



LEGAL SERVICES CORPORATION

MEETING OF THE COMMITTEE ON OPERATIONS

OCTOBER 14, 1980

10:30 A.M. - 5:00 P.M.

LEGAL SERVICES CORPORATION

733 15TH STREET, N.W.

8TH FLOOR CONFERENCE ROOM #1

WASHINGTON, D.C.

TENTATIVE AGENDA

MEETING OF THE COMMITTEE ON OPERATIONS

October 14, 1980
10:30 a.m. - 5:00 p.m.

Legal Services Corporation
733 15th Street, N.W.
8th Floor Conference Room #1
Washington, D.C.

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MINUTES OF THE MEETING

COMMITTEE ON OPERATIONS
LEGAL SERVICES CORPORATION

June 12, 1980

The meeting of the Committee on Operations of the Legal Services Corporation Board of Directors convened at 9:08 a.m. at the Copley Plaza Hotel, State Suites A and B, Copley Square, Boston, Massachusetts; Committee Chair Josephine Worthy presided.

Present were Committee members Howard Sacks and Robert Kutak. Board member Ramona Shump also attended, as did Corporation President Dan J. Bradley, various members of the Corporation staff and members of the public.

After welcoming the Committee to the Boston area, Ms. Worthy asked for a motion to adopt the agenda. Mr. Bradley suggested that the Committee take up item number 6 (Discussion on Regulation 1612.4, Legislative and Administrative Representation) prior to the other substantive items on the agenda because he had to leave the meeting early and wished to address the Committee on that issue. Mr. Sacks moved the adoption of the agenda with Mr. Bradley's suggested change; Mr. Sacks also moved the approval of the minutes from the September 6, 1979 meeting of the Committee. Both motions passed unanimously.

Discussion on Regulation 1612.4,
Legislative and Administrative Representation

Mr. Bradley reported on the status of the Corporation's reauthorization legislation, stating, among other things, that the House Committee had reported out a three-year authorization bill

that included specified authorization levels for each of the three years and that the Senate Committee had reported out a two year authorization bill that provided for "such sums as necessary" for the program. Mr. Bradley further reported that the full Senate was expected to debate the authorization bill that afternoon, and that he expected numerous amendments to be offered. Mr. Bradley noted that the Corporation hoped to have all congressional action on both the reauthorization and the appropriation completed before the July 2 recess, but that the appropriations process might not be completed until late August.

Mr. Bradley then gave a background report on the concerns that Congress, particularly Congressman Moorhead, had expressed regarding lobbying by Corporation-funded legal services programs. Congressman Moorhead does not plan at this time to offer any substantive amendments, but will reserve final judgment pending his review of the efforts that the Corporation plans to make to ensure compliance with the current interpretation of the provisions of Part 1612 of the Corporation's regulations. Mr. Bradley reported that he has met with Congressman Moorehead and has sent him a letter, (which appeared on p.66 of 6/12/80 book) describing the Corporation's proposed actions with respect to the lobbying restrictions. Mr. Bradley asked the Committee to authorize and direct the staff to draft a proposed regulation to further implement the Moorhead amendment, based on the statements in Mr. Bradley's April 1, 1980, letter to Congressman Moorhead. Following discussions among the members of the Committee, staff and the public,

Mr. Sacks moved that the Committee authorize and direct the staff to draft a proposed regulation based on the statements made in Mr. Bradley's April 1, 1980, letter, and present such draft to the Committee at a meeting prior to the September Board meeting. Mr. Bradley then requested that the motion be amended to require the staff to review the issue and report back to the Committee with a range of options for ensuring compliance, including a proposed regulation if appropriate. Mr. Sacks agreed to the amendment. Following additional discussion, Mr. Sacks again amended his motion to direct the staff to prepare a comprehensive report on compliance with the restrictions on legislative activities and enforcement of the Act and regulations. Mr. Kutak seconded the motion. After further discussion, the motion passed unanimously.

Discussion on Regulation 1607,
Selection of Recipient Board Members

Mario Lewis, General Counsel and Linda Perle, Assistant General Counsel, reported on the issues that had been raised in connection with the Corporation's general interpretation of Part 1607 of the regulations, holding that selection of members of local governing boards must be made directly by the organizations designated to appoint representatives to those boards. Ms. Perle reported that most comments received from Regional Offices as well as field and client groups supported a recommendation to amend Part 1607 to make it clear that the Corporation's interpretation was consistent with the intent of the regulation.

The Committee heard extensive comments from numerous client members of local boards as well as representatives of field programs. Following these comments Mr. Sacks moved that the staff draft an amendment to Part 1607 to clarify that selection of board members was to be made directly by the organizations whose representatives serve as board members; in addition, he moved that the staff review, in conjunction with representatives from the field, the other issues that have arisen in the interpretation of Part 1607 and present the Committee with any recommendations or proposed revisions that were appropriate in light of that review. Mr. Kutak requested Mr. Sacks to amend his motion to simply require a staff report, with input from the field, based on a general review of the issues raised by Part 1607, without any requirement for specific amendments. Mr. Sacks agreed to the amendment to his motion. Mr. Kutak seconded the motion, which passed unanimously after further discussion.

The meeting recessed at 12:00 for lunch and reconvened at 12:30.

Discussion on Regulation 1601,
Bylaws of the Corporation

Mr. Lewis reported that several previously passed amendments to the Corporation's bylaws had never been published in the Federal Register. In addition, he proposed making several additional technical and stylistic amendments to Part 1601. Mr. Sacks made a motion to direct the staff to publish both the previously passed and the proposed amendments in the Federal Register, to become effective immediately upon publication. Ms. Worthy seconded the

motion, which passed unanimously.

Discussion, Comprehensive Recipient
Civil Rights Regulation

Mr. Lewis described the efforts that the staff was making to prepare a comprehensive regulation dealing with civil rights enforcement. He reported that the staff of the Corporation would have an initial draft of this regulation for the Committee's review within four months.

Ms. Shump read a resolution adopted by the Board of Directors of the National Clients' Council regarding equal opportunity and affirmative action in the context of program priority setting (Appendix A). Charles Chapman, Director of the Corporation's Office of Equal Opportunity, reported that the staff planned to consider the provisions of that resolution when drafting the proposed regulation. Following a brief discussion of some of the issues to be addressed by the draft regulation, Mr. Sacks suggested that the Committee endorse the work of the Corporation staff in preparing the comprehensive civil rights regulation and encouraged the staff to take into account the National Clients' Council resolution. The Committee took no formal action.

Short Funding, State
Bar of Texas Recommendation

Clint Lyons, Director of the Office of Field Services, and Mr. Lewis reported that the State Bar of Texas had objected to the Corporation's practice of providing only short-term funding to legal services programs that were not in substantial compliance

with the Legal Services Corporation Act and regulations as well as grant terms and conditions. The Texas Bar had stated that the practice violated the Act without specifying how and without making a formal complaint to the Corporation.

Mr. Lewis explained his legal conclusions supporting the lawfulness of short-term funding, and Mr. Lyons presented proposed administrative procedures for ensuring that short-term funding would be done in a manner that was not arbitrary or capricious. Mr. Lyons explained that short-term funding should be viewed as a less harsh alternative to a denial of refunding. He stated that it should not be viewed simply as a punitive measure, but as a tool to effectuate compliance with Corporation requirements. Under the proposed procedures, Mr. Lyons will carefully review all short-term funding recommendations made by Regional Offices and must approve all such recommendations prior to their implementation. In answer to a series of questions posed by Mr. Sacks, Mr. Lyons stated that either he or his Deputy, Mr. Askew, would personally review all recommendations and make their decisions after consultation with the General Counsel. Mr. Lyons also stated that the procedures call for ample notice to programs of the nature of the violations and that short-term funding would generally be initiated only after extensive fact-finding and an extended period of recalcitrance.

Mr. Sacks suggested that the staff draft a proposed regulation on short-term funding. Mr. Lewis replied that a regulation was not necessary since the proposed procedures would not create or take away any rights of local programs, but would only provide

internal guidance for Corporation staff in their administrative enforcement of the Act and regulations. Mr. Lyons stated that those procedures were intended to ensure the integrity of the process of instituting short-term funding.

There followed extensive discussion among the members of the Committee, staff and the public on the legality of short-term funding, the adequacy of the proposed procedures and the need for a regulation. At the close of the discussion the Committee instructed the staff to immediately implement the proposed administrative procedures for short-term funding and, in addition, to consider, in conjunction with representatives from the field, the appropriateness of developing a regulation governing the practice. The Committee also asked the staff to report on the status of the discussion of short-term funding at the next meeting of the Committee.

Report on the Opinion Issuance System

Mr. Lewis presented the Committee with a memorandum describing new procedures for issuing opinions of the General Counsel (Appendix B). The system contemplates use of both formal, binding opinions for issues of general applicability, as well as informal opinions, narrowly drawn based on the facts of particular cases and binding only on the parties requesting the opinions.

President's Report

Since Mr. Bradley left the meeting following his earlier report, there was no additional President's Report.

There being no Other Business, the meeting adjourned at 3:00 p.m.


LEGAL SERVICES CORPORATION

733 Fifteenth Street, N.W., Washington, D.C. 20005

 Dan J. Bradley
 President

 Writer's Direct Telephone
 (202) 272-4010

June 17, 1980

MEMORANDUM

TO: See Distribution Below
 FROM: Mario Lewis, General Counsel *ML*
 RE: Process for the Adoption and Distribution
 of Legal Opinions--Opinion Issuance System

Attached is a memorandum describing the new process that the Corporation's General Counsel's Office has adopted for the issuance of opinions interpreting the Legal Services Corporation Act and Regulations. I hope that this process will promote the development of a consistent and authoritative body of legal interpretations that will serve to guide the Corporation as well as field programs in the years to come.

Please feel free to contact this office if you have any questions regarding the procedures described.

Distribution:

LSC Board of Directors
 LSC Staff
 LSC Regional Offices
 LSC Recipients

Attachment

ML/ba

- 11 -

BOARD OF DIRECTORS	Hilary Rodham, Chairman, Little Rock, Arkansas	Michael Kantor	Robert J. Kutak	F. William McClellan
Steven E. Eisenberg	Cecilia D. Esquer	Los Angeles, California	Omaha, Nebraska	St. Louis, Missouri
Washington, D.C.	Phoenix, Arizona	Ramona Shump	Richard Trudell	Josephine W. Giff
Revia O. Omigie, Jr.	Howard E. Sacks	Topeka, Kansas	Oakland, California	Holyoke, Massachusetts
New Orleans, Louisiana	West Hartford, Connecticut			

STAFF
INSTRUCTION

OFFICE OF THE GENERAL COUNSEL
LEGAL SERVICES CORPORATION

Subject:

Process for the Adoption and Distribution
of Legal Opinions.

Effective Date:

June 10, 1980

I. INSTRUCTIONS ON THE FILING AND RETENTION OF THIS INSTRUCTION

This instruction is to be maintained as the first item in the opinions binder that each attorney in the Office of General Counsel is required to retain. It is recommended that grantees include this instruction as the first item in the opinions section of their Program Manual. Nothing herein is intended to obligate the Office of General Counsel, or the Corporation generally, to provide notice to anyone of any changes to this instruction or in the procedures it prescribes. This instruction seeks to govern solely the internal process for the adoption of opinions by the Office of General Counsel and is therefore not a matter subject to publication under 42 U.S.C. §2996g.

II. INTRODUCTION

A major activity of the Office of General Counsel (OGC) is the rendering of opinions concerning the legality of recipient activities, practices and policies under the Legal Services

Corporation Act and the regulations issued by the Corporation. Requests for opinions come from many sources, including the Corporation's regional offices, the staff and directors of recipients and clients. In order to provide timely and appropriate responses to these requests, it is necessary to formalize the process for adopting opinions.

Formalization will insure that opinions are issued only after adequate consultation has occurred on interpretations that have policy implications. Consistency should follow as well, given the systematic discussion of important questions by OGC staff, the retention of the background and history on a given interpretation for use as new but related issues arise, the shared understanding of the binding nature of a given opinion, and the systematic notification of recipient and Corporation staff alike of new interpretations.

OGC has historically attempted to answer every request for opinions it received. While such an approach may be commendable, it created several problems. In the future, OGC will not issue opinions on hypothetical and abstract questions. Where the immediate need for decision overrides the concern for extensive consultation, OGC will provide the answer but reserve the right to reconsider the matter.

The process described below is designed to give OGC and the Corporation the flexibility to test its legal choices while affording sufficient fundamental certainty to avoid further confusion and misunderstanding. While consultation with LSC staff

and recipient and client representatives is contemplated, nothing herein is intended to suggest that the attorney staff of OGC is to exercise less than their independent legal judgment in recommending interpretations on given questions to the General Counsel.

III. PURPOSE

This instruction seeks to establish a process for the adoption of opinions by the OGC. Its purpose is to provide a procedure aimed at addressing those issues described in the introduction.

IV. CATEGORIES OF OPINIONS AND THEIR LEGAL SIGNIFICANCE

There will be two categories of opinions issued by OGC. The first category consists of informal opinions written to deal with a specific situation representing OGC's best and most current answer to the problem presented. These opinions will not normally announce a new interpretation and would be binding only with respect to the program or individual involved; that is, the Corporation will honor the decision in dealing with the particular program requesting the opinion in the future or until the opinion is revoked, but would not be bound to take the same position in later cases.

The second category would consist of formal opinions. These would be issued in areas of more than ordinary importance, as where OGC had received a number of requests on the same question, where it is important to give general guidance to grantees, or

where there is a need to pull together all of the Corporation's past interpretations on a particular subject in an organized way to give better guidance to grantees or Corporation staff. These opinions would be binding on the Corporation in dealing with all its grantees until the opinions were formally revoked. The opinions of OGC construing the Legal Services Corporation Act and/or the regulations, unless revoked by OGC or determined in error by a federal court, are the final pronouncement on the particular point of law in the particular context where construed or applied.

V. PROCESS FOR ADOPTION OF INFORMAL OPINIONS

All issues reaching the OGC for disposition will be evaluated by the staff attorney assigned to review the matter (the responsible attorney). The responsible attorney will determine whether the matter presented is in need of a written response from the office. The attorney will also determine whether there exists a current Corporation legal position on the question or questions presented. If it is the responsible attorney's determination that no applicable interpretation exists, the attorney will then determine which division(s) within the Corporation should be consulted on the question. At this juncture, the responsible attorney should refer to the procedure for adopting formal opinions.

If a current legal position exists on the question, an informal opinion reflecting that position shall be prepared by the responsible attorney for his or her signature. A copy of the

incoming document will be attached to a copy of the informal opinion and both will be filed in the appropriate regulation or Act section file. Additionally, if the factual situation presented is novel, but not sufficiently novel to warrant a new construction, copies of the opinion shall be circulated to the attorney staff of OGC for inclusion in their opinion binders.

VI. PROCESS FOR ADOPTION OF FORMAL OPINIONS

When the responsible attorney determines that a request for an opinion presents a question on which no prior Corporation legal position has been taken, or where the question presented has been raised by several individuals, or where the question presented affords an opportunity for a comprehensive treatment of a series of related issues on which there have been prior opinions by the OGC, the attorney may recommend to the General Counsel that the issue be studied for purposes of adopting a formal opinion.

If the General Counsel determines that the issue(s) warrant(s) consideration for treatment as a formal opinion, he or she shall direct the responsible attorney to initiate the process set out below:

1. The responsible attorney will prepare a memorandum framing the issue presented (in its alternative forms if subject to such treatment) setting out the relevant facts and applicable law and analyzing the policy implications of the interpretive options. If

the matter warrants, care should be used to protect the privacy of the individuals and program involved.

2. The memorandum will then be distributed together with all prior opinions relevant to the matter, to members of the OGC attorney staff and to the following groups or individual representatives thereof;

- senior staff
- regional directors
- regulations committee of the Program Advisory Group (PAG)
- National Clients Council (NCC)
- others as may be determined appropriate in consultation with the General Counsel;

At the time of such distribution a date certain will be set by which comments are due. If appropriate, the responsible attorney can schedule meetings with these groups to discuss the issues.

3. After receipt and analysis of the comments, the responsible attorney shall consult with the General Counsel to determine whether an opinion should issue, and, if so, whether it should be formal or informal.

This process is intended to assure that most of the foreseeable implications of a given interpretation are understood by OGC in order to insure the adoption of an interpretation which construes and applies the language of the Act and regulations so as to further the intent of Congress and the Board.

VII. DESIGNATION OF FORMAL OPINIONS

A formal opinion will be identified by the words FORMAL OPINION and an identification symbol in the upper right hand corner of the first page of the opinion. For example:

LSC Letterhead

	FORMAL OPINION
	1001-80-1
Corporation Washington, D. C. 20005	Dan Bradley President

All formal opinions will bear the signature of the General Counsel.

