

# 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, Cleta  
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