

9. Amend § 612.6 by adding a new paragraph (e) to read as follows:

**§ 612.6 Fees.**

(e) *Waivers or reductions.* The Director, Office of Legislative and Public Affairs, or his or her delegee, is authorized to waive or reduce fees in response to a request made under § 612.3(b). The decision of the Director, OLPA, on any such request shall be final and unappealable. However, when considering an appeal of a denial or partial denial of a request for information under § 612.3, the Deputy Director may waive or reduce fees as part of the decision on the appeal. Any waiver or reduction by either official must be based on a determination that it is in the public interest because furnishing the information can be considered as primarily benefiting the general public.

10. Amend § 612.7(a) by removing the words "Public Information Officer (PIO)" and the abbreviation "PIO" and inserting, in their places, the words "Office of Legislative and Public Affairs, or such other office as may be designated by the Director".

11. Amend § 612.7(b) by revising the heading and first two sentences to read as follows:

**§ 612.7 Agency actions on receipt of a properly presented request for record.**

(b) *Time for response.* The Foundation will seek to take appropriate agency action on a request within 10 days of its receipt (excepting the date of receipt, Saturdays, Sundays, and legal public holidays). If the record may exist only in a retired file which has been placed in storage or there is otherwise a need to search for and collect the requested records from field facilities or other establishments that are separate from the Foundation, NSF shall immediately notify the requester by letter that the record has been ordered from storage (or is otherwise being sought) and that the time limit for acting on the request is extended by the length of time required to obtain the record. The letter will also give the date on which a determination is expected to be dispatched.

12. Amend § 612.7(b) by removing the words "the office head" and inserting, in their place, the abbreviation "NSF".

13. Amend § 612.7(c) by removing the words "Office of Government and Public Programs" and inserting, in their place, the words "Office of Legislative and Public Affairs, or such other office as may be designated by the Director".

14. Amend § 612.7 by redesignating paragraphs "(c)" and "(d)" as paragraphs "(d)" and "(e)" and add a new paragraph "(c)" to read as follows:

**§ 612.7 Agency actions on receipt of a properly presented request for record.**

(c) When the requested record is a successful proposal that was submitted to the Foundation, the Foundation will normally contact the organization that submitted the proposal before releasing it in order to ask whether that organization wishes portions of the proposal withheld under any applicable exemptions. (The Foundation does not normally release pending proposals or unsuccessful proposals in any case.)

**§§ 612.8 and 612.10 [Removed].**

15. By removing §§ 612.8 and 612.10 in their entirety.

**§ 612.9 [Redesignated as § 612.8].**

16. By redesignating § 612.9 as "§ 612.8".

(5 U.S.C. 552, as amended by Pub. L. 93-502)

Dated: May 25, 1984.

Edward A. Knapp,

Director.

[FR Doc. 84-14854 Filed 6-1-84; 8:45 am]

BILLING CODE 7556-01-M

**LEGAL SERVICES CORPORATION**

**45 CFR Part 1601**

**By-Laws of the Legal Services Corporation**

**AGENCY:** Legal Services Corporation.  
**ACTION:** Final rule.

**SUMMARY:** On May 19, 1984 the Board of Directors of the Legal Services Corporation adopted and approved for final publication revisions and amendments to Part 1601 By-Laws of the Legal Services Corporation. The amendments and revisions, as set forth in this final rule, are intended to render the By-Laws a more effective instrument for the control and management of internal corporate operations, to make more clear and precise the language in the provisions of the By-Laws and to provide consistency throughout those provisions. These amendments and revisions became effective upon adoption by the Board of Directors of the Legal Services Corporation.

**EFFECTIVE DATE:** May 19, 1984.

**FOR FURTHER INFORMATION CONTACT:** Larisa Dobriansky, Assistant General Counsel, Office of the General Counsel, (202) 272-4010.

**SUPPLEMENTARY INFORMATION:**

**List of Subjects in 45 CFR Part 1601**

Legal services.

Part 1601 of Title 45 of the Code of Federal Regulations is hereby revised as follows:

**PART 1601—BY-LAWS OF THE LEGAL SERVICES CORPORATION**

**Subpart A—Nature, Powers, and Duties of Corporation; Definitions**

Sec.

1601.1 Nature of the corporation.

1601.2 Powers and duties.

1601.3 Definitions.

**Subpart B—Offices and Agents**

1601.4 Principal office.

1601.5 Agent.

1601.6 Other offices and agents.

**Subpart C—Board of Directors**

1601.7 General powers.

1601.8 Number, terms of office, and qualifications.

1601.9 The Chairman and Vice Chairman of the Board.

1601.10 Qualification.

1601.11 Outside interests of Directors

1601.12 Removal.

1601.13 Resignation.

1601.14 Compensation.

**Subpart D—Meetings of Directors**

1601.15 Meetings.

1601.16 Special meetings.

1601.17 Notice and waiver of notice.

1601.18 Agenda.

1601.19 General notice.

1601.20 Organization of Directors meetings.

1601.21 Quorum, manner of acting, and adjournment.

1601.22 Public meetings; executive sessions.

1601.23 Public participation.

1601.24 Emergency proceedings.

1601.25 Minutes.

1601.26 Action by Directors without a meeting.

**Subpart E—Committees**

1601.27 Establishment and appointment of committees.

1601.28 Committee procedures.

**Subpart F—Officers**

1601.29 Officers.

1601.30 Appointment, term of office, and qualifications.

1601.31 Removal.

1601.32 Resignation.

1601.33 The President.

1601.34 The Vice President.

1601.35 The Secretary.

1601.36 The Treasurer.

1601.37 The Comptroller.

1601.38 Compensation.

1601.39 Prohibition against using political test or qualification.

1601.40 Outside interests of officers and employees.

**Subpart G—Deposits and Accounts**

Sec.