A. Opinions interpreting provisions of the Act will be identified by the following symbols.

EXAMPLE

(1) (2) (3)
1001 - 80 - 1

- (1) section of the Act being interpreted,
- (2) year in which the opinion issued.
- (3) number of opinions on that section in that year.

B. If the opinion interprets a regulation, the same identifying symbols will be used with the exception that the section or subsection symbol will be preceded by the letter "R" as in the example below.

EXAMPLE

FORMAL OPINION

R1601.4 - 80 - 1

If more than one section or subsection is being interpreted in an opinion, the principal section being interpreted will be cited first. Citations to remaining provisions will follow in parentheses as demonstrated in the example below.

EXAMPLE

FORMAL OPINION

R1600 - 80 - 1 (R1610, 1001)

VIII. DISTRIBUTIONS OF OPINIONS

Informal opinions will not be systematically circulated to all grantees or the staff of the Corporation. All opinions issued by the OGC will be available to anyone upon request. However, because there have been hundreds of advisory opinions by the OGC since the creation of the Corporation, we must insist that requests for opinions be specific, e.g., by reference to section or topic. A copy of all informal and formal opinions will be sent automatically to all regional offices, the PAG Regulations Committee and NCC.

Formal opinions, after being assigned an identification symbol as described in Part VII above, will be forwarded to the Clearinghouse for publication, and a copy of the opinion will be mailed directly to all grantees for filing in the opinion section of their Program Manuals. Copies will be circulated to all OGC

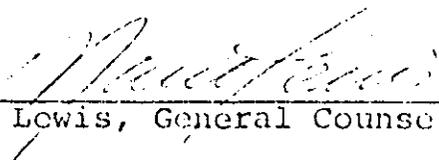
attorneys for filing in their opinion binders.

After an opinion has been assigned an identification symbol, a copy of the opinion, together with all the written comments prepared or received in the adoption process, shall be placed in the appropriate section (either statutory or regulatory) file in the OGC central filing system. Where more than one section is construed, a copy of the opinion will be filed in all relevant section files.

IX. STATUS OF OPINIONS ISSUED PRIOR TO THE ADOPTION AND IMPLEMENTATION OF THIS SYSTEM

All prior opinions issued by OGC since the creation of the Corporation are to be deemed informal as that term is used herein. As issues arise on what has been previously "settled," the responsible staff attorney shall propose to the General Counsel that the matter be handled as a request for a formal opinion.

A note of caution--while all prior opinions are subject to reconsideration, there is no reason to assume that there will be a wholesale or even significant change in the construction or application of the Act or regulations. Further, while a body of formal, and therefore generally binding, opinions may take time to evolve, informal opinions do serve as guidance in those matters on which no formal opinion exists.



Mario Lewis, General Counsel

Date June 10, 1980

LEGAL SERVICES CORPORATION

MEMORANDUM

DATE: September 30, 1980
TO: Members of the Operations Committee
FROM: Dan J. Bradley *Dan*
SUBJECT: Report on Congressional Reauthorization and
Board Nominations

An oral report will be presented at the October 14, 1980
Operations Committee meeting on the status of the reauthorization
and Board nominations.

PROPOSED AMENDMENT TO PART 1612
RESTRICTIONS ON CERTAIN ACTIVITIES

COMMENT

Section 1007(a)(5)(A) of the Legal Services Corporation Act, 42 U.S.C. §2996f, requires the Corporation to ensure that funds awarded to recipients are not used for legislative advocacy unless such advocacy is a necessary part of the representation of an eligible client, at the request of a legislative body, or in connection with a measure which directly effects the activities of the recipient of the Corporation under the provisions of the Act. On July 28, 1978, the Corporation promulgated Part 1612, Section 1612.4 in order to implement the limitations of the Act. After some experience with these provisions, it has become necessary to impose new requirements in order to ensure the day-to-day observance of these limitations by recipients.

These proposed requirements are part of an overall effort to ensure that all recipient legislative advocacy is conducted in compliance with the congressionally imposed restrictions. In addition to promulgating these regulatory changes, the Corporation is focusing on monitoring and training to ensure that recipients are aware of and understand congressional limitations on legislative advocacy. Further, a formal complaint procedure is being initiated so that complaints of impermissible legislative advocacy will be resolved in a consistent and timely manner.

The first proposed addition to Part 1612, Section 1612.4(b), will require recipients to implement a system under which appropriate documentation will be secured before any legislative

advocacy is undertaken by an employee. If legislative advocacy is to be undertaken on behalf of an eligible client, the recipient will secure a retainer or other appropriate documentation specifically authorizing such representation. Similarly, if the recipient has been requested by a member or a committee of the legislature to engage in legislative advocacy, the request must be appropriately documented. Finally, if legislative advocacy is undertaken because of possible legislation directly affecting the activities of a recipient, the executive or program director will authorize the initiation of such advocacy in writing. Recipients will further be required to notify their staff of this system of prior authorization for legislative advocacy and to insure that it is complied with.

A second proposed addition to Part 1612.4, Section 1612.4(c), will prohibit programs from establishing legislative offices until the recipient's board of directors, primarily composed of attorneys, approves such an action consistent with the program's priorities, the attorneys' professional responsibility and as an economical and efficient approach to meeting clients' needs for legislative representation.

Finally, because of the proposed amendments, it will be necessary to redesignate current Section 1612.4(b) as subsection 1612.4(d).

Part 1612 - Restrictions on Certain Activities

Section 1612.1 Definitions

Section 1612.2 Public Demonstrations and Other Activities

Section 1612.3 Attorney - Client Relationship

Section 1612.4 Legislative and Administrative Representation

Section 1612.5 Enforcement

Authority: (Appropriate authority sections already cited within CFR.)

Section 1612.4(b) Recipients shall adopt appropriate procedures and forms to document the legislative activities they engage in fall within the activities permitted in Section 1612.4(a).

Section 1612.4(c) Recipients may not establish full time legislative offices unless the decision to establish such an office is formally made by the Board of Directors of the recipient consistent with the provisions of Section 1620 and provided that the legislative activities of these offices are solely activities permitted under subsection 1612.4(a).

LEGAL SERVICES CORPORATION

MEMORANDUM

DATE: September 30, 1980
TO: Committee on Operations
FROM: Mario Lewis, General Counsel
SUBJECT: Report on Legislative Advocacy

The Corporation's Report on Oversight Activities Regarding Legislative Advocacy, along with the letter transmitting the report to Congressman Kastenmeier, will be sent to the Committee under separate cover. Mary Bourdette and I will report to the Committee on this report and other matters concerning legislative advocacy.

LEGAL SERVICES CORPORATION

MEMORANDUM

DATE: September 30, 1980
TO: Committee on Operations
FROM: Mary Bourdette, Clint Lyons and Mario Lewis
SUBJECT: Legislative Advocacy Report

Pursuant to your request made at the June 12, 1980 Committee meeting, we have prepared this memorandum discussing Congressional concerns regarding legislative representation by legal services programs. We have reviewed our Congressional files to provide you with an indication of the volume and type of Congressional mail on this particular issue. In addition, I have attached several other documents that are representative of Congressional interest and views on the topic.

Our review indicates that we received 14 complaints about legal services legislative advocacy in 1979. As of August 1, 1980, our review indicates approximately 15 complaints from members of Congress concerning legal services legislative work in 1980. On some occasions, we have more than one complaint about the same event or issue.

It is difficult to summarize the complaints or the activities from which they result, but a few points emerge. The first is that most of the complaints from members of Congress result from complaints to them from a constituent. In the great majority of cases, both the complaining party and the Congressman assume that all legal services legislative activity is illegal - since the program is federally funded. In very few cases does the complaining party indicate a knowledge or understanding of the rules governing legal services legislative activities. Similarly, only rarely does the legal services material conveyed to us by the complaining party indicate either the rules under which such activity may be undertaken, or, more importantly, the legitimate basis for the particular activity. For example, we find few instances where the legal services program has clearly indicated that such activity is being undertaken on behalf of a specific low income client, or that such activity is allowed by section 1007 (a) (5) of the L.S.C. Act.

Many of the complaints stem from actual legislative representation by legal services workers - a worker has testified at a legislative hearing, or wrote a letter to an elected official on a piece of legislation. A number of them, however, convey legal services literature informing others (be they other legal services workers, clients, or interested persons) of pending legislation and usually urging them to engage in legislative activities. This includes pamphlets, newsletters and press releases.

Some of the complaints deal with legislative representation in a very peripheral way. For example, on several occasions, we have had complaints from members of Congress as a result of program employment advertisements for persons to do legislative advocacy.

In order to adequately understand Congressional concern in this area, however, I feel you must go beyond the actual written complaints that have been sent to us. As Dan will undoubtedly verify, there is no issue on the Hill concerning legal services that is more often brought to our attention in conversations with members than legal services legislative work.

It is for this reason I have attached excerpts from the House Appropriation Committee Investigation Report on the Legal Services Corporation. This report was requested by several members and was prepared by the House Appropriation Committee staff after extensive interviews and visits with legal services personnel across the country. It indicates a primary area of concern - the adequacy of L.S.C. efforts to ensure total compliance with the Act in this critically sensitive area. Also attached are excerpts from the most recent GAO report - again dealing with legislative representation after review of the issue in the field. It certainly conveys confusion and misunderstanding - but this in itself is important.

Most important, perhaps, is a letter sent to us in February from Congressman Kastenmeier, chairman of our House Judiciary oversight subcommittee on the topic of legislative representation. As you know, Congressman Kastenmeier is one of the strongest supporters of legal services in Congress and one who is well aware of the need for representation of clients interests in the legislative arena. Nevertheless, Congressman Kastenmeier has recommended to us that we review this area very carefully with thought toward regulatory change and increased oversight. Similarly, Congressman Railsback concluded that a tighter regulatory scheme was essential after a recent visit to several legal services programs in California engaged in legislative activities. Our letter of April 1, 1980 to Congressman Moorhead was the result of extensive discussions on the Hill and with field persons about the more appropriate methods for regulatory and monitoring change. We have widely distributed the letter to members of Congress, and have received very positive reactions.

STEVEN W. RODINO, JR. (N.J.), CHAIRMAN

S. TEX. ROBERT MCCLORY, ILL.
 RASTENMEIER, WIS. TOM RAUBACH, ILL.
 DE, CALIF. HAMILTON FISH, JR., N.Y.
 JRE, JR., MICH. M. CALDWELL BUTLER, VA.
 BERLIND, OHIO CARLOS J. MOORHEAD, CALIF.
 DANIELSON, CALIF. JOHN M. ASHBROOK, OHIO
 DRINAN, MASS. HENRY J. NYDE, ILL.
 MOLTENAN, N.Y. THOMAS M. KINNESS, OHIO
 MAZZOLI, NY. HAROLD S. SAWYER, MICH.
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 SHELLEY, ALA.

GENERAL COUNSEL:
JOSEPH L. HELLJESTAFF DIRECTOR:
GARNER J. CLINEASSOCIATE COUNSEL:
FRANKLIN G. FOLK

Congress of the United States
Committee on the Judiciary
House of Representatives
Washington, D.C. 20515
Telephone: 202-225-3951

February 22, 1980

Dan Bradley, President
 Legal Services Corporation
 733 - Fifteenth Street N.W.
 Washington, D.C. 20005

Dear Dan:

In my capacity as chairman of the House oversight subcommittee on the Legal Services Corporation, I have always supported Section 1007 (a)(5)(A) in the Legal Services Corporation Act which allows recipients to carry out legislative and administrative advocacy activities on behalf of eligible clients. These activities are often essential and economical ways enabling legal services programs to remedy the legal problems of their clients.

However, it has been brought to my attention by Representative Carlos Moorhead that there may be lobbying activities conducted by one or more legal services programs in which lobbying is conducted as a pure initiative of staff and not on behalf of eligible clients nor under the two other exceptions of the lobbying provision. Representative Moorhead's concerns are based on questions raised in an investigative report prepared for the House Committee on Appropriations last year.

My own review of the lobbying section of that report indicates that the Corporation should clarify and improve its system of monitoring grantees to insure their compliance with the lobbying restrictions in the Act. Perhaps more detailed record keeping should be required from the grantees so that the Corporation can determine whether lobbying is conducted on behalf of eligible clients, or pursuant to requests of legislatures and agencies, or on a measure directly affecting the activities under the Act of the recipient or the Corporation. If none of the above three reasons is the basis for the lobbying activity, then certainly the grantee and the responsible employee should be sanctioned for the violation.

I would appreciate it if you could comment on the lobbying section of the investigative report, and if you could update me on the current and new policies and practices of the Corporation to insure compliance with Section 1007(a)(5) of the Legal Services Corporation Act, as amended. Would you

Page Two
Dan Bradley
February 22, 1980

please make specific recommendations for possible improvements in regulation Part 1612.4 and in the monitoring process?

Thank you for your attention to this important matter.

Sincerely,

Robert W. Kastenmeier
Chairman, Subcommittee on Courts,
Civil Liberties and the
Administration of Justice

RWK:gfa

MARCH 1979

Surveys and Investigations Staff

THE LEGAL SERVICES CORPORATION
AND PROGRAMS IT FUNDS

on

A REPORT TO
THE COMMITTEE ON APPROPRIATIONS
U.S. HOUSE OF REPRESENTATIVES

NOT FOR RELEASE UNTIL AUTHORIZED BY THE COMMITTEE

Returned to
Office of
Gov. F. Reel

data, and some none. Attorneys in legal services programs are opposed to keeping detailed records, and the only instances where attorney time on a case is recorded are where there may be court-awarded fees or in judicare programs where it is necessary to set fees.

With the phasing out of the Project Reporting System, LSC, in November 1978, by contract with a Rockville, Maryland, firm, initiated a new system, called the Statistical Reporting System. Twelve programs began phasing in this system in January 1979, and it is planned for 48 others to commence participation in early 1979. The 38 demonstration projects are also participating, and it is scheduled for completion in December 1979. Also, a new trial system called Case Service Reports was initiated in the fall of 1978 which endeavors to define "a case" and is planned as a form to be used by all programs for each case to record types of clients served and types of services rendered. The initial mailing solicited comments from programs, and this was under review as of the writing of this report. Heretofore programs used their own intake sheets, and this is the first attempt at a standardized, uniform procedure.

LSC and, before them, OEO have been criticized by the General Accounting Office and others for the lack of a management information system that produces reliable data. This criticism is still valid as the present efforts, while certainly worthwhile, are just in the trial stages, and LSC continues to operate without any useful data base. It should also be noted the Statistical Reporting System and the Case Service Reports do not require the keeping of attorney time and therefore there will be no clear measure of costs of handling particular cases or types of cases. They will only provide data as to gross costs, based upon program costs, the number of attorneys and staff, and the number of cases. This is hardly sufficient for important management decisions as to funding and setting of priorities.

Lobbying

The Legal Services Corporation Act forbids the use of LSC funds for lobbying activities, with three specific exceptions: when requested by the legislative body or member thereof, when representing an eligible client, and in consideration of a matter directly affecting legal services program activities. There are State support centers and other LSC-funded programs who have persons engaged full time in legislative advocacy, with units of one or more attorneys and staff located in the capital cities of their States. They have a visibility and are frequently called upon for their views and requested to testify as to poverty law issues, which, of course, is legal and proper. Some of these units regularly send newsletters

to legal services programs and various social agencies and community groups advising of legislative activities and, in some instances, urging input of views for or against pending legislation. One unit regularly sends a questionnaire to legal services programs, which is used to follow and report on indicated areas of interest.

The Investigative Staff observed some of this general activity may not be acting on behalf of a specific identified client. The eligible client population is huge, there are large numbers of people who are affected by any legislation involving poverty law, but the intent of the statute appears to have been to limit the use of LSC funds for lobbying or legislative advocacy, as it is called. While certainly well meaning and potentially very successful, as how better to benefit the largest number of poor persons than by passage of, or changing a provision of, law, there are questions of the functions of full-time legislative support units. In California, there are a total of nine registered lobbyists, employees of two LSC-funded legal services programs. The regional director said whereas attorneys in the legal services programs in that region are asked during monitoring visits to break down estimates of time on phases of their work, this has never been asked of the lobbyists, they had never been interviewed, and there was no accounting of their time. In another State, the head of a legislative support unit did not maintain any record of clients he was serving but said "if pressed," he could "link" with an eligible client.

LSC should develop and impose specific guidelines and requirements to be followed by LSC-funded programs in their legislative support activities to insure the activities of persons engaged full time in this endeavor are fully accountable and to insure they maintain records of identifiable client representation in all of their lobbying activities, in compliance with the statute.

National Support Centers

LSC inherited 13 (later reduced to 12, when 2 combined) national support centers located throughout the country. They specialize in various phases of the law and provide support to legal services programs, including written materials and opinions, analyses of legal issues, preparation of briefs, and, at times, serve as counsel or co-counsel in litigative cases. Two of them, The Health and Housing Law Centers, are funded to maintain offices in Washington, D.C., primarily for administrative advocacy with pertinent Government agencies.

