipient which claims, or collects and retains attorneys' fees

Repeal of Part 1642 and Issuance of the Interim Final Rule

The current law lifts the statutory restriction, but does not affirmatively provide recipients the right to claim or collect and retain attorneys' fees, nor does it prohibit LSC from restricting a recipient's ability to claim or collect and retain attorneys' fees. As such, in accordance with LSC inherent regulatory authority, the regulation remained in place notwithstanding the lifting of the statutory restriction unless and until repealed. At its Board Meeting on January 30, 2010, the LSC Board of Director's determined that retaining the regulatory restriction was no longer either necessary or appropriate instructed staff to publish an Interim Final Rule repealing its regulatory prohibition on the claiming of, and the collection and retention of attorneys' fees pursuant to Federal and State law permitting or requiring the awarding of such fees. LSC published the Interim Final Rule and Request for Comments implementing the Board's direction on February 11, 2010, 75 FR 6816. The Interim Final Rule also moved provisions on accounting for and use of attorneys' fees and acceptance of reimbursements from clients from Part 1642 (which is being eliminated) to Part 1609 of LSC's regulations. LSC also made technical changes to Part 1609 and Part 1610 of its regulations to remove cross references to the obsolete statutory and regulatory citations. The Interim Final Rule became effective on March 15, 2010.

LSC received ten (10) comments on the Interim Final Rule. All of the comments strongly supported the changes reflected in the Interim Final Rule and urged LSC to issue a Final Rule making permanent the Interim Final Rule without further amendment.[1] At its meeting of April 17, 2010 the Board of Directors adopted the Interim Final Rule as permanent and instructed staff to publish this Final Rule in the **Federal Register**. Because this Final Rule is retaining the changes made by the Interim Final Rule without further amendment, prior notice is unnecessary and contrary to the public interest. *See* 5 U.S.C. 553(b)(3)(B) and 553(d)(3). Accordingly, this Final Rule is effective upon publication.

In adopting the Interim Final Rule and this Final Rule, LSC's determination reflects a number of considerations. First, LSC notes that the lifting of the restriction indicates that Congress itself has had a change of heart regarding this restriction. Although Congress did not prohibit LSC from retaining the restriction, the fact that Congress chose not to re-impose this particular restriction (and no others) does indicate that support for this restriction has waned and that the policy arguments in support of the original restriction are no longer reflective of the will of Congress. Rather, the legislative history suggests that Congress chose not to re-impose the attorneys' fees restriction in express recognition of the fact that the restriction imposes several significant burdens on recipient. *See,* H. Rpt. 111–149 at p. 163; Transcript of Hearing of the Subcommittee on Commerce, Justice and Science of the House Committee of Appropriations of April 1, 2009 at pp. 220–223. As such, LSC believes that repealing the regulatory restriction is consistent with the expectations of Congress.

Moreover, LSC agrees that the restriction imposes unnecessary burdens on recipients and places clients at a disadvantage with respect to other litigants. Specifically, the ability to make a claim for attorneys' fees is often a strategic tool in the lawyers' arsenal to obtain a favorable settlement from the opposing side. Restricting a recipient's ability to avail itself of this strategic tool puts clients at a disadvantage and undermines clients' ability to obtain equal access to justice. The attorneys' fees restriction can also be said to undermine one of the primary purposes of fee-shifting statutes, namely to punish those who have violated the rights of persons protected under such statutes. In addition, in a time of extremely tight funding, the inability of a recipient to obtain otherwise legally available attorneys' fees places an unnecessary financial strain on the recipient. If a recipient could collect and retain attorneys' fees, it would free up other funding of the recipient to provide services to additional clients and help close the justice gap.[2] More

[1] One commenter requested that LSC provide clarification in two places of the preamble. LSC has responded to this request and the preamble reflects the commenter's concerns.

[2] It should be noted that the LSC Act and the implementing regulatory restriction on fee-generating cases found at 45 CFR Part 1609 restrict recipients from taking fee-generating cases. This restriction is not affected by the lifting of the statutory ban on the claiming and collecting and retention of attorneys' fees and is not be affected by any regulatory amendment to Part 1642. Accordingly, amendment of Part 1642 does not have an adverse impact on the private bar nor provide any incentive for recipients to seek out fee-

Continued

fundamental, the restriction results in clients of grantees being treated differently and less advantageously than all other private litigants, which LSC believes is unwarranted and fundamentally at odds with the Corporation's Equal Justice mission.

This action makes permanent the Interim Final Rule's lifting of the regulatory prohibition on claiming, or collecting and retaining attorneys' fees available under Federal or State law permitting or requiring the awarding of such fees. Accordingly as of March 15, 2010, recipients were and remain permitted make claims for attorneys' fees in any case in which they are otherwise legally permitted to make such a claim. Recipients are also permitted to collect and retain attorneys' fees whenever such fees are awarded to them.