1601.41 Deposits and accounts.

**Subpart H—Seal**

1601.42 Seal.

**Subpart I—Fiscal Year**

1601.43 Fiscal year.

**Subpart J—Indemnification**

1601.44 Indemnification.

**Subpart K—Amendments**

1601.45 Amendments.

Authority: Sec. 1008(e), 88 Stat. 387 (42 U.S.C. 2996g(e)).

**Subpart A—Nature, Powers, and Duties of Corporation; Definitions****§ 1601.1 Nature of the corporation.**

Legal Services Corporation is the corporation established by section 1003 of the Legal Services Corporation Act, 42 U.S.C. 2996b. The Act establishes the Corporation in the District of Columbia as a private, nonmembership, nonprofit corporation for the purpose of providing financial support for legal assistance in non-criminal proceedings or matters to persons financially unable to afford legal assistance. Except as otherwise specifically provided in the Act, the Corporation shall not be considered a department, agency, or instrumentality of the United States Government.

**§ 1601.2 Powers and duties.**

The powers and duties of the Corporation are as set forth in the Act. The powers of the Corporation include, to the extent consistent with the Act, the powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act, D.C. Code Title 29, Chapter 10, other than the power to cease corporate activities.

**§ 1601.3 Definitions.**

As used in these By-Laws, except where the context otherwise requires—

(a) "Act" means the Legal Services Corporation Act, 42 U.S.C. 2996-2996(1), Pub. L. 93-355, approved July 25, 1974, 88 Stat. 378, as amended by Pub. L. 95-222, approved December 28, 1977, 91 Stat. 1619;

(b) "Board" means the Board of Directors of the Corporation;

(c) "Corporation" means the Legal Services Corporation established by section 1003 of the Act, 42 U.S.C. 2996(b);

(d) "Director" means a voting member of the Board of Directors appointed by the President of the United States;

(e) The pronouns "he," "him," and "his" mean, respectively, "he or she," "him or her," and "his or her";

(f) "Member of the Board" means a Director or the President of the Corporation;

(g) "Member of the immediate family" means, with respect to any individual, a spouse, child, parent, brother, or sister of such person, or a spouse or relative of any of the foregoing who has the same home as such person;

(h) "Person" means an individual, corporation, association, partnership, trust, or other entity;

(i) "Recipient" means any grantee or contractor receiving financial assistance from the Corporation under section 1006(a)(1)(A) of the Act;

(j) "Telegraph" for purposes of these By-Laws refers to any means of record communication for transmitting messages to a distant point including, but not limited to, express mail, bonded carrier with one day service, electronic communication capable of transmitting a written message.

**Subpart B—Offices and Agents****§ 1601.4 Principal office.**

The Corporation shall maintain its principal office in the District of Columbia.

**§ 1601.5 Agent.**

The Corporation shall maintain a designated agent in the District of Columbia to accept service of process for the Corporation.

**§ 1601.6 Other offices and agents.**

The Corporation may also have offices and agents at such other places, either within or without the District of Columbia, as the business of the Corporation may require.

**Subpart C—Board of Directors****§ 1601.7 General powers.**

The property, affairs, and business of the Corporation shall be managed by and under the direction of the Board, subject to the provisions of the Act.

**§ 1601.8 Number, terms of office, and qualifications.**

(a) The Board shall consist of eleven Directors. The President of the Corporation shall serve as a non-voting *ex officio* member of the Board. The Directors shall be appointed by the President of the United States, by and with the advice and consent of the Senate. No more than six of the Directors shall be of the same political party. A majority of the Directors shall be members of the bar of the highest court of a state. None of the Directors shall be a full-time employee of the United States.

(b) The term of office of each Director shall be three years. Each Director shall continue to serve until his successor is appointed and qualified. The term of each Director shall be computed from the date of termination of the preceding term. Any Director appointed to fill a vacancy occurring prior to the expiration of the term for which such Director's predecessor was appointed shall be appointed for the remainder of such term. No Director shall be reappointed to more than two consecutive terms immediately following such Director's initial term.

(c) As of the date on which these By-Laws, as revised, shall become effective, the terms of the Directors of the Board shall expire on the following dates: The terms of six Directors of the Board shall expire on July 13, 1984; the terms of the other five Directors of the Board shall expire on July 13, 1986.

**§ 1601.9 The Chairman and Vice Chairman of the Board.**

(a) Annually or at such other time as there may be vacancies in such offices, the Board shall elect a Chairman and Vice Chairman of the Board from among its voting members, each of whom shall serve at the pleasure of the Board, or until his successor has been duly elected in his stead, or until he shall resign or otherwise vacate his office or Board membership.

(b) The Chairman of the Board shall, if present, preside at all meetings of the Board, shall carry out all other functions required of him by the Act and these By-Laws, and shall perform such other duties as from time to time may be assigned to him by the Board.