The funding and activities of the centers have remained relatively constant since LSC became operational. While they provide an invaluable service in numerous instances, comments

X. LOBBYING

Lobbying activities was one of the areas mentioned in the directive to be included in this study, in view of concern expressed by some Members of Congress.

The Legal Services Corporation Act, as passed in 1974, and as amended in 1977, contains Section 1007(a)(5), which was intended to limit the use of LSC funds for legislative representation. This section provides the Corporation shall:

** * * insure that no funds made available to recipients by the Corporation shall be used at any time, directly or indirectly, to influence the issuance, amendment, or revocation of any executive order or similar promulgation by any Federal, State, or local agency, or to undertake to influence the passage or defeat of any legislation by the Congress of the United States, or by any State or local legislative bodies, or State proposals by initiative petition, except where--

"(A) representation by an employee of a recipient for any eligible client is necessary to the provision of legal advice and representation with respect to such client's legal rights and responsibilities (which shall not be construed to permit an attorney or a recipient employee to solicit a client, in violation of professional responsibilities, for the purpose of making such representation possible); or

"(B) a governmental agency, legislative body, a committee, or a member thereof--

"(i) requests personnel of the recipient to testify, draft, or review measures or to make representations to such agency, body, committee, or member, or

"(ii) is considering a measure directly affecting the activities under this title of the recipient or the Corporation."

The statute forbids the use of LSC funds for lobbying activities with three specific exceptions: when requested by the legislative body, when representing an eligible client, and in consideration of a matter directly affecting legal services program activities.

Thus, it is clearly legal for LSC-funded programs to make contact with local, State, or Federal agencies, or their respective legislative bodies, concerning Executive orders or other promulgations, or existing or proposed legislation,

as long as they are acting on behalf of an eligible client and that representation "is necessary to the provision of legal advice and representation with respect to such client's legal rights."

Similarly, it is clearly legal for recipients of LSC funds to participate in the legislative process when requested by the particular entity. Frequently, properly, and legally, LSC-funded legal services program attorneys are called upon for their views as to existing and proposed legislation, have engaged in discussions thereof, and have been requested to testify before State legislative tribunals and before Committees of the U.S. Congress. Their experience can be and has been highly informative and of considerable value to legislators dealing with issues affecting poverty law. On occasions, they have participated in drafting legislation; as an example, a legal services attorney in one State was appointed to the Governor's Welfare Advisory Committee, which was chartered to look into a complete revision of the welfare - public assistance laws of that State. Another attorney, at the request of a city, played the major role in writing a housing and consumer code.

There are various LSC-funded entities which are engaged in legislative advocacy activities. Six States currently have support centers, five of which are directly funded by LSC and not through a service delivery program, and 15 States have "joint venture" structures whose funds are channeled through one or more programs within a State.

The State support centers either have individuals assigned to, or have units which are physically located in, the capital city of the State, closely tuned to legislative activity. Similarly, many LSC-funded legal services programs have individuals who spend part or all of their time in this field of endeavor or have legislative support units with one or more attorneys and staff in offices in the State capital city. These legislative support units have a visibility in the State legislature and are frequently called upon to contribute their views in various discussions, in testimony on issues of poverty law, and to assist in drafting legislation. They are in close contact with legal services programs in their States and regularly circulate newsletters. These newsletters are sent by some units to various social agencies, legal aid societies, and community groups, in addition to LSC-funded legal services programs.

One such legislative support unit regularly sends a questionnaire to all the legal services programs in its area in which the respondents are asked to indicate in which specific or general matters they have an interest. The unit uses this to assist in determining which proposed or pending legislation

it will follow and report progress on. In this activity, an effort is made to gain support for or against legislation, and to stimulate client and community or social group interest and input. In furtherance of this, the newsletters may give the names, addresses, and phone numbers of all members of Committees or of sponsoring legislators or the Governors, where bills await signature, and the newsletters often urge interested persons or groups to communicate to express their views.

It was this activity which provided the background leading to the passage of the "Moorhead Amendment" to the Appropriations Act of 1979, which added: "Provided, No part of this appropriation shall be used for publicity or propoganda purposes designed to support or defeat legislation pending before Congress or any State Legislature." This amendment was introduced on the floor of the House on June 14, 1978, and followed circular letters sent by the Sacramento (California) Legislative Office, which is the legislative support unit of California Rural Legal Assistance, an LSC-funded legal services program.

One of these letters, dated April 12, 1978, concerned a bill, AB 2400, dealing with the provision of bilingual court interpreter services, which had passed the California assembly. The letter said, in part: "Now comes the real battle. We must overcome the Senate Finance Committee. We urgently need your help * * * we need pressure applied on the Senate Finance Committee, the Governor and Assemblyman Arnett * * *. Letters, telegrams, etc. should be sent at once to the following individuals stressing the importance of this bill * * *." There followed a listing of all members of the Senate Finance Committee, Assemblyman Arnett, and Governor Brown.

The Director of the California Rural Legal Assistance program told the Investigative Staff the memorandum in question was given to Congressman Moorhead's office by the Glendale Legal Aid, run by "a conservative bar association" and not LSC funded. The Glendale program was thereafter removed from the mailing list of the legislative support unit in Sacramento.

It is to be noted the language of the "Moorhead Amendment" is precisely the same as provisions added to the Treasury, Postal Service, and General Government Appropriations Acts, and it is not clear what, if any, further restriction it places on lobbying activities of LSC-funded programs.

The Investigative Staff observed there was a lack of perusal by the regional office of LSC of the activities of the legislative support units in the State of California. As stated above, the California Rural Legal Assistance program, based in San Francisco, maintained a permanent office in Sacramento with five attorneys, all registered lobbyists--two in legislative work, two dealing with administrative

advocacy, and one with migrant workers matters. Also, the Western Center on Law and Poverty, Inc., a State support center based in Los Angeles, has four registered lobbyists engaged in legislative and administrative advocacy who share office space in Sacramento with the other group. The regional director of LSC, San Francisco, told the Investigative Staff whereas attorneys in the legal services programs in the region are asked, during monitoring visits, to break down estimates of time spent on various phases of their work, this has never been asked of the lobbyists, they had never been interviewed, and there had been no accounting of their time.

In another region, the Investigative Staff noted an item of interest in connection with the statutory requirement of representation of an eligible client as a lawful exception to the prohibition against lobbying. A monitoring report following a regional office visit to a full-time legislative support unit, located in the State capital city, said they conduct lobbying and administrative advocacy under the general guidance of the priorities committee of their parent LSC-funded program. They draft remedial legislation and provide background information on poverty issues to legislators. Its activities involve one-on-one persuasion of lawmakers and the preparation of testimony before legislative committees. Weekly reports are sent to their parent program, and a monthly newsletter is distributed to client organizations and interested parties throughout the State. The director "has been a full-time lobbyist since late 1975. He and his colleagues prefer to practice as traditional lobbyists rather than as a 'research oriented, position paper publishing agency.'" The monitoring report continued: "Although no records are kept which reflect individual client authorization for specific Legislative Unit advocacy * * * (the head of the unit) assured us that, if pressed, he could link an identifiable client to every particular advocacy action." The monitoring report also said the unit "would like to have funds to finance attendance at selected legislator fund raising activities."

The Investigative Staff observes the above comment concerning linking an identifiable client "if pressed" is of particular interest in light of the language of the statute, which states, after the provision there must be client representation, "which shall not be construed to permit an attorney or a recipient employee to solicit a client, in violation of professional responsibilities, for the purposes of making such representation possible."

If there is a distinction between "linking" and "soliciting," it is a fine line. The eligible client population is large, and any legislation with poverty law impact would affect numbers of indigents. Legal services programs, with whom the legislative units work and communicate, no doubt will have, in pending or

past cases, clients who will be affected by poverty law legislation. It is therefore a simple matter for a legislative support unit to "if pressed, link" with an eligible client. While in some instances these units take action with regard to specific identified clients, in general they try, as well as their resources permit, to follow all legislation with poverty law aspects. Each fall, the legislative unit of the Western Center on Law and Poverty distributes approximately 7,000 copies of various bills to legal services programs.

A strong argument is made for administrative advocacy, legislative advocacy, and law reform, which is, how better can legal services resources be used, as this activity can, and often does, benefit large numbers of poor persons, perhaps statewide or even nationwide. Much greater activity in this area has been urged by the Project Advisory Group (PAG), a nationwide, incorporated organization of legal services program representatives. Current LSC plans for the future include greatly expanding State support activities nationwide in which this activity would be an integral, statewide coordinated effort along with training, technical assistance, and program coordination. Also, a national center to be located in Washington, D.C., has been advocated as a base for collective representation with Federal agencies and departments, and the Congress. Two of the national support centers, The Housing and Health Law Centers, received interim funding by LSC in 1977 and 1978 to establish branch offices in Washington, D.C., which they use primarily in dealing with appropriate agencies of the executive branch in matters affecting persons of the poverty level.

A clear and classic case of legislative or administrative advocacy in the representation of a client would be where, in an analysis of the legal problem of the individual client, or group of clients, in a class action suit, it was determined, perhaps when they brought suit and lost, that the clients' legal interest could only be served by endeavoring a change of an administrative regulation or the pertinent legislation. While this is clearly within the purview of the statute, a question arises as to possible violation of at least the letter of the statute, where the recipients of LSC funds are engaged full time in broad activities in this area of endeavor. In at least some of their activities, such as sending questionnaires and newsletters, the lobbyists are acting, with LSC funds, without specific identifiable clients. Their motives and intentions to assist programs and to benefit the largest number of poor people are not questioned, and they have had considerable success, but, in drafting the statute prohibiting lobbying activities, with the three stated exceptions, was it intended for there to be widespread activity?

A guide to the legislative history of the Act, prepared by the National Legal Aid and Defender Association, said of Section 100(a)(5): "This section was intended to limit the use of Corporation funds by recipients for legislative representation."

Most assuredly the eligible clients are there among the poor people to whom the advocates could "if pressed, link" with, but the Investigative Staff observes that, while this activity may benefit large numbers of poor persons, was full-time legislative advocacy as is now engaged in (with planned expansion in all States) intended to be accomplished through funding to LSC and grantees in compliance with the statutory mandate of providing legal assistance to the poor? It is a parallel concern to that raised previously in this report. The limits to what could be done to assist those of the poverty level or even to attack poverty itself are incalculable; how much is to be endeavored by funding to and through LSC?

While there are many supporters of legislative advocacy within LSC and its recipient programs, this view is not universal; the Chairman of the Board of one LSC-funded program said he "is offended" by the practice of having legal services attorneys engaged full time in this activity, which in his opinion is highly improper.



LEGAL SERVICES CORPORATION

733 Fifteenth Street, N.W., Washington, D. C. 20005 (202) 376-5100

Thomas Ehrlich
President
E. Clinton Bamberger, Jr.
Executive Vice-President

April 5, 1979

The Honorable Jamie L. Whitten
Chairman
House Appropriations Committee
2328 Rayburn House Office Bldg.
Washington, DC 20515

Dear Mr. Whitten:

My colleagues and I have reviewed the Report prepared by the House Appropriations Committee Investigations Staff. We are appreciative of the careful investigation and thoughtful analysis that went into it, and are pleased by the general conclusions and observations in the Report. We are grateful for the recognition given to the "many very dedicated, capable, and professional attorneys serving in LSC, its Regional Offices, and in legal services programs."

The Report endorses the minimum access approach that the Corporation adopted at the outset of its operations, and supports completion of the minimum access plan as the highest priority. By the end of 1979, we will have expanded legal services into most areas where poor people were previously unserved, and if we receive adequate resources from Congress we will complete the minimum access plan in 1980.

The Report discusses a number of areas in which improvement is needed, and on the whole, the suggestions in the Report are consistent with our own current efforts and future plans for strengthening our operations.

Awarding of Grants and Contracts - Expansion

The Report noted that some members of Congress and others had criticized the Corporation's early policy of giving preference in the expansion process to existing LSC-funded programs, and questioned whether adequate consideration was being given to non-LSC funded legal aid programs operating in communities for which new funds were available.

BOARD OF DIRECTORS Hillary Rodham, Chairman, Little Rock, Arkansas

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LEGAL SERVICES CORPORATION

The Honorable Jamie L. Whitten.

April 5, 1979

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The Corporation's criteria, processes, and procedures for awarding funds for service to new areas have recently undergone thorough review at all levels, and important improvements have been made for our 1979 expansion efforts. I am enclosing for your information our "Internal Staff Directive Concerning Expansion of Service to Areas Previously Unserved by LSC-Funded Programs", which was published in the Federal Register on November 9, 1978. This directive, adopted by our Board of Directors, sets out our basic policy for awarding funds for service to new areas, including those factors and priorities that must be considered by our Regional Directors as they review and evaluate grant applications.

You will note that the priority for existing LSC-funded programs has been eliminated. Instead, all types of delivery methods are given equal weight, and grants will be made to those programs that can provide a full range of civil legal assistance to the poor, efficiently and effectively, and "consistent with local participation and accountability."

I am also enclosing our "Internal Staff Directive Concerning Publicity of and Comments on Expansion into Areas Previously Unserved by LSC-Funded Programs", also adopted by the Board of Directors and published in the Federal Register. It is designed to stimulate full and open discussion concerning proposals to provide legal services in previously unserved communities, and specifically involves local bar associations and existing non-LSC funded programs in the process.

These directives have guided our expansion efforts since the fall of 1978. Pursuant to them, public notices were published in newspapers in expansion areas announcing the availability of funds for unserved counties and soliciting applications to provide service to their low-income residents. Public meetings were held after notices were published in newspapers of general circulation in the area, and were sent to a variety of interested parties, including state bar associations, state advisory councils, local bar groups, existing legal services organizations including pro bono programs, and other appropriate groups.



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As noted by the Investigations Staff, a number of changes in the management of the Office of Field Services have been made by the new director of that office. Our procedures were revised to ensure that grant applications and the recommendations of regional staff receive thorough review at headquarters, that the recommendations reflect a full and accurate assessment of the areas to be served, and that they give fair consideration to the interests of any existing privately funded legal services program, as well as other critical local factors.

The Investigations Staff disagreed with the judgment of the Corporation in specific situations in Ohio, Virginia, West Virginia and Wisconsin. The disagreement reflects, in part, the views of some members of the local private bar, who were not consulted as early in the planning process as they would be under our revised procedures. We believe, however, that the Report does not recognize the importance of other factors we considered, such as client community relations, and the willingness and ability of competing applicants to adopt appropriate quality control and management techniques.

The procedures described in the two expansion Directives have been in effect since the fall of 1978, and we are pleased by the degree to which they have increased local participation in our planning process and enhanced the effectiveness of our expansion efforts.

Monitoring and Evaluation

The Investigations Staff noted a number of important ways in which the Corporation's monitoring and evaluation efforts could be strengthened, but also observed that the Corporation's new Director of Field Services had already begun to move along lines very similar to those suggested by the Report.

The Corporation initially adopted a policy of visiting each program four times a year. It was also the policy of the Corporation to keep administrative and staffing levels at a minimum. After some experience, we learned two important facts. First, given our staffing levels, the four times a year requirement was overly optimistic. Second, the four times a year requirement was not necessary for all legal services programs. The necessity



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was -- and remains -- an in-depth analysis of a local program in order to assess its competence level and to identify its strengths and weaknesses. Follow-up as needed should focus on the appropriate response to the identified weaknesses.

As a result of our experience, the Corporation has revised its policy regarding the monitoring and evaluation of local programs. On the basis of that revised policy, each local legal services program will receive an in-depth monitoring visit by the regional office at least once a year. That visit will result in a detailed written report to be submitted to the Washington office and the local program within six weeks of the visit. Follow-up visits to provide technical and remedial assistance will be made as needed on a priority basis. Those visits will be recorded by way of trip reports to be logged in each regional office. A senior level position has been created in the Office of Field Services to ensure that regional offices carry out this policy in a uniform and timely manner. We are confident that our revised policy is a realistic one that will ensure the provision of high quality civil legal assistance by our grantees in compliance with the LSC Act.

The Corporation has developed extensive monitoring checklists that are used by all regional offices as guidelines for the conduct of monitoring visits. The checklists ensure that every aspect of a program's operations will be examined. With respect to auditing and financial matters, precise standards consistent with those generally accepted by the accounting profession are applied. Management assessment standards generally accepted for the sound administration of non-profit entities are also used.

With respect to measuring the quality of legal work, the situation has been somewhat different. The legal profession has never developed standards for measuring the quality of its own performance, and accordingly, the Corporation's standards have been less tightly defined in this area than in management and financial matters. Our principal evaluation technique has been peer review, which relies on the judgment of experienced attorneys examining the work of others.