With the repeal of the restriction, recipients are permitted to claim and collect and retain attorneys' fees with respect to any work they have performed for which fees are available to them, without regard to when the legal work for which fees are claimed or awarded was performed. LSC considered whether recipients should be limited seek or obtain attorneys fees related to "new" work; that is, work done only as of the date of the statutory change or the effective date of the Interim Final Rule. LSC rejected that position because the attorneys' fees prohibition applies to the particular activity of seeking and receiving attorneys' fees, but is irrelevant to the permissibility of the underlying legal work. Limiting the ability of recipients to seek and receive attorneys' fees on only future case work would create a distinction between some work and other work performed by a recipient, all of which was permissible when performed. LSC continues to find such a distinction to be artificial and not necessary to effectuate Congress' intention.

LSC also believes that not limiting the work for which recipients may now seek or obtain attorneys' fees will best afford recipients the benefits of the lifting of the restriction. There may well be a number of ongoing cases where the newly available option of the potentiality of attorneys' fees will still be effective to level the playing field and afford recipients additional leverage with respect to opposing counsel in those cases. Likewise, being able to obtain attorneys' fees in cases in which prior work has been performed would likely help relieve more financial pressure on recipients than a "new work only" implementation choice would because it would increase sources and amount of work for which fees might potentially be awarded.

generating cases at the expense of the needs of other clients.

Amendment of Part 1609 and Part 1610

As noted above, Part 1642 contains two provisions not directly related to the restriction on claiming and collecting attorneys' fees. These provisions address the accounting for and use of attorneys' fees and the acceptance of reimbursement from a client. 45 CFR 1642.5 and 1642.6. These provisions used to be incorporated into LSC's regulation on fee-generating cases at 45 CFR Part 1609, but were separated out and included in the new Part 1642 regulation when it was adopted. Amending these provisions was not necessary to effectuate the lifting of the attorneys' fees restriction and they provide useful guidance to recipients. In fact, with recipients likely collecting and retaining fees more often than they have since 1996, the provision on accounting for and use of attorneys' fees will be of greater importance than it has been. Retaining these provisions would continue to provide clear guidance to the benefit of both recipients and LSC. Accordingly, LSC is adopting as permanent the changes which moved these provisions back into Part 1609 as §§ 1609.4 and 1609.5, with only technical amendment to the regulatory text to remove references to Part 1642 and which redesignated § 1609.4 as § 1609.6.[3]

LSC is also adopting as permanent technical conforming amendments to delete references to Part 1642 and the attorneys' fees statutory prohibition that are now obsolete. Having obsolete and meaningless regulatory provisions is not good regulatory practice and can at the very least lead to unnecessary confusion. Accordingly, LSC adopts permanently the deletion of paragraph (c) of § 1609.3, General requirements, to eliminate that paragraph's reference to the attorneys' fees restriction in Part 1642. Similarly, LSC adopts permanently a technical conforming amendment to its regulation at Part 1610. Part 1610 sets forth in regulation the application of the appropriations law restrictions to a recipient's non-LSC funds. Section 1610.2 sets forth the list of the restrictions as contained in section 504 of the FY 1996 appropriations act, and the implementing LSC regulations which are applicable to a recipient's non-LSC funds. Subsection (b)(9) was the provision that references the attorneys' fees restriction (504(a)(13) and Part 1642) and which became obsolete.

[3] For additional information about the provision on the accounting for attorneys' fees, see the preamble to the 1997 Attorneys' Fees Final Rule: 62 FR 25862 (May 12, 1997) at 25864.

List of Subjects in 45 CFR Parts 1609, 1610, and 1642

Grant programs—Law, Legal services.

■ Accordingly, for reasons set forth above, and under the authority of 42 U.S.C. 2996g(e), LSC hereby adopts the interim rule published February 11, 2010 (75 FR 6816) as final without change.

Mattie Cohan,

Senior Assistant General Counsel.

[FR Doc. 2010–9397 Filed 4–23–10; 8:45 am]

BILLING CODE 7050–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

48 CFR Chapter 3

Health and Human Services Acquisition Regulation; Corrections

AGENCY: Department of Health and Human Services.

ACTION: Correcting amendments.

SUMMARY: This action corrects minor errors, inconsistencies and omissions in the final rule, which revised the Health and Human Services Acquisition Regulation (HHSAR) to implement statutes and government-wide mandates enacted or issued since December 2006.

DATES: These corrections are effective on April 26, 2010.

FOR FURTHER INFORMATION CONTACT: Cheryl Howe, Procurement Analyst, U.S. Department of Health and Human Services, Office of the Assistant Secretary for Financial Resources, Office of Grants and Acquisition Policy and Accountability, Division of Acquisition, 202–690–5552 (voice); *cheryl.howe@hhs.gov* (e-mail); 202–690–8772 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

HHS published a revision of the entire HHSAR (48 CFR parts 301 through 370) in the **Federal Register** on November 27, 2009 to reflect changes since the last revision was published in the **Federal Register** in December 2006. No adverse comments were received.

The revisions included, but were not limited to, the following:

A. Revising Subpart 301.6 regarding training and certification of acquisition officials to implement federal acquisition certification programs.