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To: [Martinez, Jacquelynn](#)
Subject: FW: Support for proposed Changes to RPC 1.8 – Conflict of Interest: Current Clients: Specific Rules
Date: Friday, April 14, 2023 2:26:15 PM
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[23.4.14 LCYC Comment on RPC 1.8\(e\) revision.pdf](#)
[image004.png](#)

From: Colleen <colleen@lcywa.org>
Sent: Friday, April 14, 2023 2:10 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Cc: Erin Lovell <erin@lcywa.org>; Erin Shea McCann <esmccann@lcywa.org>
Subject: Support for proposed Changes to RPC 1.8 – Conflict of Interest: Current Clients: Specific Rules

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Comment Re: Proposed Amendment to RPC 1.8(e)

Legal Counsel for Youth and Children (LCYC), is a nonprofit legal aid organization that protects the interests and safety of youth in Washington State by advancing their legal rights. LCYC provides holistic, child-centered legal advocacy to young people—up to age 24—through four main programs: child welfare, juvenile court, youth and family immigration, and youth homelessness.

We write to provide comment on the proposed revisions to Rule of Professional Conduct 1.8(e). LCYC strongly supports the proposed amendments as necessary to clarify that attorneys providing civil legal services to indigent clients may ethically pay court costs and provide modest gifts to clients.

First, existing RPC 1.8(e) prohibits lawyers from paying expenses of litigation or court costs unless the client remains liable for such expenses. This can create a difficult situation for lawyers serving indigent clients and has deepened already-existing access to justice concerns. For example, until July 1, 2022, auditors' offices around the State were charging \$103.50 to record name changes without a process for waiver. RPC 1.8(e) prohibited lawyers from covering the expense on the client's behalf. This disproportionately affected indigent transgender individuals and victims of violence for whom name changes can be a matter of life or death. Although that particular financial barrier has now been addressed statutorily, other fees continue to bar indigent clients from accessing certain processes within our courts. The proposed amendment to RPC 1.8(e) would allow legal services attorneys to pay such costs on behalf of indigent clients if necessary while systemic solutions are pursued.

Second, although Washington State bar opinions have interpreted existing RPC 1.8(e) to allow a lawyer to make a "bona fide gift" to a client with "true donative intent," making this clear in the rule itself is much needed. The lack of any exception for modest gifts in existing RPC 1.8(e) has

caused us, as legal services attorneys working with young people facing homelessness, to hesitate in even providing clients with bus fare, food, or other basic necessities, whether to attend a meeting with their attorney, get to court, or for any other reason. Explicitly stating that lawyers can provide modest gifts for living expenses is humanitarian.

The COVID-19 pandemic led to many legal services organizations, including LCYC, being given access to flexible funds for distribution to clients for living expenses, such as rent to prevent eviction. We note that the RPCs do not directly apply to such “pass through” funding situations as the funds are not coming from the attorney’s personal funds as a gift. Thus, in such circumstances, the limitation to “modest” amounts does not apply.

We thank you for your consideration of these comments in support of the proposed amendment to WA RPC 1.8(e).

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(She / Her / Hers)

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LCYC

Legal Counsel for
Youth and Children



LCYC protects the interests and safety of youth in Washington by advancing their legal rights. We accomplish our mission through direct legal representation, strong community partnerships, and systemic advocacy.

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