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We recognize the need to develop standard measures of quality, however, and are now engaged in doing so. Using data gained from our Delivery Systems Study, and drawing on the expertise developed by our regional staff and consultants, and the experience of legal services programs judged to have effective quality controls and case review mechanisms, we have begun to develop articulated quality standards. We believe that when these standards are complete they will not only improve our evaluation efforts and the performance of our grantees, but will also be a valuable contribution to the legal profession as a whole.

Legislative Advocacy

The Report noted that the Legal Services Corporation Act prohibits the use of LSC funds for legislative advocacy activities unless they fall within three specific exceptions: representation of an eligible client, response to a request by a legislative body, and in relation to a matter directly affecting a legal services program as a separate entity. The Report recognized that activities within these three exceptions are clearly appropriate and legal, but questioned the sufficiency of current systems and controls for ensuring that prohibited forms of activity do not occur, and for documenting the legality of permissible activity. The Corporation recognizes the importance of close monitoring of this sensitive area. We are now exploring a variety of methods for improving recordkeeping and ensuring accountability in this area of activity.

On a related subject, the Report noted that a few critics asked whether it is appropriate for legal services programs to handle class actions and provide representation in cases viewed as being diverted toward "law reform."

The Legal Services Corporation Act and Regulations encourage legal services programs to allocate their scarce resources in an efficient and economical manner. These considerations may lead a program to seek a legislative solution to a problem, or to bring a class action, or to seek other means of avoiding costly, repetitive lawsuits about a single issue affecting many clients.



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These efforts are legal, and in our view, proper, so long as they are carried out in a manner consistent with the rights and interests of individual clients.

Private Bar

The Report noted that there will never be enough federal funds to meet the total need for legal services among the poor, and recommended that the Corporation study ways of expanding the role of the private bar in providing services pro bono or at reduced fees. The Corporation agrees that pro bono service by the private bar is a great potential resource for the poor. We are now funding ten pro bono demonstration projects through the Delivery Systems Study and the Quality Improvement Project. Seventy-two LSC-funded programs now have some form of pro bono arrangement with the private bar in their areas, and the Corporation is working to greatly increase this number.

In cooperation with the American Bar Association Standing Committee on Legal Aid and Indigent Defendants and the Special Committee on Public Interest Practice, the Corporation recently held a conference to discuss ways to stimulate greater pro bono efforts. We are currently preparing a compilation of existing and suggested pro bono models, and upon its completion will work with the ABA committees in a major campaign to promote the development of similar projects by legal services programs, bar associations, and law firms around the country.

Besides its recommendation in these key areas, the Report made other helpful suggestions that we intend to utilize in our future efforts. Again, we are grateful for the constructive approach taken by the Report, and for its recognition that completion of the Corporation's minimum access plan will "represent achievement of the basic mission, the unprecedented establishment of a structure nationwide, for the provision of legal services to persons of the poverty level." With the support of the Congress we have made substantial progress; with continued support we hope to achieve our goal in Fiscal Year 1980.

Cordially,

Thomas Ehrlich

its current policy of allowing regional offices the discretion of recommending when slope funding will be used and require the application of slope funding for all new or expanding grantees unless the regional offices document in writing that this funding method should not be used.

Recommendation

We recommend that the President of the Legal Services Corporation require regional offices to closely monitor the expenditures of funds by grantees to minimize yearend fund carryovers and adjust subsequent year funding of grantees with significant carryovers. Also, we recommend that the Corporation's President require the use of slope funding for all new or expansion grantees unless the regional office can satisfactorily demonstrate that such funding is not warranted.

GRANTEE LOBBYING ACTIVITIES

The Legal Services Corporation Act prohibits lobbying activities by grantees, but provides exceptions when a client's legal rights are involved; when requested to do so by a government agency, a legislative body, or a member of a legislative body; or when such agencies or legislative bodies are considering legislation directly affecting authorized grantee or Corporation activities.

Among the concerns expressed by Members of Congress requesting our review was the propriety of the legislative advocacy efforts conducted at State and local levels by Corporation grantees. Also, the Surveys and Investigations Staff of the House Appropriations Committee--in its March 1979 report on Corporation activities--described the extensive lobbying efforts by Corporation grantees and questioned whether the Congress intended this activity to be so widespread.

Corporation-funded legal services representatives in one State advised the State bar association that, as a practical matter, the statutory exceptions nullify the lobbying prohibition in the act. While Corporation officials at the headquarters level advised us that they do not share this opinion, we believe that the exceptions, particularly the one dealing with clients' rights, provide a great deal of latitude for engaging in such activities. For example, a legal services coalition was formed and funded by six Corporation grantees to deal with legislative matters. In April 1978, the coordinator of the coalition issued a preliminary report to its sponsoring grantees describing the coalition's lobbying efforts and stating that:

"* * * we were searching for a priority issue to concentrate on, * * *. After receiving unanimous consent from you (the grantees' project directors) we began searching for sponsors in the House for the bill we had drafted, * * *. Realizing that legislators are influenced by the constituents back home-not by (the state capitol) based pressure groups-a major outreach effort was initiated to involve the cooperation and assistance of the staff and clients of each local legal services office, members of local NAACP branches, staff and participants in Head Start and Community Action Programs, as well as other community based groups and individuals. In a little over two months we have traveled over 6,500 miles in the state developing this network and seeking constituent influence on specific legislation * * *. The growing statewide network was urged to write and call their senators asking them to accept H.B. 1012." (H.B. 1012 called for a 100-percent increase in maximum payments through the Aid for Dependent Children program.)

Corporation officials advised us that they examined this matter and found that the project had documentation on file which showed that it represented numerous eligible clients seeking assistance as a result of the low grant levels in the State's Aid to Dependent Children program, and a member of the State legislature had requested legislative assistance on this issue. The Corporation, therefore, believes that the actions of the coalition were neither illegal nor improper.

The Corporation's Appropriation Acts for 1979 and 1980 included an amendment prohibiting the use of any appropriated funds for publicity or propaganda purposes designed to support or defeat legislation pending before the Congress or any State legislature. This amendment became effective after the activities by the coalition had occurred with regard to the State legislation.

On April 14, 1980, the Corporation's Office of General Counsel sent a memorandum to the staff of the Corporation's grantees noting a significant apprehension on the part of several Members of Congress about whether grantees are complying with current statutory and regulatory limitations on lobbying activities. The memorandum suggested several procedures that the grantees could follow to substantiate that a given act of legislative advocacy was pursued consistently with the act. In commenting on the provisions contained in the amendments to the Appropriations Acts, the General Counsel stated

that, in his opinion, the amendments "neither narrowed nor broadened the existing restrictions on legislative advocacy." The General Counsel also commented in the memorandum that the language of the statutes and regulations concerning lobbying activities was not self-defining and offered to assist the grantees should they require specific interpretations.

On April 1, 1980, the Corporation wrote a letter to the Member of Congress who had introduced the amendments to the Appropriation Acts stating that it recognized the need to better ensure full compliance with the letter and spirit of the Legal Services Corporation Act and these amendments. The Corporation advised the Congressman that it was prepared to take several steps to fulfill this need. These steps included issuing instructions regarding the legislative representation restrictions to all employees of legal services programs, requiring the Corporation's regional offices to specifically monitor the grantee legislative representational activities, and instituting a quality review process that is intended to selectively review the legislative representation activities of a sample of grantees each year and those grantees against which a serious complaint has been made. The Corporation also stated that it is prepared to request its Board of Directors to adopt regulations that would require all grantees to establish systems and procedures to ensure that legislative representation activities comply with congressionally imposed restrictions, require all grantees to report to the Corporation on a regular basis all legislative representational activities, and prohibit a grantee from having a full-time legislative office without specific approval of the grantee's governing body.

While the Corporation has indicated what steps it could take to better assure that its grantees are in compliance with the act and the amendment to the Appropriations Act, it has not yet acted to establish procedures for systematically determining if its grantees are, in fact, in compliance with the act's provisions. Presently, the Corporation responds to specific complaints it has received on the propriety of lobbying activities of its grantees.

In view of the continuing concern expressed by Members of Congress about the lobbying activities of the Corporation's grantees, we believe that the Corporation should implement those actions it has indicated it could adopt to ensure full compliance with existing legislation by its grantees. Moreover, we believe that the Corporation's regulations should specifically define the legislative restrictions on lobbying activities and the types of activities that its grantees may not engage in.

Recommendations

We recommend that the President and Board of Directors of the Legal Services Corporation:

- Implement procedures to gain greater assurance that legislative representation activities are in compliance with the letter and spirit of congressionally imposed restrictions. These steps should include requiring (1) all programs to report to the Corporation on a regular basis all of their legislative representation activities and (2) the Corporation's regional offices to regularly review legislative representation activities of its grantees.
- Revise Corporation regulations to more specifically define the legislative restrictions on grantees' lobbying activities and the types of lobbying activities that are not permissible.

LEGAL SERVICES CORPORATION

MEMORANDUM

DATE: September 30, 1980
TO: Committee on Operations
FROM: Mario Lewis, General Counsel
SUBJECT: Affirmative Action Plan - Proposed

Attached is an informational draft of the Corporation's Affirmative Action Plan. Staff members from the Office of Equal Opportunity and the Office of General Counsel are continuing work on the plan. Charles Chapman and Linda Hanten will report to the Committee on the status of the affirmative action plan.

Attachment

September, 1980
Working Draft

DRAFT

LEGAL SERVICES CORPORATION'S
EQUAL OPPORTUNITY AND AFFIRMATIVE ACTION
POLICY STATEMENT

It has been and will continue to be the policy of the Legal Services Corporation to be an equal opportunity employer. The continued success of the Corporation is significantly influenced by the full and effective utilization of an ethnic and sexually diverse workforce responding to its diverse client population.

The Legal Services Corporation is committed to undertaking affirmative action in those areas where women and minorities are not represented in proportion to what could be reasonably expected and where historical discriminatory practices of this society as a whole have denied women and minorities an equal opportunity. It is the intention of the Corporation to maintain an atmosphere that is free of discriminatory policies, practices and impact and to promote maximum utilization of women and minorities in the delivery of quality legal services

All matters related to recruiting, hiring, training, compensation, benefits, leave, promotions, transfers, layoffs, social and recreational programs, and all treatment on the job shall be free of discrimination based on race, sex, national origin, color, age, handicap, religion or marital status. We believe that people are the corner-stone of our profession. Any employment or personnel practice which injures some of our employees--however

inadvertently-- ultimately injures all of us. We simply cannot afford to deprive ourselves of capable and dedicated people for archaic reasons and unjust codes of conduct.

In keeping with this policy, the Legal Services Corporation maintains an Office of Equal Opportunity. This Office has the over-all responsibility for the implementation and monitoring of this policy. In turn, the Office of Equal Opportunity has the responsibility for developing, updating and coordinating a voluntary Affirmative Action Plan for the Legal Services Corporation.

This policy is extended to include the grantee/grantor relationship with programs funded by the Legal Services Corporation, as well as contracts entered by the Corporation.

I. PURPOSE OF EQUAL EMPLOYMENT AND AFFIRMATIVE ACTION PLAN AND STATEMENT OF POLICES

A. Purpose of Plan

The purpose of the Legal Services Corporation's Equal Employment and Affirmative Action Plan is to identify and describe the practical application of key policies and procedures to assure the right of all persons to work and advance on the basis of ability. This Plan has been developed by the Corporation to achieve the full use and equal treatment of minority groups and women at all levels and in all sectors of the workforce.

APPENDIX 1: DEFINITION OF TERMS

EQUAL OPPORTUNITY

Equal Opportunity is the policy of non-discrimination in employment. It is to insure elimination of discriminatory conditions, your organization must examine each of its employment practices to be sure they do not operate to the detriment of any person on the grounds of race, sex, color, religion, national origin, age, handicap, or other basis prohibited by law or policy of the Legal Services Corporation.

AFFIRMATIVE ACTION

Affirmative Action goes beyond non-discrimination in that it requires you to make special additional efforts to recruit, hire, train, and promote persons of groups formerly underutilized or excluded in your Program, even if such exclusion was not the result of purposeful discriminatory action. Underlying the premise of Affirmative Action is the concept that special efforts must be undertaken to eradicate the effects of unintentional discrimination; unless this is done, establishing seemingly neutral non-job-related policies may well perpetuate past inequities.

EQUAL OPPORTUNITY POLICY STATEMENT

The Equal Opportunity Policy Statement is a written statement developed by an employer, that strongly affirms the employer's commitment to the principles of non-discrimination and equal opportunity in all aspects of employment. The policy is disseminated to all employees and communicated to the general public.

TERMS AND CONDITIONS OF EMPLOYMENT

Terms and Conditions of Employment include but are not limited to, wages, work assignments, educational and job training opportunities, use of facilities, availability of resources for proper performance of job duties, and benefits such as medical and life insurance, retirement benefits, bonus plans and leave provisions.

CRITERIA

An employee selection standard that determines the skills and qualifications necessary to the proper performance of a particular job.

EMPLOYMENT TEST

A Test is any "paper and pencil" performance measure that is used as a basis for any employment decision. The term "test" includes all formal, scored, quantified or standardized techniques used to assess the suitability of an applicant for a particular job.

TEST VALIDATION STUDY

A Study to demonstrate that applicant performance on a particular required employment test or selection standard, is a significant predictor of successful job performance.

SELECTION PROCEDURES

Employee selection procedures include all tests and other requirements, such as personal histories, specific educational or work experience, interviews (scored or unscored), application forms (scored or unscored), and interviewer rating systems.

JOB CLASSIFICATION

Assignment of a position to a class of positions sufficiently similar in type or subject matter of work involved, level of responsibility, and qualifications requirements, to warrant the same or similar treatment with respect to titles, compensation and other personnel transactions.

RECRUITMENT

The process by which an applicant pool is developed for selection of employees. Elements included in this process may be position postings, news ads, agency requests, word-of-mouth recruiting and special recruitment outreach efforts.

HIRING

The process of employee selection from an applicant pool.

PROMOTION

The process by which an employee advances from one position to another of higher degree and greater responsibility, usually with an increase in compensation.

TRAINING

Administration of programs and/or instruction for the purpose of improving, upgrading or expanding job skills and qualifications.

ETHNIC GROUPS (as defined by the EEOC and published in the Federal Register)

- a. White (not of Hispanic origin): All persons having origins in any of the original peoples of Europe, North Africa or the Middle East.
- b. Black (not of Hispanic origin): All persons having origins in any of the Black racial groups.
- c. Hispanic: All persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin regardless of race.
- d. Asian or Pacific Islander: All persons having origins in any of the original peoples of the Far East, Southeast Asia, or Pacific Islands or the Indian Subcontinent.
- e. American Indian or Alaskan Native: All persons having origins in any of the original peoples of North America.

GOALS

Goals are projected levels of achievement. They are arrived at through analysis of employee utilization patterns and consideration of what may "reasonably" be done to remedy any apparent underutilization, given labor force participation rates, unemployment rates for women and minorities in the labor market area, the expected rate of turn over in the employers workforce, and projected positions.

GOOD FAITH AFFIRMATIVE ACTION EFFORTS

These are actions undertaken to increase participation of protected groups in all phases of employment and/or service delivery where they have been under-represented or underutilized in the past.

RELEVANT LABOR MARKET AREA

The area in which you can reasonably expect to recruit or draw applicants for positions in a given job classification.

BUSINESS NECESSITY

A practice or policy is a "business necessity" if it can be shown to be essential to safe and efficient operation of the business.

UTILIZATION FACTORS

Workforce availability and population factors that determine proper levels of female and minority representation on a given organization's staff. These factors include size and percentage of female and minority population, workforce, unemployment force and client or service population.

UNDERUTILIZATION

Having fewer women and minorities in a particular job classification than would be expected given their availability, or employing persons in jobs which do not adequately use their skills, training, or capabilities.

PROTECTED GROUPS OR CLASSES

The EEOC has identified the following as protected groups: Blacks, Hispanics, American Indians, Native Alaskans, Asian and Pacific Islanders, and Women.

REFERENCE MANUAL APPENDICES

APPENDIX OF SAMPLE FORMS

Appendix 2 -- Workforce Analysis

Use to determine your current workforce and salary distribution.*

Appendix 3 -- Workforce Analysis Summary

Use to periodically summarize your staff distribution by job category.

Appendix 4 -- Equal Opportunity Utilization Factors

Use to determine the "parity" percentages that women and minority employees should represent in each "affirmative action" job classification (categories where under-utilization has been identified).

Appendix 5 -- Applicant Flow Diary

For recording and evaluating the make-up of your job applicant flow.*

Appendix 6 -- Hire Flow Diary

For recording and evaluating departmental or organizational hiring of women and minorities.*

Appendix 7 -- Organization Hire Pattern

Use to periodically measure actual hires of women and minority applicants, in relation to your identified "parity" percentages.