(c) The Vice Chairman of the Board shall, in the absence of the Chairman, preside at meetings of the Board and shall, for purposes of these By-Laws, be considered the Chairman of any meeting at which he so presides. In addition, the Vice Chairman shall carry out all other functions required of him by these By-Laws and shall perform such other duties as from time to time may be delegated to him by the Chairman or assigned to him by the Board.

**§ 1601.10 Qualification.**

A person shall be deemed to have qualified as a Director when upon appointment or selection, as the case may be, he has affirmed or executed a statement to discharge his duties faithfully, which statement shall be in such form as provided by the Board.

**§ 1601.11 Outside interests of directors.**

(a) No member of the Board may participate in any decision, action, or

recommendation with respect to any matter which directly benefits such member or pertains specifically to any firm or organization, other than the Legal Services Corporation, with which such member is then associated or has been associated within a period of two years. For the purposes of this paragraph, (1) a member of the Board shall be deemed "associated" with a firm or organization if he (i) is serving or has served within the past two years as a Director, officer, trustee, employee, consultant, attorney, agent or partner thereof, or in any of such other capacities as the Board may from time to time determine, (ii) is negotiating or has any arrangement concerning prospective employment therewith or, (iii) has or has had, within the past two years, any direct or indirect financial or ownership interest therein; and (2) the term "member of the Board" includes a member of the immediate family of a member of the Board. If a member of the Board violates this paragraph in connection with any transaction, he may be liable to the Corporation for damages.

(b) Pursuant to procedures to be established by the Board from time to time, each member of the Board, upon assuming office and at least annually thereafter, shall file with the Secretary a statement identifying any firm or organization with which he is then or has been within the past two years associated (as defined in paragraph (a) of this section) and the nature of the association. In the event the association is a result of a financial or ownership interest, that fact shall be reflected in the statement, but the member need not reveal the degree of financial interest. Such statements shall be available for public inspection.

#### § 1601.12 Removal.

(a) A Director may be removed by a vote of seven Directors at a meeting of the Board, or by a vote of two-thirds of the number of Directors where the total number of Directors then in office is less than eleven, for persistent neglect or inability to discharge duties, for malfeasance in office, or for offenses involving moral turpitude, and for no other cause.

(b) When a Director shall fail to attend three consecutive meetings of the Board, or a majority of the meetings held during a one-year period, the Secretary shall notify him in writing that the agenda for the next meeting of the Board will include the question of whether he should be removed for persistent neglect or inability to discharge his duties.

(c) Except as provided in paragraph (b) of this section, the Board shall

consider whether a Director shall be removed only when five or more Directors, or at least 40 percent of the Directors where the total number of Directors then in office is less than eleven, have stated in writing that they believe there is reasonable cause for such action, giving specific allegations in support of such belief.

(d) A Director may not be removed unless (1) notice of the basis of removal has been given to such Director at least thirty days before a vote is taken concerning his removal and (2) the Director has been afforded the opportunity to contest his removal by making written submissions to the other members of the Board and by appearing in person, with or without counsel present, at the meeting at which the vote concerning removal is taken.

#### § 1601.13 Resignation.

A Director may resign at any time by giving written notice of his resignation to the President of the United States, with a copy being sent to the President of the Corporation and to the Chairman of the Board. A resignation shall take effect at the time received by the President of the United States, unless another time is specified therein. The acceptance of a resignation shall not be necessary to make it effective.

#### § 1604.14 Compensation.

Directors shall be entitled to receive compensation at appropriate rates prescribed by the Board not in excess of the per diem equivalent of the rate of Level V of the Executive Schedule, specified from time to time in section 5316 of Title 5 U.S.C., for their services on the Board or on any committee thereof, and reimbursement for travel, subsistence, and other expenses necessarily incurred in connection therewith. A Director shall not serve the Corporation in any other capacity or receive compensation for such services, except as authorized by the Board. In no event shall a Director receive compensation in more than one capacity.

### Subpart D—Meetings of Directors

#### § 1601.15 Meetings.

(a) Meetings of the Board shall be held at least four times a year. An annual meeting shall be held on the last Friday of January of each year at such hour and place as shall be determined by a majority of the Directors. All other meetings shall be held at such intervals and at such locations as shall be determined by a majority of Directors. Notice of the place and time of a meeting shall be mailed to each Director

at least seven (7) days before the date of the meeting or shall be telegraphed, charges prepaid, at least five (5) days before the date of the meeting, unless a majority of the Directors determines that Corporation business requires a meeting on fewer than the specified days notice. In that event, notice shall be mailed or telegraphed at the earliest practicable time.

(b) In the event a majority of the Directors of the Board agree to postpone a meeting, notice of such postponement shall be mailed to each director at least five (5) days before the scheduled date for such meeting or shall be telegraphed or delivered at least three days before such scheduled date.

#### § 1601.16 Special meetings.

Directors may participate in a special meeting of the Board by means of conference telephone or by any means of communication by which all persons participating in the meeting are able to hear one another and by which interested members of the public are able to hear and identify all persons participating in the meeting. Special meetings of the Board may be called by the Chairman of the Board or may be called upon receipt by him of a written request from at least 40 percent of the Directors then in office or from the President of the Corporation and at least 30 percent of the Directors then in office. Notice of any such meeting shall be mailed to each Director at least seven days before the date on which the meeting is to be held. Notice may also be sent to each Director by telegraph, charges prepaid, or delivered to him but, in either case, not later than the fifth day before the date on which the meeting is to be held. A majority of the Directors may determine that Corporation business requires a meeting on fewer than the specified days notice. In that event, notice shall be given at the earliest practicable time. Every such notice shall specify the place, day, and hour of the meeting and the general nature of the business to be transacted.

#### § 1601.17 Notice and waiver of notice.

(a) Notice of a meeting of the Board when mailed shall be deemed given when deposited with the United States Postal Service, first-class postage paid, addressed to the Director at his address appearing on the books of the Corporation or supplied by him for the purpose of this notice. Notice which is delivered to a Director shall be delivered at such address to a person having apparent authority to accept such delivery. Notice by telegraph shall

be sent, charges prepaid, to such address.

(b) A waiver of notice of a meeting must be in writing and signed by the Director entitled to such notice and submitted by that Director to the Chairman of the Board or the Secretary of the Corporation, whether before or after the time of such meeting. Attendance of a Director at any meeting shall constitute a waiver by him of notice of such meeting, except where he attends for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

#### § 1601.18 Agenda.

For each meeting, the Chairman of the Board or the President of the Corporation shall cause to be prepared a working agenda of matters to be discussed at the meeting, and shall include the agenda in the notice of the meeting required to be sent to all Directors by § 1601.15 and § 1601.16. Any matters appearing on the agenda which the Chairman of the Board or the President believes should be discussed in an executive session in accordance with § 1601.22 shall be so noted.

#### § 1601.19 General notice.

(a) Except as otherwise specifically provided in these By-Laws, general notice of any meeting of the Board shall be mailed to each Director at least seven (7) days before the date of the meeting, or shall be telegraphed or delivered not later than five (5) days before the date of the meeting, unless a majority of the Directors determines by a recorded vote that Corporation business requires a meeting on fewer than the specified days notice. In that event, general notice shall be given at the earliest practicable time.

(b) General notice shall include: (1) The time, place, and subject matter of the meeting; (2) whether the meeting or a portion thereof will be closed to public observation; and (3) the name and telephone number of a person designated to respond to requests for information about the meeting. An amended announcement shall be issued of any change in the information provided by a general notice in accordance with the requirements of 5 U.S.C. 552b and Corporation regulations issued thereunder. Notice of any such change shall be given in the manner prescribed by regulation and at the earliest practicable time.

(c) General notice shall be posted at the offices of the Corporation in an area to which the public has access and filed for publication in the **Federal Register**. Reasonable effort shall be made to send

the notice to the governing board of every recipient.

#### § 1601.20 Organization of Directors meetings.

At each meeting of the Board, the Chairman of the Board, or in his absence the Vice Chairman, shall preside. The Secretary of the Corporation shall act as secretary at all meetings of the Board. In the absence from any such meeting of the Secretary, the chairman of the meeting shall appoint a person to act as secretary of the meeting.

#### § 1601.21 Quorum, manner of acting, and adjournment.

(a) At each meeting of the Board, the presence of a majority of the Directors in office, but in no event less than four (4) Directors, shall constitute a quorum for the transaction of business. Except as otherwise specifically provided by law or these By-Laws, the vote of a majority of the Directors present at the time of a vote, provided that a quorum is present at such time, shall be the act of the Board. If a quorum is present when a meeting is convened at which an action is subsequently voted upon, the action shall be the valid action of the Board, unless a Director suggests the absence of a quorum and there is, in fact, no quorum then present. A Director who is present at a meeting of the Board but who is required to abstain from participation in the vote upon any matter, whether he remains in the meeting or withdraws therefrom during the vote, may be counted for purposes of determining whether or not a quorum is present, and if a quorum is present, the vote of a majority of the then voting Directors shall be the act of the Board.

(b) A majority of the Directors present at a duly convened meeting, whether or not they shall comprise a quorum, may temporarily adjourn the meeting. Whenever a meeting is temporarily adjourned to a date not more than five business days following such adjournment, it shall not be necessary to give any notice of the adjourned meeting or of the business to be transacted thereat otherwise than by an announcement at the meeting at which such adjournment is taken.

(c) Each Director shall be entitled to one vote. Voting rights of Directors may not be exercised by proxy.

#### § 1601.22 Public meetings; executive sessions.

All meetings of the Board shall be open to the public unless a majority of all of the Directors in office determines by a recorded vote to close a meeting or any portion of a meeting to public observation pursuant to the

Corporation's regulations implementing 5 U.S.C. 552b. That part of the meeting closed to the public shall be known as an executive session. The Chairman of the meeting shall announce the general subject of the executive session prior thereto.

#### § 1601.23 Public participation.

By written request in advance of a meeting, members of the public may seek to be invited by the Chairman to address that meeting. Members of the public may address a meeting of the Board upon invitation of the Chairman of the meeting, under terms and conditions established by him, unless the Board otherwise directs.