II. DISSEMINATION OF THE PLAN AND POLICIES

A. Internal

The Legal Services Corporation will communicate to its employees the Plan and its equal employment and affirmative action policies through the following procedures:

1. Upon request, the Corporation will give to any employee a copy of the Plan.
2. The Office of Equal Opportunity will prepare and circulate a compendium of the Affirmative Action Plan to all Corporation staff.
3. Each employee of the Corporation will receive through the Employee Orientation Program an overview of the purpose and design of the Corporation's Affirmative Action Plan.
4. The existence and requirements of the Plan will be communicated to all employees from time to time through such internal publications as may be appropriate.
5. The Employee's Personnel Policies Manual will include the Statement of Policies and highlights of the Plan.
6. A copy of the Statement of Policies will be given to all applicants for employment upon their request for an employment application.
7. Implementation of the Plan will be discussed during management staff meetings.
8. Periodically, the Director of Equal Opportunity will meet with each division director and the director's immediate staff to give them assistance in implementing the Plan.
9. The Director of Equal Opportunity will prepare at minimum an annual report concerning current implementation of the Plan.

10. Posters relevant to the Corporations equal opportunity obligations will be displayed in conspicuous places in all buildings in which employees are located, and particularly in employment, testing, and reception areas.

B. External

The Legal Services Corporation will communicate the Plan and the Statement of Policies to the public by the following procedures:

1. Recruiting sources such as community organizations, personnel agencies, law schools, colleges, and training institutions will be informed of the basic aims of the Plan and the Statement of Policies. Such sources will be requested to include minorities and women in their referrals.
2. Advertisements for employment will be placed in news media chosen to reach all qualified candidates, including minorities and women. All employment advertisements will contain the tag phrase, "An Equal Opportunity/Affirmative Action Employer."
3. The Corporation's recruitment and hiring practices will include:
 - (a) The avoidance of any help-wanted advertising in sex-segregated columns in newspapers or other publications;
 - (b) The avoidance in recruitment letters, or other

materials of any reference to "male" or "female" or any indication of preference for men or women in certain jobs.

- (c) The aggressive solicitation of women and minority applicants for position vacancies from organizations and agencies having a significant number of women and minority clientele.

- 4. It is the policy of the Corporation to make available to the public the Plan and other relevant information in accordance with the Freedom of Information Act.
- 5. The Corporation will communicate to prospective employees information about the Plan and how they can avail themselves of its benefits.

III. ADMINISTRATION

Applicability. The plan applies to all offices and employees of the Corporation.

A. Legal Services Corporation

The Corporation's Board of Directors has the overall responsibility for the policies included in the Plan. The President of the Corporation has the primary responsibility for the successful implementation of the Plan. The President shall appoint a Director of Equal Opportunity with delegated responsibility and authority for program planning, implementation and monitor. In performing all duties related to the Plan, the Director of Equal Opportunity shall be representative of the President.

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B. Office of Equal Opportunity

1. The Office of Equal Opportunity reports to the President. The Office of Equal Opportunity is responsible for developing, recommending, and administering nationwide policies and directives relating to equal opportunity and affirmative action.
2. In addition, the Equal Opportunity Office has the responsibility to require that all necessary action be taken by all directors and supervisors to achieve the objectives in the Plan.
3. An Equal Opportunity Advisory Council shall be established:
 - (a) To review periodically the implementation of the Plan;
 - (b) To advise the Corporation on the formulation of equal employment opportunity and affirmative action policies and procedures; and
 - (c) To advise the Corporation on the general development and application of equal employment opportunity and affirmative action policies, long-range developments in those policies, and interpretation of the Corporation's efforts.
4. Duties of the Director-of the Office of Equal Opportunity:
 - (a) Manages, coordinates, supervises, and integrates day-to-day operations and activities in implementing the Plan at all offices of the Corporation

- (b) Maintains broad oversight of activities and operations under the Plan through close coordination with Division and Regional Office Directors,
- (c) Informs the President of new federal, state, and local requirements relating to equal employment opportunity and affirmative action policies and recommends any program changes that should be made as a result of those requirements;
- (d) Develops programs and policies for securing compliance at all Corporation offices with equal employment opportunity and affirmative action policies of the Corporation;
- (e) Assists the Corporation's contractors and grantees to establish and maintain equal employment and affirmative action plans;
- (f) Directs national compliance activities for the Corporation including compliance reviews and investigations of complaints of discrimination;
- (g) Develops and implements an EEO data system that will enable the Corporation's officers to monitor the implementation and effect of the Plan;
- (h) Prepares and issues statistical data and evaluation of progress in equal opportunity and affirmative action;
- (i) Recommends to the Office of Field Services the appointment of a Corporation employee at each Regional Office of the Corporation as Regional

Equal Opportunity Coordinator with responsibility to supervise the implementation of the Plan at the regional level;

- (j) Gives direct technical guidance to staff who assist in carrying out assigned tasks;
- (k) Maintains liaison with national and state equal employment opportunity agencies to help ensure that the Corporation, grantees and contractors are complying with the requirements of those agencies.

5. Regional Equal Opportunity Coordinator

(a) Purpose

Regional Equal Opportunity Coordinators shall be appointed to assist in the implementation of the Plan.

(b) Duties

- (1) Develop and recommend policies and programs to facilitate the administration and effectiveness of the Plan within the regions;
- (2) Plan, recommend and conduct compliance reviews within the regions;
- (3) Maintain appropriate contacts with civil rights groups and community organizations.

(c) Directors and Supervisors

It is the personal responsibility of each director and supervisor to provide equal opportunity for all employees with regard to work assignments, training,

transfers, advancements, and other conditions and privileges of employment. If it is determined that discrimination on any basis herein prohibited has occurred, those responsible will be subject to appropriate disciplinary action, up to and including dismissal depending upon the severity of the case.

Utilization Analysis/Goals and Timetables

The purpose of the utilization analysis is to identify job classifications within the Corporation's workforce in which women and minorities are being underrepresented. The utilization analysis is an examination of the Corporation's workforce and a comparison of the availability of minorities and women in the job classifications and geographic areas where the Corporation can reasonably be expected to recruit. In addition, the Corporation is committed to the philosophy that the workforce should reflect the demographic profile of the legal services clientele and is a compelling interest in the efficient delivery of legal services (note: Brief of the Legal Services Corporation, Amicus Curiae on Behalf of Petitioner in the case The Regents of the University of California v. Allan Bakke, U.S. Supreme Court, 1976).

The Corporation has historically recruited and continues to recruit its Executive, Administrative and professional staff from a national labor pool of a qualified and experienced personnel with poverty law experience. The Corporation relies primarily on the local SMSA's job market as its recruitment area source for its support and entry level professional staff. The following chart reflects the ethnic/sex composition of the Corporation workforce over the past four years.

COMPARATIVE SURVEY OF EMPLOYEES

LEGAL SERVICES CORPORATION

January 1977 - January 1980

I. STATISTICAL SUMMARY: CORPORATION HEADQUARTERS AND REGIONAL OFFICES JOB CLASSIFICATIONS

	EXECUTIVE				ADMINISTRATIVE				PROFESSIONAL				PARAPROFESSIONAL				CLERICAL				TOTAL			
	Jan. 77	Jan. 78	Jan. 79	Jan. 80	Jan. 77	Jan. 78	Jan. 79	Jan. 80	Jan. 77	Jan. 78	Jan. 79	Jan. 80	Jan. 77	Jan. 78	Jan. 79	Jan. 80	Jan. 77	Jan. 78	Jan. 79	Jan. 80	Jan. 77	Jan. 78	Jan. 79	Jan. 80
ALL	22	20	20	18	15	20	28	26	52	68	94	122	7	15	2	3	40	66	81	83	136	189	225	253
Male	18 (82%)	16 (80%)	16 (80%)	14 (78%)	13 (87%)	14 (70%)	19 (68%)	17 (65%)	24 (46%)	34 (50%)	38 (40%)	48 (39%)	--	1 (7%)	1 (50%)	2 (67%)	4 (10%)	6 (9%)	9 (11%)	10 (12%)	59 (43%)	71 (38%)	83 (37%)	91 (36%)
Female	4 (18%)	4 (20%)	4 (20%)	4 (22%)	2 (13%)	6 (30%)	9 (32%)	9 (35%)	28 (54%)	34 (50%)	56 (60%)	74 (61%)	7 (10%)	14 (93%)	1 (50%)	1 (33%)	36 (90%)	60 (91%)	72 (89%)	73 (88%)	77 (57%)	118 (62%)	142 (63%)	161 (64%)
White	14 (64%)	12 (60%)	12 (60%)	11 (61%)	9 (60%)	13 (65%)	17 (60%)	17 (65%)	31 (59%)	41 (60%)	55 (58%)	73 (59%)	2 (29%)	5 (33%)	1 (50%)	2 (67%)	14 (35%)	18 (27%)	16 (20%)	15 (18%)	70 (51%)	89 (47%)	101 (45%)	118 (46%)
Black	4 (18%)	5 (25%)	5 (25%)	4 (22%)	5 (33%)	6 (30%)	10 (36%)	8 (31%)	15 (29%)	22 (32%)	34 (37%)	35 (28%)	5 (71%)	9 (60%)	1 (50%)	1 (33%)	20 (50%)	38 (58%)	51 (63%)	57 (69%)	49 (36%)	81 (42%)	101 (45%)	105 (42%)
Hispanic American	4 (18%)	3 (15%)	3 (15%)	3 (17%)	1 (7%)	1 (5%)	1 (4%)	1 (4%)	5 (10%)	4 (6%)	3 (3%)	8 (6%)	--	1 (7%)	--	--	4 (10%)	6 (9%)	9 (11%)	7 (8%)	14 (10%)	15 (8%)	16 (7%)	19 (8%)
Asian American	--	--	--	--	--	--	--	--	--	--	1 (1%)	5 (4%)	--	--	--	--	2 (5%)	4 (6%)	4 (5%)	3 (4%)	2 (2%)	4 (2%)	5 (2%)	8 (3%)
Native American	--	--	--	--	--	--	--	--	1 (2%)	1 (2%)	1 (1%)	1 (1%)	--	--	--	--	--	--	1 (1%)	1 (1%)	1 (1%)	1 (1%)	2 (1%)	3 (1%)

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COMPARATIVE SURVEY OF EMPLOYEES

January 1977 - January 1980

III. STATISTICAL SUMMARY: CORPORATION REGIONAL OFFICES JOB CLASSIFICATIONS

	EXECUTIVE				ADMINISTRATIVE				PROFESSIONAL				PARAPROFESSIONAL				CLERICAL				TOTAL			
	Jan. 77	Jan. 78	Jan. 79	Jan. 80	Jan. 77	Jan. 78	Jan. 79	Jan. 80	Jan. 77	Jan. 78	Jan. 79	Jan. 80	Jan. 77	Jan. 78	Jan. 79	Jan. 80	Jan. 77	Jan. 78	Jan. 79	Jan. 80	Jan. 77	Jan. 78	Jan. 79	Jan. 80
TOTAL	9	9	9	8	8	8	8	7	16	22	34	43	--	--	--	--	12	20	19	20	45	59	70	78
Male	8 (89%)	8 (89%)	8 (89%)	7 (88%)	7 (88%)	7 (88%)	6 (75%)	4 (57%)	9 (56%)	15 (68%)	20 (59%)	22 (51%)	--	--	--	--	--	1 (5%)	--	1 (5%)	24 (53%)	31 (53%)	34 (49%)	34 (44%)
Female	1 (11%)	1 (11%)	1 (11%)	1 (12%)	1 (12%)	1 (12%)	2 (25%)	3 (43%)	7 (44%)	7 (32%)	14 (41%)	21 (49%)	--	--	--	--	12 (100%)	19 (95%)	19 (100%)	19 (95%)	21 (47%)	28 (47%)	36 (51%)	44 (56%)
White	5 (56%)	4 (45%)	5 (56%)	5 (62%)	5 (63%)	5 (63%)	6 (75%)	4 (57%)	8 (50%)	13 (59%)	24 (70%)	28 (66%)	--	--	--	--	5 (42%)	9 (45%)	5 (26%)	4 (20%)	23 (51%)	31 (53%)	40 (58%)	41 (52%)
Black	2 (22%)	3 (33%)	2 (22%)	1 (12%)	2 (25%)	2 (25%)	1 (12%)	2 (29%)	5 (31%)	6 (27%)	8 (24%)	9 (21%)	--	--	--	--	4 (33%)	7 (35%)	8 (42%)	12 (60%)	13 (29%)	18 (30%)	19 (27%)	24 (31%)
Hisp. American	2 (22%)	2 (22%)	2 (22%)	2 (25%)	1 (12%)	1 (12%)	1 (12%)	1 (14%)	2 (13%)	2 (9%)	1 (3%)	3 (7%)	--	--	--	--	2 (17%)	3 (15%)	4 (21%)	3 (15%)	7 (16%)	8 (13%)	8 (11%)	9 (11%)
Asian American	--	--	--	--	--	--	--	--	--	--	--	2 (4%)	--	--	--	--	1 (8%)	1 (5%)	1 (5%)	--	1 (2%)	1 (2%)	1 (1%)	2 (3%)
Native American	--	--	--	--	--	--	--	--	1 (6%)	1 (5%)	1 (3%)	2 (4%)	--	--	--	--	--	--	1 (5%)	1 (5%)	1 (2%)	1 (2%)	2 (3%)	3 (3%)

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As stated earlier, the Corporation's Executive, Administrative and professional workforce has been comprised primarily of persons with prior legal services experience. The experienced applicant selected into the Corporation is in fact developed and generated through the efforts of LSC and its mandate to provide quality legal services to the poor and has increased in responding to the legal needs of the poor. Potential Corporation employees are trained in poverty law by employment in LSC programs both as full-time staff and in school related internship programs. The potential employee pool from which the Corporation hires and from which programs hire is therefore, the poverty law workforce. The poverty law workforce has had the following staffing profile over the past four years and is the Corporation's source for employment.

	ADMIN.				PROF. ATTORNEY				PROF. NON-ATTORNEY				PARA PROF.				CLERICAL			
Years	77	78	79	80	77	78	79	80	77	78	79	80	77	78	79	80	77	78	79	80
Male	88	90	90	89	74	70	68	61	42	27	29	28	40	42	41	32	6	8	6	3
Female	12	10	10	11	26	30	32	39	58	73	71	72	60	58	59	68	94	92	94	97
White	83	85	83	82	82	82	81	78	57	63	60	58	52	56	53	49	45	45	46	45
Black	11	9	9	12	9	10	9	10	20	24	23	26	27	25	26	29	31	30	28	29
Hispanic	4	5	6	4	7	7	9	10	16	9	11	12	16	15	16	17	19	20	22	22
Asian-American	-	-	-	-	2	1	1	2	4	2	3	2	3	2	2	1	2	2	2	1
Native-American	2	1	2	2	-	1	-	-	3	2	3	2	2	2	3	4	3	3	3	3

The following charts of 1975 data extract general population characteristics for informational purposes. Again, recognizing that population data does not reflect availability in the workforce or skill proficiency, LSC's Summary Workforce profile surpasses the general population statistics

GENERAL POPULATION CHARACTERISTICS: REGIONAL SUMMARY

Regions	Total Population	Total Minority Population	White	Black	American Indian	Hispanic	Oriental	Male	Female								
Region I	3,031,709	263,060	91%	181,074	6%	2,222	.07%	73,337	2%	6,007	.2%	1,470,487	49%	1,561,222	49%		
Region II	18,236,967	3,181,394	17%	15,055,373	83%	2,164,560	12%	28,333	.2%	872,471	5%	116,008	.6%	8,715,339	48%	9,521,628	48%
Region III	24,189,086	3,430,617	14%	20,758,469	86%	3,100,165	13%	16,090	.06%	233,123	1%	39,239	.2%	11,667,931	48%	12,521,155	48%
Region IV	25,919,831	3,232,728	12%	22,687,103	88%	2,887,899	11%	29,112	.1%	270,818	1%	44,899	.2%	12,633,811	49%	13,286,020	49%
Region V	37,044,563	3,499,292	9%	33,605,271	91%	2,604,620	7%	127,779	.3%	627,007	2%	79,886	.2%	18,050,678	49%	18,993,885	49%
Region VI	37,419,664	8,874,063	24%	28,545,601	76%	8,120,759	22%	73,342	.2%	640,307	2%	39,633	.1%	18,183,383	49%	19,236,281	49%
Region VII	19,809,391	5,230,608	26%	14,578,783	74%	1,712,324	9%	303,134	2%	3,166,330	16%	46,820	.2%	9,711,996	49%	10,097,395	49%
Region VIII	20,441,872	5,178,930	25%	15,262,942	75%	1,426,119	7%	98,931	.5%	3,128,731	15%	323,129	3%	10,064,483	49%	10,377,389	49%
Region IX	332,416	26,932	8%	305,484	92%	2,433	.7%	4,980	1%	18,331	6%	966	.3%	166,773	30%	165,641	30%

DATA

The following chart reflects 1975 law school enrollment figures by ethnic groups by HEW Regions. When compared to Legal Services programs and the Corporation, our staffing profiles clearly suggest that a much higher proportion of minority attorneys are attracted to poverty law than would be expected through the existing naked data.

Table 7

SUMMARY OF MINORITY STUDENT ENROLLMENT
IN APPROVED LAW SCHOOLS - 1975

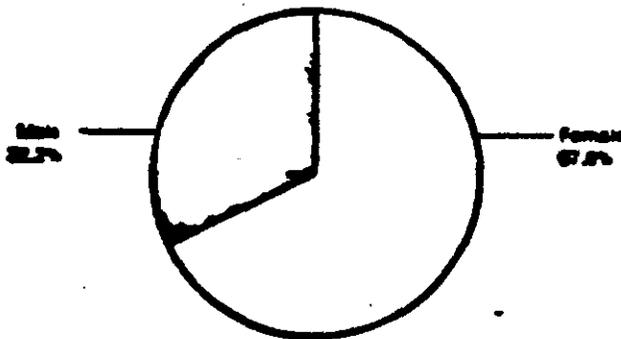
Regions	Total	Minority Student Totals		White Students	Black Students		Hispanic Students		American Indian Students		Oriental Students		Others		
Region I	9,767	643	7%	9,124	93%	457	5%	102	1%	20	2%	57	.5%	7	.07%
Region II	10,852	554	5%	10,298	95%	362	3%	137	1%	8	.07%	47	.4%		
Region III	14,525	1,570	11%	12,955	89%	1,219	8%	227	2%	26	.2%	66	.4%	32	.2%
Region IV	12,188	649	5%	11,539	95%	561	5%	52	.4%	11	.09%	21	.2%	6	.05%
Region V	17,253	852	5%	16,401	95%	624	4%	143	.8%	21	.1%	52	.3%	12	.06%
Region VI	15,928	811	5%	15,117	95%	622	4%	116	.7%	9	.05%	64	.4%		
Region VII	10,949	934	9%	10,015	91%	336	3%	481	4%	79	.7%	38	.3%		
Region VIII	15,114	1,740	12%	13,374	88%	546	4%	611	4%	50	.3%	533	4%		
Region IX	4,645	258	6%	4,387	94%	69	1%	40	.8%	20	4%	129	3%		
Totals	111,221	8,011	7%	103,210	93%	4,796	4%	1,909	2%	244	.2%	1,007	1%	55	.04%

Note: (A) Region II minority student totals do not include Virgin Islands and Puerto Rico.
(B) Region IX minority student totals do not include Micronesia and Alaska.

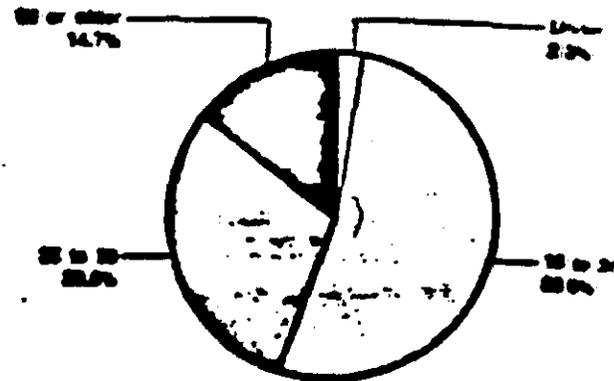
Additionally, the Corporation takes the position that a compelling interest exists in support of a workforce that is reflective of the eligible client population. This position is clearly indicated by the Corporation's adoption of the attorney hiring Regulation 45 CFR 1616. 1-5, requiring cultural similarity with the client population as a factor to be considered. The following charts prepared for the Corporation's Annual Report reflects our client population.

WHO ARE THE CLIENTS OF LEGAL SERVICES PROGRAMS?

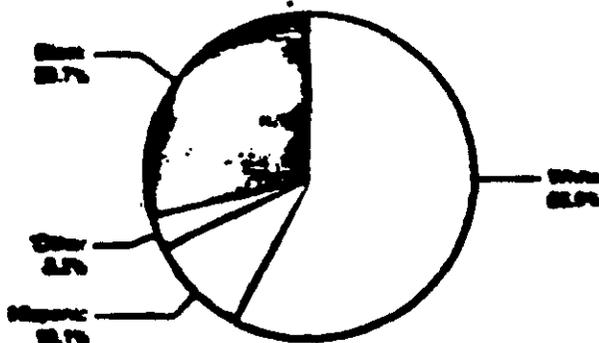
Sex of Legal Services Clients



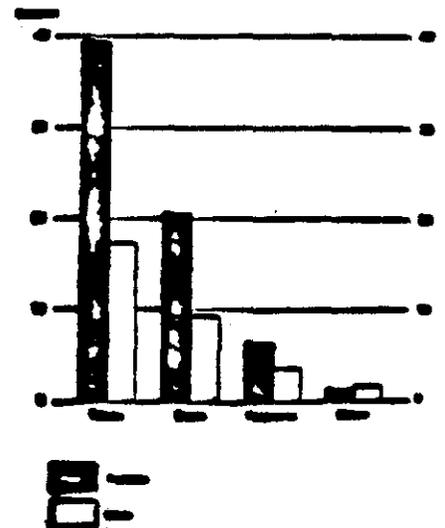
Percent of Total Cases, by Age of Client



Race and Ethnic Origin of Clients



Number of Cases, by Race and Sex



Within the support staff category, case law it has been shown that the use of statistics comparing the percentate of women and minorities in the general population with the percentage of members of such groups in support positions is probative of discrimination. The following lists the ethnic/sex population of those cities which the Corporation has Offices:

REGION I - BOSTON

WHITE 78%
 BLACK 16%
 HISPANIC 4%
 ASIAN 2%
 FEMALE 54%

REGION II - NEW YORK

WHITE 67%
 BLACK 21%
 HISPANIC 10%
 ASIAN 2%
 FEMALE 53%

REGION III - PHIL

WHITE 65%
 BLACK 34%
 HISPANIC 2%
 FEMALE 53%

REGION IV NORTHERN VA

WHITE 27%
 BLACK 71%
 HISPANIC 2%
~~ASIAN~~ / 53%
 FEMALE /

REGION V - CHICAGO

WHITE 60%
 BLACK 33%
 HISPANIC 7%
 FEMALE 52%

REGION VI - ATLANTA

WHITE 48%
 BLACK 51%
 HISPANIC 1%
~~ASIAN~~ 53%
 FEMALE

REGION VII - DENVER

WHITE 74%
 BLACK 9%
 HISPANIC 17%
 FEMALE 53%

REGION VIII - SAN FRANCISCO

WHITE 71%
 BLACK 12%
 HISPANIC 13%
 ASIAN 4%
 FEMALE 52%

REGION IX - SEATTLE

WHITE 85%
 BLACK 7%
 HISPANIC 2%
~~ASIAN~~ 6%

The following chart prepared by EEOC from its "Employer Information Report" (EEO-1), provides the following participation rates for businesses and agencies that employ 100 or more employees. By comparison, the Corporation has continuously shown an ability to attract a larger proportion of women and minorities into its workforce not only in total but in all job categories.

Participation of EEO-1 Surveyed Employees by Sex/Minority Group and Region

<u>Region</u>	<u>Total Employees</u>	<u>Minority</u>	<u>Black</u>	<u>Spanish Surnamed American</u>	<u>Asian American</u>	<u>American Indian</u>
United States ^{1/}	34,212,461	15.9	10.6	4.1	0.8	0.4
New England	2,042,656	7.3	4.5	2.2	.4	.2
Middle Atlantic	6,326,980	15.1	10.1	4.1	.7	.2
East North Central	7,412,094	13.1	10.3	2.1	.5	.2
West North Central	2,177,324	7.5	5.8	1.0	.3	.4
South Atlantic	4,803,718	21.7	19.1	1.9	.3	.4
East South Central	1,849,073	17.4	16.8	.2	.2	.2
West South Central	2,498,529	24.1	14.0	9.0	.3	.8
Mountain	1,031,314	16.2	3.2	11.0	.7	1.3
Pacific	3,697,179	20.5	5.9	10.8	3.2	.6

^{1/} Includes employees from reports which cannot be disaggregated by region.

Source: Employer Information Report" (EEO-1). EEOC 1973.

The following charts depict the Corporation's staffing profile by job category and primary job titles for July 1980. This data demonstrates that there is no significant clustering of minorities and women in any job categories or major job classifications. Number of protected class persons are broadly distributed throughout the LSC workforce.

JOB CLASSIFICATION	TOTAL	MALE					FEMALE						
		ASIAN AM.	BLACK	HISP. AM.	NATIVE AM.	WHITE	ASIAN AM.	BLACK	HISP. AM.	NATIVE AM.	WHITE		
EXECUTIVE	20	16(80%)	4(20%)	8(40%)	5(25%)	3(15%)	-	-	4(20%)	-	-	-	-
ADMINISTRATIVE	23	14(61%)	9(39%)	10(43%)	3(13%)	1(4%)	-	-	6(26%)	2(9%)	1(4%)	-	-
SENIOR AUDITOR	5	3(60%)	2(40%)	1(20%)	1(20%)	-	1(20%)	-	2(40%)	-	-	-	-
ASSISTANT II DIRECTOR	7	4(57%)	3(43%)	3(43%)	1(14%)	-	-	-	2(29%)	1(14%)	-	-	-
ASSISTANT TO DIRECTOR III	27	13(48%)	14(52%)	7(26%)	4(15%)	1(4%)	-	1(4%)	9(33%)	3(11%)	1(4%)	1(4%)	-
ASSISTANT TO DIRECTOR II	16	7(44%)	9(56%)	5(31%)	1(6%)	1(6%)	-	-	5(31%)	3(19%)	1(6%)	-	-
MANAGEMENT SPECIALIST II	14	8(57%)	6(43%)	5(36%)	3(21%)	-	-	-	6(43%)	-	-	-	-
ASSISTANT TO DIRECTOR I	2	2(100%)	-	-	-	-	-	-	2(100%)	-	-	-	-

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L S C J O B C L A S S I F I C A T I O N

Total Staff: _____

Race/Sex Breakdown

Date: _____

JOB CLASSIFICATION	TOTAL	♂ % MALE	♀ % FEMALE	MALE					FEMALE				
				WHITE	BLACK	HISP. AM.	ASIAN AM.	NATIVE AM.	WHITE	BLACK	HISP. AM.	ASIAN AM.	NATIVE AM.
TRAINING SPECIALIST II	9	4(44%)	5(56%)	3(33%)	1(11%)	-	-	-	2(22%)	3(33%)	-	-	-
ADMINISTRATIVE ASSISTANT II	9	-	9(100%)	-	-	-	-	-	3(33%)	5(56%)	1(11%)	-	-
ADMINISTRATIVE ASSISTANT I	12	-	12(100%)	-	-	-	-	-	5(42%)	5(42%)	2(17%)	-	-
SECRETARY III	10	-	10(100%)	-	-	-	-	-	3(30%)	6(60%)	-	1(10%)	-
SECRETARY II	31	-	31(100%)	-	-	-	-	-	5(16%)	21(68%)	2(6%)	2(6%)	1(3%)
SECRETARY I	4	1(25%)	3(75%)	-	1(25%)	-	-	-	-	2(50%)	2(50%)	-	-

LSC JOB CLASSIFICATION

Total Staff: _____

Race/Sex Breakdown

Date: _____

JOB CLASSIFICATION	TOTAL	# & % MALE	# & % FEMALE	MALE					FEMALE				
				# & % WHITE	# & % BLACK	# & % HISP. AM.	# & % ASIAN AM.	# & % NATIVE AM.	# & % WHITE	# & % BLACK	# & % HISP. AM.	# & % ASIAN AM.	# & % NATIVE AM.
TOTAL STAFF	263	93(35%)	170(65%)	52(20%)	30(11%)	7(3%)	3(1%)	1(0.5%)	75(29%)	76(29%)	10(4%)	8(3%)	1(0.5%)
EXECUTIVE	20	16(80%)	4(20%)	8(40%)	5(25%)	3(15%)	-	-	4(20%)	-	-	-	-
ADMINISTRATIVE	23	14(61%)	9(39%)	10(43%)	3(13%)	1(4%)	-	-	6(26%)	2(9%)	1(4%)	-	-
PROFESSIONAL	129	52(40%)	77(60%)	31(24%)	14(11%)	3(2%)	2(2%)	1(1%)	36(47%)	23(18%)	3(2%)	4(3%)	-
PARA-PROFESSIONAL	6	1(17%)	5(83%)	1(17%)	-	-	-	-	1(17%)	3(50%)	1(17%)	-	-
OFFICE-CLERICAL	82	8(10%)	74(90%)	2(2%)	6(7%)	-	-	-	17(21%)	47(57%)	5(6%)	4(5%)	1(1%)
TECHNICAL	3	2(67%)	1(33%)	-	11(67%)	-	-	-	-	1(33%)	-	-	-

The Corporation's workforce when viewed in its entirety does not reflect any underutilization of protected group persons when compared to the general or client population or the poverty law or general labor market. The Corporation's employment record has traditionally surpassed labor market projections and has produced a workforce that is significantly responsive to the cultural characteristics of the client population. Notwithstanding the general picture, the need exists for some isolated affirmative action efforts by the Corporation. Generally, the commitment of the Corporation is to maintain an equal opportunity effort. Areas for attention where under-utilization exist are:

Unit	Goal	Timetable
Boston Reg. Office	10% minority professional staff	Sep. 81
	22% minority clerical staff	Sep. 81
Clearinghouse	25% Black professional staff	Sep. 81
Corporationwide	10% minority female Executive staff	Sep. 81
	10% Hispanic Professional staff	Sep. 81
	10% Hispanic Clerical staff	Sep. 81
	5% Native-American Professional staff	Sep. 81
	5% Native American Clerical staff	Sep. 81

In addition, the following programmatic goals are established to promote full implementation of equal opportunities principles:

- A. Term Consultants: All hiring decisions concerning term consultants and fellows shall be processed by a comprehensive recruitment effort, which will include efforts to achieve a broad based women and minority applicant pool. All term consultant search efforts are to be guided by pre-established qualifications and selection standards which shall be reviewed by the Office of Equal Opportunity or Personnel.
- B. All LSC contracts with vendors and suppliers shall contain equal opportunity/affirmative action provisions approved by the General Counsel Office;
- C. All LSC advisory structures shall generally reflect the ethnic/sex composition of the population in which they are representing.
- D. LSC complete and implement a plan to enhance access to the handicap to LSC facilities by January 1981.

SUPPORT ACTIVITIES

Recruitment

The Personnel Office prepares all LSC position announcements. LSC position announcements are reviewed and approved by the Office of Equal Opportunity when the following are met:

- (a) Promote consistency with LSC equal opportunity and affirmative action policies.
- (b) The elimination of potential artificial barriers which may be discriminatory or tend to discourage women and minority applicants from applying.
- (c) The application closing date permits for adequate distribution of the vacancy announcement to women and minority groups, organizations and agencies.

In addition to the review of all vacancy announcements:

- (a) All position postings shall carry the tag line "LSC is an Equal Opportunity/Affirmative Action Employer."
- (b) The Office of Equal Opportunity shall provide assistance to the hiring unit in attracting women and minority applicants.
- (c) The Corporation shall utilize women and minority group , organizations and agencies for recruitment (See Appendix___)
- (d) The Office of Equal Opportunity shall participate in women and minority forums promoting the equal opportunity and affirmative action policies of the Corporation. These forums shall include but is not limited to: NBA, NCBL, La Raza, Women in the Law Conference, etc.

Employee Selection

The Office of Equal Opportunity has prepared and circulated an Employee Selection Guide for the Legal Services Corporation (See Appendix ____). The Guide is designed to educate and guide staff of the Corporation in the conduct of applicant evaluation and interviews in a non-discriminatory manner.

In addition, the Office of Equal Opportunity is available to provide assistance to units of the Corporation in designing employee selection procedures.

The Office of Equal Opportunity must review all request to hire. Requests to hire are approved by the Office of Equal Opportunity and reviewed to satisfy the following:

- (a) Adequacy of the applicant pool consistent with EEO principles.
- (b) Evaluate employee selection criteria and procedures for compliance with EEO standards.
- (c) Consistent placement when compared with necessary qualification and salary.
- (d) Comparison of minority and women applicants with recommended candidate.
- (e) Identify recruitment sources generating applicants
- (f) Evaluate promotional opportunities for incumbent employees.

EMPLOYEE ORIENTATION AND BENEFITS

Each new employee of the Corporation is required to participate in an orientation session at the time of or following the date of hire. The orientation consists of:

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1. History of the Corporation
2. Organization structure
3. Review of employee benefits and compensation plan
4. Review of administrative procedures

Each employee attending the orientation shall receive a copy of the Office of Equal Opportunities Employee Orientation Guide, "What is Equal Opportunity and Affirmative Action" (Appendix ____). A LSC prepared film strip is used during orientation which shows women and minorities with responsible roles within the Corporation.