#### § 1601.24 Emergency proceedings.

Notwithstanding any other provisions in these By-Laws, in the event that the Directors are rendered incapable of conducting a meeting by the acts or conduct of any members of the public present at the meeting, the Directors may thereupon determine by a recorded vote of a majority of the number of Directors present at the meeting to remove the meeting to a different location and to invite representatives of the public and media to attend the proceedings at the new location. The emergency proceedings at the new location shall be recorded by means of an electronic recording adequate to record fully the emergency proceeding, or a transcript of the emergency meeting shall be made by a certified court reporter. A written statement summarizing the proceedings at the emergency meeting shall be made available to the public following the close of the emergency proceedings. The Corporation will also make available a copy of the entire transcript or electronic recording produced pursuant to this Section to any person upon request at the actual cost of duplication or transcription. The activities of the emergency proceedings shall be reported at the next scheduled meeting of the Board.

#### § 1601.25 Minutes.

The minutes of each meeting of the Board, including an executive session, shall record the names of the Directors present, the actions taken and the result of each vote. If there is a division on a vote, the minutes shall record the vote of each Director. Minutes shall reflect discussions held in executive session, including as much information as possible about those discussions without compromising the purpose for which such meeting was closed to the public. A copy of the minutes of each

meeting shall be supplied to each Director in advance of the next meeting and shall be presented for approval by the Board at such meeting. The minutes of each meeting shall be available for inspection by the public in the form approved by the Directors.

**§ 1601.26 Action by directors without a meeting.**

Any action which may be taken at a meeting of the Board may be taken without a meeting, if a consent in writing, setting forth the action to be taken, is signed by all of the Directors and general notice of the proposed action is published in the manner prescribed by § 1601.19 on or before the date when such consents are first solicited. Any such action so taken shall be included on the agenda of the next meeting of the Board for discussion, ratification, or such other action as may be indicated by the circumstances.

**Subpart E—Committees**

**§ 1601.27 Establishment and appointment of committees.**

The Board has established the following permanent committees: Audit and Appropriations Committee; Operations and Regulations Committee; and Provision for the Delivery of Legal Services Committee. The Board may by resolution of a majority of the Directors in office establish (and thereafter dissolve) such other executive, standing, or temporary committees as the Board may deem appropriate to perform such functions as it may from time to time designate. The authority of any such committee shall expire at the time specified in such resolution. The Board may appoint Directors to serve on such committees, including one to serve as the chairman, or may delegate to the Chairman of the Board the authority to make such appointments. A person appointed as a member of the committee shall serve only at the pleasure of the Board. Each committee shall consist of two or more Directors. The Chairman of the Board shall be an *ex officio* voting member of each committee.

**§ 1601.28 Committee procedures.**

(a) Except as otherwise provided in these By-Laws or in the resolution establishing the committee, a majority of the voting members thereof, or one-half of such members if their number is even, shall constitute a quorum; provided, that if the Chairman of the Board is present, he may be counted for quorum purposes. The vote of a majority of the voting members present at the time of a vote (or one-half of such members if their number is even), if a quorum is present

at such time, shall be the act of the committee. Meetings of each committee shall be called by the chairman of the committee or any two members of the committee with notice thereof provided to each committee member, including the Chairman of the Board.

(b) Notice of a committee meeting shall be provided to members of the committee in the manner required for notice of special meetings of the Board by § 1601.16 and § 1601.17(a). Notice may be waived in the manner described in § 1601.17(b). The agenda for the meeting shall be prepared in accordance with § 1601.18, and general notice of the meeting shall be given in accordance with § 1601.19.

(c) All meetings of a committee shall be open to the public unless a majority of all of the Directors then in office determine by a recorded vote to close a meeting or any portion of a meeting to public observation pursuant to the Corporation's regulations implementing 5 U.S.C. 552b.

(d) Minutes shall be kept of each committee meeting in the manner described in § 1601.25. The minutes shall be available for inspection by the public.

(e) Any Director and the President of the Corporation shall have access to the records of any committee irrespective of whether he is a member of the committee.

**Subpart F—Officers**

**§ 1601.29 Officers.**

The officers of the Corporation shall be a President, a Vice President, a Secretary, a Treasurer, a Comptroller and such other officers as the Board determines to be necessary. The President of the Corporation shall be elected by a majority of the Directors in office. Other officers shall be appointed by the President after consultation with the Board. The officers shall have such authority and perform such duties, consistent with the Act and these By-Laws, as may from time to time be determined by the Board or, with respect to the other officers, by the President of the Corporation consistent with any such determination of the Board. The President of the Corporation shall provide supervision and direction to the other officers in the performance of their duties.

**§ 1601.30 Appointment, term of office, and qualifications.**

The President of the Corporation shall be elected for a term not to exceed three years. Each officer of the Corporation other than the President shall be appointed for a term not to exceed three years. An officer shall be elected or

appointed whenever a vacancy arises. Each officer shall hold his office until his successor shall have been duly elected or appointed in his stead or until he shall resign or shall have been removed in the manner provided in § 1601.31. Any two offices may be held by the same person, except the offices of the President of the Corporation and Secretary.

**§ 1601.31 Removal.**

The President of the Corporation may be removed by a majority of the Directors in office, and any other officer may be removed by the President after consultation with the Board, but any such removal shall be without prejudice to the contract rights, if any, of the person so removed.

**§ 1601.32 Resignation.**

Any officer may resign at any time by giving a written notice of his resignation to the Chairman of the Board. An officer other than the President shall also submit written notice of his intention to resign to the President. Such resignation shall take effect at the time received, unless another time is specified therein. The acceptance of such resignation shall not be necessary to make it effective.