All employees are provided identical options in fringe benefits in a non-discriminatory manner (See appendix ____ . The Office of Equal Opportunity periodically reviews the application of these policies and encourages affirmative action utilization of the Corporation's tuition refund policy.

Training

The Corporation has a training policy which does not discriminate against any person. In addition to the Corporation's tuition refund policy the Personnel Office of the Corporation is presently conducting a training needs assessment of Corporation staff. This assessment is being conducted with significant input from the Office of Equal Opportunity and its resultant activities will be conducted and applied non-discriminatory except in those situations when the activity is designed to fulfill the Corporation's affirmative action obligation. LSC is committed to upgrade women and minorities in entry level jobs by offering training and educational opportunities for career development.

Classification System

The Corporation presently has a seven tier classification schedule which has been validated utilizing the acceptable EEOC standard of content validation. Any changes within the existing classification plan shall be validated by the Personnel Office.

The resultant salary and wage schedule of the Corporation shall be administered in a non-discriminatory manner. The wage and salary plan is designed to determine fair and equitable pay for work performed by Corporation employees at the Legal Services Corporation utilizing various factor comparison standards.

Promotions

The Corporation is committed to supporting career advancement for its employees. In addition to participating in educational and other training event's employee's career may be advanced through promotion within the Corporation.

It is the affirmative action policy of the Corporation to promote incumbent employees into vacant positions whenever possible. Qualified minority and women Corporation employees will be encouraged to apply for promotions.

Transfers

Employee transfers shall be conducted in a non-discriminatory manner. Involuntary transfers may be appealed un the Personnel Employee Grievance Procedure or Office of Equal Opportunity Grievance Procedure.

Financial Institutions

The Legal Services Corporation presently deposits approximately 26% of its appropriated funds with minority owned financial institutions. It is the policy of the Corporation to continue using minority and female owned financial institutions wherever it is possible as depository of Corporation funds. The Corporation will also seek to deposit funds in female owned financial institutions.

Conditions of Employment

The LSC policy is to maintain integrated facilities and to eliminate activities that have the purpose or effect of discriminating against members of protected groups. It is the policy of the Corporation to promote an atmosphere that is free of sexual, racial and ethnic intimidation and insult.

Maternity Benefits and Leave

The LSC by law and its own policies treats disabilities which arise from pregnancy and childbirth the same as it does other disabilities with respect to all personnel decisions, including those related to hiring, firing, transferring, promoting, discipline and termination. For example, this policy bars mandatory leaves for pregnant women as arbitrary when such policies are not based on the individual's ability to work.

Religion

It is the policy of the Legal Services Corporation not to discriminate on the basis of religion. The implementation of this policy requires that each operation of the Corporation undertake all efforts possible to reasonably accommodate the individual needs of each employee's religious beliefs. The Corporation maintains no positions where religion is a BFOQ.

It is further understood that to the extent possible the policy of reasonable accommodation will apply to all other activities planned and sponsored by the Corporation.

National Origin

The Corporation does not discriminate on the basis of national origin. Inherent in this concept is the policy not to establish standards for employment that are not necessary job qualifications which would have the impact of national origin discrimination.

Grants

The Legal Services Corporation has an on-going responsibility not to fund those activities which discriminate on the basis of race, sex, age, religion, national origin, color, handicap. The Corporation is in the process of promulgating a comprehensive Civil Rights Regulation to supplement existing grant assurances.

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In addition to monitoring the implementation of this non-discriminatory policy, the Corporation's Office of Equal Opportunity is actively involved in providing assistance to grantees in complying with these requirements.

LSC CONTRACTS

The Legal Services Corporation shall not participate in any contractual or other relationship with persons, agencies, organizations, or other entities which discriminate in employment or delivery of services on the basis of race, sex, religion, color, national origin, age, or handicap. Such organizations shall include, but are not limited, to the following: employment and referral agencies, labor unions, organizations providing or administering fringe benefits to employees of the recipient, financial institutions which manage, audit, or house corporation funds, and organizations providing training, apprenticeship programs or technical assistance.

The Legal Services Corporation will set aside funds for contractual obligations with minority and female organizations seeking to do business with Legal Services Corporation. This contractual set aside reflects LSC's commitment to ensure that women and minorities are provided an opportunity to enter the economic mainstream of American society.

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Internal Affirmative Action Auditing System

The Legal Services Corporation system for auditing our Affirmative Action program progress and detecting potential problems is described below. This system involves a number of checks on various personnel actions affecting our Affirmative Action Plan. The auditing actions are:

- A. Applicant Flow - For each position vacancy, an applicant flow report is compiled indicating the number of applicants and those hired by race, sex, national origin and referral source.
- B. Promotion and Transfer Date - The Corporation presently collects data showing employee promotions and transfers by race, sex and national origin, including identification of other applicants.
- C. Classification and Salary Level - The Office of Equal Opportunity review and report annually EEO data reflecting Corporation employee status by job category, standard classifications, salary levels and position titles. Where clustering appears, the Office of Equal Opportunity has the responsibility for flagging areas of concern.
- D. Training Activities - The Personnel Office maintains a record of requested and approved training activities. These records will be reviewed semi-annually by the Office of Equal Opportunity by race, sex and national origin within Divisions and job category.
- E. Exit Interviews - The Personnel Office conducts exit interviews with all exiting employees. Constructive

criticisms, suggested improvements, comments on working conditions, etc. are solicited. Significant issues of an Affirmative Action nature will be referred to the Office of Equal Opportunity for review.

- F. Termination Date - The Office of Equal Opportunity shall gather data by Division indicating all employees by race, sex and national origin who were terminated.

- G. Employee Selection Standards - The Office of Equal Opportunity will regularly monitor and evaluate selection activities of hiring units.

A program of non-discrimination requires eliminaton of all exisiting discriminatory conditions, whether deliberate or inadvertent. The Corporation will thoroughly examine all of its employment related policies and practies to ensure that they do not operate to the detriment of any person on the basis of race, sex, age, religon, marital status, color, national origin, or handicap. The following activities will be conducted by the OEO in cooperation with the Office of Administration

Action

Responsibility

Timetable

1. Semi-annual EEO workforce utilization analyses

OEO

March & September

2. Semi-annual salary studies by job classification.

OEO

March & September

3. Survey of promotional trends and opportunities within the Corporation.

Office of Adm.
OEO

April & October

4. Review of recruitment and and employee selection procedures.

Office of Adm.
OEO

December

5. Review of tests and performance based criteria used in employee selection.

Office of Adm.
OEO

July

6. Review of employee performance evaluation procedures.

Office of Adm.
OEO

Continuous

7. Review of existing employee grievance mechanisms to evaluate their effectiveness at resolving complaints.

OEO

Continuous

8. Periodic staff turnover studies.

Office of Adm.
OEO

September

9. Periodic staff training studies

Office of Adm.

Semi-Annually

10. Provide LSC managerial staff with assistance in developing and implementing equal opportunity/affirmative action programs.

OEO

Continuous

11. Develop an equal opportunity/affirmative action staff orientation package for LSC employees.

Office of Adm.
OEO

Completed

12. Recommend revision of Corporation policy where necessary to insure non-discrimination.

OEO
Division Dir.

As appropriate

13. Compile and up-date women and minority resource information to aid Corporation and grantee recruitment efforts.

OEO

Continuous

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<u>Action</u>	<u>Responsibility</u>	<u>Timetable</u>
14. Provide career counseling and information for employees who wish to improve their job skills and knowledge.	Office of Adm.	Continuous
15. Establish career development activities for all employees; with special emphasis on women and minorities.	OEO Office of Adm.	Continuous
16. Establish equal opportunity/affirmative action provisions in Corporation contracts.	Division Dir. General Counsel OEO	Completed
17. Actively encourage use of promotional opportunities for upward mobility.	Office of Adm. Division Dir OEO	Continuous
18. Develop and update the Corporation Personnel Manual.	Office Adm.	Continuous
19. Develop and implement prompt complaint procedures for charges of discrimination.	OEO	Completed
20. Monitor all personnel appointments and evaluate affirmative action efforts, prior to appointment confirmation.	Division Dir. Office of Adm. OEO	Continuous
21. Recommend appropriate corrective action and/or sanction for non-compliance with Corporation equal opportunity/affirmative action policy.	OEO	When appropriate

Actions

Responsibilities

Timetables

1. Developing standards and procedures to facilitate review of:

OEO

Completed

- (a) recruitment activities and procedures;
- (b) employee selection procedures;
- (c) discrimination complaints; and

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Implicit in the concept of Affirmative Action Plans is the assumption that prescribed activities will be result oriented. Achieving affirmative action goals require more than equalization of employment opportunities -- it requires additional efforts to include "protected groups" where they have been previously underrepresented or excluded in Corporation programs and activities.

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EQUAL OPPORTUNITY COMPLAINT PROCEDURE

I. GENERAL

Any person who believes that he/she has been subjected to discrimination in employment on the basis of race, sex, age, marital status, handicap, color, national origin, religion, may file a complaint with the Office of Equal Opportunity.

Employment practices and conditions subject to equal opportunities policies include, to: recruitment, selection, hiring, training, sexual or racial harassment, suspension, compensation, benefits, promotion, transfer, and termination.

II. INFORMAL COMPLAINTS

Any person who believes that he/she has been subjected to discriminatory personnel policies or actions may challenge such policies or actions by formal or informal means. Voluntary conciliation without the allocation of fault is an appropriate means for resolution of complaints of discrimination.

- (a) Complaints may be made informally when the complainant wishes to solicit the advice or assistance of the Office of Equal Opportunity.
- (b) The Office of Equal Opportunity must be informed of such complaints within 10 working days after the dated of the alleged discriminatory action.
- (c) The Office of Equal Opportunity may make whatever inquiry into the matter is necessary, and may seek a solution on an informal basis of the complainant without that person's authorization.

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- (d) An informal complaint shall not bar the subsequent submission of a formal complaint.

III. FORMAL COMPLAINTS

A. A formal complaint shall be filed with the Office of Equal Opportunity within 10 working days after the alleged discriminatory act, or if an informal complaint has been made within 5 working days after the Office of Equal Opportunity has informed the complainant that efforts at informal solution have been unsuccessful.

B. Each formal complaint shall be in writing and signed by the complainant and shall specifically state the date and nature of the alleged act of discrimination.

C. The Office of Equal Opportunity shall within 2 work days of the receipt of the complaint shall acknowledge the receipt of the complaint by making the following written disclosure to the complainant and respondent:

- (1) That Complainant may have legal rights under: Title VI and VII of the Civil Rights Act of 1964; Pregnancy Discrimination Act; the Equal Pay Act; the Rehabilitation Act; the Age Discrimination in Employment Act; the Vietnam Era Veterans Act; local and state civil rights acts (as appropriate).
- (2) That the law and LSC policy expressly prohibit retaliation against any person who makes a complaint of discrimination or participates in an investigation pursuant thereto;
- (3) That the selection of the internal complaint procedure does not constitute a waiver of any legal, administrative, c

contractual remedy

(4) The Office of Equal Opportunity shall advise the respondent of the charge and provide him/her with a copy of the complaint.

IV. INVESTIGATION OF COMPLAINTS

A. The Office of Equal Opportunity shall promptly investigate all formal complaints.

B. The Office of Equal Opportunity shall interview the complainant, the respondent, and all other personnel who may be able to provide relevant information, including all persons suggested as witnesses by either side.

C. The Office of Equal Opportunity shall seek and receive all data, records, and material that it considers necessary for the conduct of its investigation.

D. The Office of Equal Opportunity shall receive and consider all documents offered by either party.

E. An investigation shall be completed as soon as possible and, except in extraordinary circumstances, within 30 work days of receipt of the formal charge.

F. At the conclusion of the investigation the Office of Equal Opportunity shall compile and furnish to each party a report outlining the charge, the findings and resolution.

V CONCILIATION

A. Within 10 working days after the submission of the report,

the Director of the Office of Equal Opportunity shall conduct a conciliation conference with the parties, if appropriate.

B. If the conference fails, the Director of the Office of Equal Opportunity shall issue and furnish the parties of a written decision within 5 working days of the conference.

C. The decision shall be based upon the evidence contained in the investigative file. The decision may include but is not limited to the following:

- (1) A no probable cause finding and dismissal of the charge.
- (2) Directive to implement action(s) to correct the inequitable practice or policy against the complainant
- (3) Stay of proposed action pending affecting the Complainant pending review by the President.

VI APPEAL

The findings and/or directives by the Office of Equal Opportunity may be appeal to the President within 5 days of receipt of the decision. The President may reject, or modify the decision of the Office of Equal Opportunity within 10 working days of the appeal. The decision of the President is final.

Federal Record-Keeping Requirements

Recordkeeping requirements are imposed on employers under several federal laws. The table below summarizes the requirements of the Fair Labor Standards Act, Title VII of the Civil Rights Act, Executive Order 11246 on Equal Employment Opportunity for federal contractors, the Age Discrimination Act, the Vocational Rehabilitation Act, and the Vietnam Era Veterans' Readjustment Act. References are given to pages where more detailed information may be found on the record-keeping requirements.

Statute	Records to be Retained	Period of Retention	Form of Retention
1. Fair Labor Standards Act (see Wages and Hours, p. 97:19)	<p>a. Basic records containing employee information, payrolls, individual contracts or collective bargaining agreements, applicable certificates and notices of Wage-Hour administrator, sales and purchase records</p> <p>b. Supplementary basic records including basic employment and earnings records; wage rate tables; work time schedules; order, shipping, and billing records; records of additions to or deductions from wages paid; documentation of basis for payment of any wage differential to employees of the opposite sex in the same establishment</p> <p>c. Certificates of age</p> <p>d. Written training agreements</p>	<p>a. Three years</p> <p>b. Two years</p> <p>c. Until termination of employment</p> <p>d. Duration of training program</p>	<p>No particular form is specified. Microfilm is permissible if employer is willing to make any required transcripts. Punched tape is permissible if records can be readily converted to reviewable form.</p>
2. Title VII of Civil Rights Act (see 401:1, 401:131, 441:51)	<p>a. Any personnel or employment record made or kept by employer, including application forms and records having to do with hiring, promotion, demotion, transfer, layoff or termination, rates of pay or other terms of compensation, and selection for training or apprenticeship</p> <p>b. Personnel records relevant to charge of discrimination or action brought by Attorney General against employer, including, for example, records relating to charging party and to all other employees holding similar positions, application forms or test papers completed by unsuccessful applicant and by all other candidates for same position</p> <p>c. For apprenticeship programs, (1) a chronological list of names and addresses of all applicants, dates of application, sex, and minority-group identification or file of written applications containing same information; and other records pertaining to apprenticeship applicants, e.g., test papers, interview records; and (2) any other record made solely for completing report EEO-2 or similar reports</p>	<p>a. Six months from date of making the record or taking the personnel action involved, whichever occurs later</p> <p>b. Until final disposition of charge or action</p> <p>c. (1) Two years or period of successful applicant's apprenticeship, whichever is later (2) One year from due date of report</p>	<p>No particular form is specified. Records as to racial or ethnic identity may be obtained either by visual survey or by maintenance of post-hire records where permitted by state law; such post-hire records should be kept separate from employee's basic personnel records available to those responsible for personnel decisions.</p>

Statute	Records to be Retained	Period of Retention	Form of Retention
2. Title VII of Civil Rights Act—Contd.	d. (Employers with 100 or more employees) Copy of EEO-1 — Employer Information Report	d. Current report must be retained indefinitely; otherwise, 6 months.	
3. Executive Order 11246 (see p. 401:401)	Written affirmative action programs and supporting documentation including required utilization analysis and evaluation; other records and documents relating to compliance with applicable EEO nondiscrimination and affirmative action requirements, including records and documents on nature and use of tests, validations of tests, and test results as required; and to compliance with construction industry EEO plans and requirements	Not specified	No particular form is specified
4. Age Discrimination Act (see p. 401:351, 401:391)	a. Payroll records containing each employee's name, address, date of birth, occupation, rate of pay, and compensation earned per week b. Personnel records relating to (1) job applications, resumes, or other replies to job advertisements, including applications for temporary positions and records pertaining to failure to hire; (2) promotion, demotion, transfer, selection for training, layoff, recall, or discharge; (3) job orders submitted to employment agency or union; (4) test papers in connection with employer-administered aptitude or other employment test; (5) physical examination results; (6) job advertisements or notices to employees regarding openings, promotions, training programs, or opportunities for overtime work c. Employee benefit plans, written seniority or merit rating systems	a. Three years b. One year from date of personnel action to which record relates except 90 days for application forms and other pre-employment records of applicants for temporary jobs c. Period plan or system is in effect plus one year	a. and b. No particular form is specified c. If plan or system is not in writing, summary memorandum shall be kept
5. Vocational Rehabilitation Act (see Fair Employment Practices, pp. 401:501, 401:921)	(Federal contractors, subcontractors) For handicapped applicants and employees, complete and accurate employment records required by the Act; records regarding complaints and actions taken under the Act	One year	No particular form is specified
6. Vietnam Era Veteran's Readjustment Act (see Fair Employment Practices, pp. 401:521, 401:901)	(Federal contractors, subcontractors) a. Copies of reports made to state employment service regarding number of individuals and veterans hired, and related documentation such as personnel records respecting job openings, recruitment, and placement b. Records regarding complaints and actions taken under the Act	a. One year after final payment under the contract b. One year	No particular form is specified

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Federal Notice-Posting Requirements

Employers are required to post official EEO notices to employees under several federal labor laws—the Fair Labor Standards Act, the Civil Rights Act, the Executive Order on Equal Employment Opportunity by federal contractors, the Age Discrimination Act, and the Rehabilitation Act of 1973. These requirements are summarized below. Citations are to pages in the binder where copies of the official forms are reproduced and where additional information on the posting requirements may be found.