**§ 1601.33 The President.**

(a) The President of the Corporation shall be its Chief Executive Officer and shall have the responsibility and authority, in accordance with the Act, rules and regulations promulgated pursuant to the Act and these By-Laws, subject to the direction of and policies established by the Board, for (1) the day-to-day administration of the affairs of the Corporation; (2) the appointment of such employees of the Corporation as he determines necessary to carry out the purposes of the Corporation and the removal of such employees; (3) the making of grants and the entering into of contracts; and (4) the exercise of such other powers incident to the office of the President of the Corporation and the performance of such other duties as the Board may from time to time prescribe.

(b) The President of the Corporation shall be a member of the bar of the highest court of a state and shall be a nonvoting *ex officio* member of the Board of Directors.

**§ 1601.34 The Vice President.**

The Vice President shall have such powers and perform such duties as the President may from time to time prescribe, consistent with any such determinations of the Board. In the absence of and upon delegation by the President, the Vice President shall perform the duties of the President, and

when so acting, shall have all the powers of, and shall be subject to all restrictions upon, the President.

#### § 1601.35 The Secretary.

The Secretary shall (a) ensure that all notices are duly given in accordance with the Act and these By-Laws; (b) be the custodian of the seal of the Corporation and affix such seal to all documents the execution of which is authorized by the Board or by any officer or employee of the Corporation to whom the power to authorize the affixing of such seal shall have been delegated; (c) keep, or cause to be kept, in books provided for the purpose, minutes of the meetings of the Board; (d) ensure that the books, reports, statements and all other documents and records required by law are properly kept and filed; (e) sign such instruments as require the signature of the Secretary; and (f) in general, perform all the duties incident to the office of the Secretary and such other duties as from time to time may be assigned to him.

#### § 1601.36 The Treasurer.

The Treasurer shall (a) have charge and custody of, and be responsible for, all funds and securities of the Corporation and (with the exception of petty cash) deposit all such funds and securities in such banks, trust companies or other depositories as shall be selected in accordance with the provisions of these By-Laws; (b) receive, and give receipts for, moneys due and payable to the Corporation from any source whatsoever; (c) sign such documents as shall require the signature of the Treasurer; (d) render to the Board at each meeting of all of the Directors in office and at such times as the Board may require a report on the financial condition of the Corporation; and (e) in general, perform all the duties incident to the Office of Treasurer and such other duties as from time to time may be assigned to him. The Treasurer shall give a bond for the faithful discharge of his duties in such sum and with such sureties as the Board shall determine.

#### § 1601.37 The Comptroller.

The Comptroller shall keep or cause to be kept full and correct records and accounts of the business, transactions, receipts and disbursements of the Corporation and, at all reasonable times, shall exhibit such records and accounts to any Director upon application at the office of the Corporation where such records are kept, and shall perform all the duties incident to the Office of Comptroller and such other duties as from time to time may be assigned to him.

#### § 1601.38 Compensation.

The President shall be compensated at rates determined by the Board, but not to exceed the rate of Level V of the Executive Schedule specified in section 5316 of Title 5, U.S.C. The compensation of each officer other than the President shall be fixed by the President, after consultation with the Board, at a rate not to exceed the rate of Level V of the Executive Schedule referenced above. No officer of the Corporation may receive any salary or other compensation for services from any sources other than the Corporation during his period of employment by the Corporation, except as authorized by the Board.

#### § 1601.39 Prohibition against using political test or qualification.

No political test or political qualification shall be used in selecting, appointing, promoting or taking any other personnel action with respect to any officer, agent or employee of the Corporation.

#### § 1601.40 Outside interests of officers and employees.

The Board may from time to time adopt rules and regulations governing the conduct of officers or employees with respect to matters in which they have any interest adverse to the interests of the Corporation. Such rules and regulations may forbid an officer or employee from participating in corporate action with respect to any contract, grant, transaction or other matter in which, to the knowledge of such officer or employee, he or any member of his immediate family has any interest, financial or otherwise, unless (a) such officer or employee makes full disclosure of the circumstances to the Board or its delegate and the Board or its delegate determines that the interest is not so substantial as to affect the integrity of the services of such officer or employee, or (b) on the basis of standards to be established in such rules and regulations, the interest is too remote or too inconsequential to affect the integrity of such services. Such rules and regulations may also establish appropriate limits and reasonable prohibitions upon (a) the ownership by an officer or employee, or member of his immediate family, of securities of any firm, corporation or other entity doing a substantial volume of business with the Corporation; (b) the present or future association by an officer or employee (or former officer or former employee), or member of his immediate family, with any firm, corporation or other entity doing a substantial volume of business with the Corporation; and (c) the

conduct or transaction of any corporate-related business or affairs by the Corporation through its officers, employees or agents with any former officers or employees of the Corporation or with any entities with which or persons with whom any former officer or employee is associated.

#### Subpart G—Deposits and Accounts

##### § 1601.41 Deposits and accounts.

All funds of the Corporation, not otherwise employed, shall be deposited from time to time in general or special accounts in such banks, trust companies or other depositories as the Board may select, or as may be selected by an officer, agent or employee of the Corporation to whom such power has been delegated by the Board. For the purpose of deposit and for the purpose of collection for the account of the Corporation, checks, drafts and other orders for the payment of money that are payable to the order of the Corporation may be endorsed, assigned and delivered by any officer of the Corporation designated by the Board.

#### Subpart H—Seal

##### § 1601.42 Seal.

The Corporation shall have a corporate seal, which shall include the words "Established by Act of Congress July 25, 1974" and shall be in the form adopted by the Board.

#### Subpart I—Fiscal Year

##### § 1601.43 Fiscal year.

The fiscal year of the Corporation shall begin on October 1.

#### Subpart J—Indemnification

##### § 1601.44 Indemnification.

(a) The Corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Corporation), by reason of the fact that he is or was a Director, officer, employee or agent of the Corporation, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding, if he acted in good faith and in a manner he reasonably believed to be in the best interests of the Corporation and, with respect to any criminal action, suit or proceeding, had no reasonable cause to believe his conduct was unlawful. The

termination of any action, suit or proceeding by judgment, order, settlement or conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in the best interests of the Corporation and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

(b) The Corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Corporation to procure a judgment in its favor, by reason of the fact that he is or was a Director, officer, employee or agent of the Corporation, against expenses (including attorneys' fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit if he acted in good faith and in a manner he reasonably believed to be in the best interests of the Corporation, except that no indemnification shall be made in respect to any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his duty to the Corporation, unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the court shall deem proper.

(c) To the extent that a Director, officer, employee or agent of the Corporation has been successful on the merits or otherwise in the defense of any action, suit or proceeding referred to in paragraphs (a) and (b) of this section or in the defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorney's fees) actually and reasonably incurred by him in connection therewith.

(d) Any indemnification under paragraphs (a) and (b) of this section (unless ordered by a court) shall be made by the Corporation only as authorized in the specific case upon a determination that indemnification of the Director, officer, employee or agent is proper in the circumstances because he has met the applicable standard of conduct set forth in paragraphs (a) and (b) of this section, respectively. Such determination shall be made (1) by the Board by a majority vote of a quorum consisting of Directors eligible to vote who were not parties to such action, suit

or proceeding, or (2) if such quorum is not obtainable or, even if obtainable, a quorum of disinterested Directors so directs, by independent legal counsel in a written opinion.

(e) Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Corporation in advance of the final disposition of such action, suit or proceeding as authorized by the Board in any case upon receipt of an undertaking by or on behalf of the Director, officer, employee or agent to repay such amount, unless it shall ultimately be determined that he is entitled to be indemnified by the Corporation as authorized in this section.

(f) The indemnification provided by this section shall not be deemed exclusive of any other rights to which a person seeking indemnification may be entitled under any By-Law, agreement or vote of disinterested Directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a Director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

#### Subpart K—Amendments

##### § 1601.45 Amendments.

These By-Laws may be amended by a vote of a majority of the Directors in office, provided, that (a) such amendment is not inconsistent with the Act; (b) the notice of the meeting at which such action is taken shall have stated the substance of the proposed amendment; (c) the notice of such meeting shall have been mailed, telegraphed or delivered to each Director at least five (5) days before the date of the meeting; and (d) whenever feasible, the proposed amendment shall have been published in the *Federal Register* at least thirty (30) days before the meeting and interested parties shall have been afforded a reasonable opportunity to comment thereon.

Dated: May 30, 1984.

Donald P. Bogard,

President, Legal Services Corporation.

[FR Doc. 84-14910 Filed 6-1-84; 8:45 am]

BILLING CODE 6820-35-M

#### 45 CFR Part 1628

##### Procedures Governing Recipient Fund Balances

AGENCY: Legal Services Corporation.

**ACTION:** Final rule—correction.

**SUMMARY:** On May 21, 1984, the Corporation published as a final rule a revised Part 1628—Procedure Governing Recipient Fund Balances (49 FR 21331). In the preparation of this document, paragraph (d)(3) was inadvertently dropped from the text of § 1628.4 Procedure. This correction is therefore published to give the complete version of that section as adopted by the Corporation.

**EFFECTIVE DATE:** June 20, 1984.

**FOR FURTHER INFORMATION CONTACT:** Richard N. Bagenstos, Assistant General Counsel, (202) 272-4010.

#### List of Subjects in 45 CFR Part 1628

##### Legal services, Fund balances.

For the reasons set out above, § 1628.4 of 45 CFR Part 1628 is corrected to read as follows:

##### § 1628.4 Procedure.

(a) Any recipient whose audited fund balance exceeds the ceiling set forth in § 1628.1 shall submit to the Director, Office of Field Services, within 120 days after the close of the recipient's fiscal year, a statement of the fund balance which occurred according to the annual audit required by section 1009(c)(1) of the Legal Services Corporation Act, as amended. The funds will be recovered as set forth in § 1628.3, unless excluded by a specific waiver.

(b) The recipient may, within 120 days after the close of its fiscal year, apply to the Director, Office of Field Services for a waiver of the 10% ceiling. Such application must specify:

(1) The fund balance amount, according to the recipient's annual audit;

(2) The reason such fund balance has been attained;

(3) The recipient's plan for the disposition or reserve of such fund balance amount within the current grant period;

(4) The amount of fund balance projected to be carried forward at the close of the recipient's then current fiscal year; and,

(5) The extraordinary circumstances justifying the retention of the fund balance which include windfall receipts for which a recipient cannot reasonably plan, such as proceeds from the sale of property, receipt of direct payment to attorneys, and collection of insurance proceeds.

(c) Excess fund balance amounts shall not be expended by the recipient prior to approval of the waiver application by the Corporation.

(d) The decision of the Corporation regarding the granting of a waiver (other

than the automatically granted waiver for a cash reserve for compensated bar programs) shall be guided by the statutory mandate requiring the recipient to provide high quality legal services in an effective and economical manner. In addition, the Corporation shall give special consideration to the following factors in reviewing a waiver request submitted pursuant to this regulation:

(1) Emergencies, unusual occurrences, or other extraordinary circumstances giving rise to the existence of a fund balance in excess of 10%, and the special needs of clients;

(2) The need for a recipient which operates a compensated bar program or component to maintain a cash reserve; and

(3) The recipient's financial management record.

(e) Excess fund balance amounts approved for expenditure must be separately reported in the current fiscal year audit. This may be done by establishing a separate fund or by providing a separate supplemental schedule as part of the audit report.

(Secs. 1006(b)(1)(A), 1007(a)(3); 42 U.S.C. 2996e(b)(1)(A), 42 U.S.C. 2996f(a)(3))

Dated: May 29, 1984,

Alan R. Swendiman,  
General Counsel.

[FR Doc. 84-14861 Filed 6-1-84; 8:45 am]  
BILLING CODE 6820-35-M

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[MM Docket No. 83-1123; RM-4520]

#### FM Broadcast Station in Garberville, California; Changes Made in Table of Assignments

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** Action taken herein, at the request of Daniel J. Healy, assigns Class C2 Channel 284 as a substitute for Channel 261A at Garberville, California, and modifies the license of Station KERG (Channel 261A) to specify operation on the Class C2 channel. The assignment will provide the community with its first wide coverage FM channel.  
**EFFECTIVE DATE:** August 6, 1984.

**ADDRESS:** Federal Communications Commission, Washington, D.C. 20554.

**FOR FURTHER INFORMATION CONTACT:** Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

### List of Subjects in 47 CFR Part 73

Radio broadcasting.

#### Report and Order; Proceeding Terminated

In the matter of amendment of § 73.202(b), table of assignments, FM broadcast stations (Garberville, California) (MM Docket No. 83-1123 RM-4520).

Adopted: May 15, 1984.

Released: May 29, 1984.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the *Notice of Proposed Rule Making*, 48 FR 49882, published October 28, 1983, proposing the substitution of Class C Channel 284 for Channel 261A at Garberville, California. The *Notice*, adopted in response to a petition filed by Daniel J. Healy ("petitioner"), licensee of Station KERG (Channel 261A), also requested modification of his license to specify operation on Channel 284. Petitioner failed to file comments. However, he did file reply comments reiterating his interest in the channel substitution, if the proposal is adopted.<sup>1</sup> No comments in opposition to the proposal, or any other expressions of interest were received.

2. The channel can be assigned in compliance with the minimum distance separation requirements of § 73.207 of the Commission's Rules.

3. As stated in the *Notice*, Garberville is surrounded by mountainous terrain and valleys and FM reception is severely restricted. Station KERG's present facility is operating atop Pratt Mountain with an antenna height of 771 meters (2,527 feet) and 0.04 kW (40 watts) ERP (which is equivalent to a Class A station operating with 3kW at 300 feet). In order to upgrade the station's current service, petitioner seeks to have his station modified to a higher class channel.

4. After carefully considering the proposal, we believe the public interest would be served by substitution of Class C2 Channel 284 at Garberville in order to provide an increase in coverage for petitioner's station. The Class C2 facility has been created by the new FM rules adopted in BC Docket No. 80-90, 94 F.C.C. 2d. 152 (1983) effective March 1, 1984. This class permits maximum facilities of 150 meters and 50 kW. The current height of KERG's antenna (771 meters) would permit a power increase to 0.90 kW (900 watts). We have authorized in paragraph 6 a modification

<sup>1</sup> Petitioner's reply comments were not timely filed, but were accompanied by a motion for their acceptance. They will be accepted for the purpose of permitting the petitioner to reaffirm his interest in the proposed channel.

of the petitioner's license for Station KERG, Garberville, California, to specify operation on Channel 284C2 since there has been no other expressions of interest in the Class C channel. See *Cheyenne, Wyoming*, 62 F.C.C. 2d. 63 (1976).

5. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective August 6, 1984, the FM Table of Assignments, § 73.202(b) of the Rules, is amended with regard to the following community:

City	Channel No.
Garberville, Calif.....	284C2

6. It is further ordered, pursuant to the authority contained in Section 316 of the Communications Act of 1934, as amended, that the license of Station KERG, Garberville, California, is modified to specify operation on Channel 284C2, subject to the following conditions:

(a) The licensee shall file with the Commission a minor change application for a construction permit (Form 301), specifying the new facility.

(b) Upon grant of the construction permit, program tests may be conducted in accordance with § 73.1620.

(c) Nothing contained herein shall be construed to authorize major changes in transmitter location or to avoid the necessity of filing an environmental impact statement pursuant to § 1.301 of the Commission's Rules

7. It is further ordered, that this proceeding is terminated.

8. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

Federal Communications Commission.

Roderick K. Porter,  
Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84-14864 Filed 6-1-84; 8:45 am]

BILLING CODE 6712-01-M

### 47 CFR Part 73

[MM Docket No. 1144; RM-4552]

#### FM Broadcast Station in Honolulu, Hawaii; Changes Made in Table of Assignments

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.