Note: Copies of these official forms are available only from the offices of the appropriate government agency. Directories of the administering agencies appear in the binder as cited below.

Statute	Coverage	Basic Requirements	Posting Provisions	Official Form
1 Fair Labor Standards Act	Employers engaged in interstate commerce	Pay minimum hourly rate and 1½ for hours after 40 per week; also covers equal pay and child labor	Sufficient number in conspicuous places to permit employees to readily observe on way to or from work (WH 97:21)	FLSA Notice to Employees (FEP 441:236)
2 Civil Rights Act of 1964 (Title VII)	Employers of 15 or more employees and engaged in interstate commerce	No job discrimination based on race, color, religion, sex or national origin	In conspicuous places where notices to employees and job applicants are customarily posted (FEP 401:24)	EEOC-OFCCP Poster (FEP 441:251)
3 Executive Order 11246 as amended	Federal government contractors and subcontractors; contractors under federally-assisted construction contract	No job discrimination based on race, color, creed, national origin, or sex	In conspicuous places available to employees, job applicants, union representatives (FEP 401:601)	EEOC-OFCCP Poster (FEP 441:251)
4 Age Discrimination Act	Employers of 20 or more employees and engaged in interstate commerce	No job discrimination based on age 40 to 70 years	In prominent and accessible places where it readily can be observed by employees, job applicants, and union members (FEP 401:354, 393)	Age Bias Poster (FEP 441:235)
5 Rehabilitation Act of 1973	Federal government contractors and subcontractors (with a contract of \$2,500 or more)	Take affirmative action to employ and advance in employment qualified handicapped persons	In conspicuous places available to employees and job applicants (FEP 401:924)	EEOC-OFCCP Poster (FEP 441:251)
6 Vietnam Era Veterans Readjustment Act of 1974	Federal government contractors and subcontractors (with a contract of \$10,000 or more)	Take affirmative action to employ and advance in employment qualified disabled and Vietnam-era veterans	In conspicuous places available to employees and job applicants (FEP 401:906)	EEOC-OFCCP Poster (FEP 441:251)

LEGAL SERVICES CORPORATION

MEMORANDUM

DATE: September 30, 1980
TO: Committee on Operations
FROM: Mario Lewis, General Counsel
SUBJECT: Civil Rights Regulation - Draft

Attached is an informational draft of the Corporation's comprehensive civil rights regulation. Corporation staff members from the Offices of General Counsel, Equal Opportunity and Field Services are presently working to resolve the policy issues raised in this draft.

Linda Hanten and Charles Chapman will report to the Committee on the status of the regulation, the policy determinations that have been made and the methods used to obtain comments from the field on the proposed regulation.

Attachment

1. Summary
2. Supplementary information
3. Part _____ Civil Rights Program Requirements of Legal Services Grantees; Civil Rights Regulation
 - A. General
 - Purpose
 - Applicability
 - Definitions
 - B. Discrimination Prohibited
 - General
 - In the Delivery of Legal Services
 - In Employment
 - C. Responsibilities of Recipients
 - Assurances
 - Data and information requirements
 - Required recipient civil rights program - delivery of services
 - Required recipient civil rights program - employment
 - D. Conduct of Investigations and Reviews
 - prefunding compliance reviews
 - postfunding monitoring
 - complaint process
 - delivery of services
 - employment
 - investigation procedures
 - E. Procedures for Effecting Compliance
 - general
 - imposition of sanctions

F. Miscellaneous

- rate of Legal Services Corporation Officials
- effect of other regulations, forms and instructions

Authority:

Secs. 1005(b)(2), 1006(a), 1006(b)(1)(A), 1006(b)(6);
42 U.S.C. §§2996d(b)(2), 2996e(a), 2996e(b)(1)(A), 2996e(b)(6),
2996f(a)(1) and (3).

Subpart A - General

§ _____ Purpose

The purpose of this part is to prevent discrimination by legal services programs supported in whole or in part by Legal Services Corporation funds in the delivery of services or in employment on the basis of race, religion, color, sex, age, marital status, national origin, handicap, political affiliation or sexual orientation. Further, it is the purpose of this part to assist and provide guidance to such programs in establishing policies and procedures to ensure equal opportunity in the delivery of services and in employment as well as affirmative action in employment to end the underutilization of certain protected groups in their work forces. This part is adopted in accordance with Secs. 1005(b)(2), 1006(a), 1006(b)(1)(A), 1006(b)(6); 42 U.S.C. §§2996d(b)(2), 2996e(a), 2996e(b)(1)(A), 2996e(b)(6), 2996(a)(1) and (3).

§ _____ Applicability

This part applies to each legal services program receiving financial assistance from the Legal Services Corporation.

§ _____ Definitions

B. Discrimination Prohibited

§ _____ General

No person shall be subjected by a recipient to discrimination in the provision of services, treatment, employment practices on the basis of race, religion, color, sex, age, marital status, national origin, handicap, political affiliation or sexual orientation.

§ _____ Discrimination prohibited - in the provision of legal services

(a) No program to which this part applies shall directly or through contractual or other arrangements, on the grounds of race, religion, color, sex, age, marital status, national origin, handicap, political affiliation or sexual orientation;

(1) Deny an individual any service, aid, or other benefit provided under the program;

(2) Provide any service, aid, or other benefit to an individual which is different from that provided to others under the program;

(3) Subject an individual to disparate treatment in any manner related to his/her receipt of any service, aid or benefit under the program;

(4) Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service aid or benefit under a program;

(5) Treat an individual differently from others in determining whether he/she satisfies any requirement or condition which individuals must meet in order to be provided any benefit, aid or service provided under the program;

(6) Deny any person the opportunity to participate as a member of the program's governing body or any advisory body it may have.

(b) (i) A recipient, in determining the type of services, aid or benefits which will be provided, or the manner in which such services, aid or benefits shall be offered may not directly, or

through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination on the basis of race, color, sex, religion, national origin, age, or handicap or have the effect of substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular race, color, sex, religion, age, national origin or with a particular handicap.

(ii) An individual shall not be deemed subjected to discrimination by reasons of his/her exclusions from the benefits of a program limited by Federal law to individuals of a race, color, sex, national origin, age group, not his/her own or from the benefits of a program specifically designed to address legal issues concerning a particular status not shared by the individual.

(c) In determining the site or location of facilities, an applicant or recipient may not make a selection with the purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination under any program on the grounds of race, color, sex, religion, age or handicap or with the purpose or effect of substantially impairing the accomplishment of the objectives of this part.

(d) No qualified handicapped person shall, because a legal services program's facilities are inaccessible to or unusable by handicapped persons, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination by any recipient.

(e) A recipient shall conduct its programs and activities so that, when viewed in their entirety, they are readily accessible

to and usable by handicapped persons. This paragraph does not necessarily require a recipient to make each of its existing facilities or every part of an existing facility accessible to and usable by handicapped persons, or require a legal services program to make structural changes in existing facilities when other methods are effective in achieving compliance. In choosing among available methods for meeting the requirements of this paragraph, a recipient shall give priority to those methods that offer legal services to handicapped persons in the most integrated setting appropriate.

(f) A recipient shall, to the maximum extent feasible, insure that new facilities that it rents or purchases are accessible to handicapped persons. Prior to entering into any lease or contract for the purchase of a building, a legal services program shall submit a statement to the appropriate regional office certifying that the facilities covered by the lease or contract will be accessible to handicapped persons, or if the facilities will not be accessible, a detailed description of the efforts the program made to obtain accessible space, the reasons why the inaccessible facility was nevertheless selected, and the specific steps that will be taken by the legal services program to insure that its services are accessible to handicapped persons who would otherwise use that facility. After a statement certifying facility accessibility has been submitted, additional statements need not be resubmitted with respect to the same facility, unless substantial changes have been made in the facility that affect its accessibility.

(g) A legal services program shall ensure that new facilities designed or constructed for it are readily accessible to and usable by handicapped persons. Alterations to existing facilities shall, to the maximum extent feasible, be designed and constructed to make the altered facilities readily accessible to and usable by handicapped persons.

(h) The enumeration of specific forms of prohibited discrimination in this subpart does not limit the generality of this subpart's prohibition.

(i) In administering a program in which the recipient has previously discriminated on the basis of race, color, sex, national origin, age or handicap, the recipient must take affirmative action to overcome the effects of prior discrimination. Even in the absence of such prior discrimination, a recipient, in administering a program may take affirmative action to overcome the effects or conditions which result in limiting participation by persons on the grounds of race, color, sex, national origin, age or handicap.

§ _____ Discrimination Prohibited - Employment Practices

(a) No program to which this part applies shall directly or through contractual or other arrangements, subject any person to discrimination in employment on the grounds of race, religion, color, sex, age, marital status, national origin, handicap, political affiliation or sexual orientation.

(b) A legal services program shall make all decisions concerning employment in a manner insuring that discrimination on the basis of race, religion, color, sex, age, marital status, national origin, handicap, political affiliation or sexual orientation does not occur.

(c) The prohibition against discrimination in employment applies to the following activities:

(1) Recruitment, advertising, and the processing of applications for employment;

(2) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, the right of return from layoff, and rehiring;

(3) Rates of pay or any other form of compensation and changes in compensation;

(4) Job assignments, job classifications, organizational structures, positions descriptions, lines of progression and seniority lists;

(5) Leaves of absence, sick leaves or any other leaves;

(6) Fringe benefits available by virtue of employment, whether or not administered by the legal services program;

(7) Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;

(8) Employer sponsored activities including social or recreational programs, and

(9) Any other term, condition or privilege of employment

(d) A recipient may not participate in any contractual or other relationship with persons, agencies, organizations or other entities, such as, but not limited to, employment and referral agencies, labor unions, organizations providing or administering fringe benefits to employees of the recipient, and organizations

providing training and apprenticeship programs, if the practices of such person, agency, organization or other entity have the effect of subjecting qualified applicants or employees to discrimination on the bases enumerated in this subpart.

(e) A recipient program shall make reasonable accommodation to the known physical or mental limitations of an otherwise qualified handicapped applicant or employee unless the accommodation would impose an undue hardship on the operation of the program.

(1) For purposes of this paragraph (e), reasonable accommodation may include (i) making facilities used by employees readily accessible to and usable by handicapped persons, and (ii) job restructuring, part-time or modified work schedules, acquisition or modification of equipment or devices, the provision of readers or interpreters, and other similar actions.

(2) In determining whether an accommodation would impose an undue hardship on the operation of a recipient, factors to be considered include, but are not limited to, the overall size of the legal services program with respect to number of employees, number and type of facilities, and size of budget, and the nature and costs of the accommodation needed.

(3) A recipient may not deny any employment opportunity to a qualified handicapped employee or applicant if the basis for the denial is a need to make reasonable accommodation to the physical or mental limitations of the employee or applicant.

(f) A recipient may not use employment tests or criteria that discriminate against handicapped persons, and shall insure that employment tests are adapted for use by persons who have handicaps that impair sensory, manual or speaking skills.

(g) A recipient may not conduct a pre-employment medical examination or make a pre-employment inquiry as to whether an applicant is a handicapped person or as to the nature or severity of a handicap except under the circumstances described in 45 C.F.R. 84.14(a)-(d)(2). The Corporation shall have access to relevant information obtained in accordance with this section to permit investigations of alleged violations of this part.

(h) A recipient shall post a notice in a prominent place in each of its offices stating that it does not discriminate on any of the bases enumerated in this subpart.

(i) Any recruitment materials published or used by a recipient shall include a statement that the recipient does not discriminate on any of the bases enumerated in this subpart.

C. Responsibilities of Recipients

§ _____ Assurances

(a) Every application for funding for a program under the Legal Services Corporation Act, 42 U.S.C. §2996 et seq., as well as every grant, contract or agreement with respect to such program shall specifically provide:

(1) That no person with responsibilities in the operation of such program will discriminate with respect to such program on the basis of race, religion, color, sex, age, marital status, national origin, handicap, political affiliation or sexual orientation; and

(2) That compliance with such provision shall be determined by this part.

§ _____ Data and Information Requirements

(a) Each recipient shall, collect, maintain, and, upon request of the Corporation, submit the information set forth in this subpart. All information set forth in this subpart shall be collected unless [the appropriate Corporation official - Regional Director, Director of Field Services, Director of the Office of Equal Opportunity, Research Institute] or his/her designee grants a written exemption to any information requirement for good cause shown by the recipient.

(b) To the extent that the Corporation has supplied or prescribed forms for the following information such form shall be used by the recipient.

(c) Recipients shall collect and maintain the following information:

(1) The manner in which services are or will be provided by the program in question, and related data necessary for determining whether any persons are or will be denied such services on the basis of race, color, sex, national origin or handicap;

(2) The population eligible to be served by race, color, sex, national origin, and membership in a minority language group;

(3) The location of existing or proposed facilities connected with the program and related information adequate for determining whether the location has or will have the effect of unnecessarily denying services to any person on the basis of race, color, sex, national origin or handicap;

(4) The present or proposed membership by race, color, sex, national origin, age and handicap, if any, in the governing body or any advisory body which is an integral part of the program;

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(5) Where relocation is involved, the requirements and steps used or proposed to guard against unnecessary adverse impact on persons on the basis of race, color, sex, national origin or handicap;

(6) Data regarding employment including: (i) the number, race, sex and national origin of applicants for employment; (ii) relevant work force availability data by race, sex and national origin; (iii) staff composition by race, sex and national origin; (iv) the use or planned use of bilingual staff to provide equal access to legal services for members of minority language groups and (v) documentation of all recruitment efforts made in filing program vacancies.*

(d) In addition to the data and information requirements of § _____ (c) (1)-(6), each applicant or recipient shall:

(1) maintain a log of complaints under this part identifying the nature of the complaint, the date the complaint was filed, the date the recipient's investigation was completed and the disposition and date of the disposition; and

(2) Where the Corporation determines that it is necessary and appropriate for the enforcement of this Part, provide the Corporation with other information as may be specified and which is available or may be compiled with reasonable effort.

(e) Each recipient shall permit access by the [reponsible Corporation official] or his/her designee during normal business hours to its books, records, accounts, and other sources of information as may be pertinent to ascertain compliance with this

* The Office of Equal Opportunity may have other employment related data they would like to see collected in this process.

part, except to such information as would violate client confidentiality. Where the information required is in the exclusive possession of any other agency, institution or person and that agency, institution or person fails or refuses to furnish this information, the recipient shall set forth in writing the efforts it has made to obtain the information and to provide it to the Corporation official requesting such information.

§ _____ Required Recipient civil rights program - Delivery of Services

(a) Recipients shall provide equal access to legal services to eligible clients regardless of race, religion, color, sex, age, national origin, handicap, political affiliation or sexual orientation and shall undertake the development of:

- (1) a written policy of equal access to services;
- (2) an equal opportunity committee;
- (3) an equal opportunity officer; and
- (4) a written discrimination procedure.*

(b) The Equal Opportunity Committee which shall be selected from and by the members of the recipient's board, shall review the determinations of the Equal Opportunity Officer regarding complaints under this subpart and § _____, and shall oversee the enforcement of the recipient's civil rights program.

(c) The Equal Opportunity Office shall not be Executive Director, Deputy Director or Administrator of the program and shall report directly to the Equal Opportunity Committee recipient's governing board on

* a(2)(3) and (4) can be the same people and mechanisms set up in the next subpart - and deal with both delivery of services complaints and employment complaints.

Equal Opportunity matters addressed in this subpart and § _____, [Required Civil Rights Program - Employment] and shall be granted the authority to conduct the following activities:

(1) receive and attempt to resolve complaints of discrimination regarding the recipient's delivery of services and/or employment practices;

(2) provide aggrieved persons with information and advice regarding equal opportunity procedures;

(3) take other steps to assist in the resolution of the problem;

(4) assist, if requested by the complainant, in filing a complaint with the Corporation regarding discrimination in the delivery of legal services or a pattern and practice of discrimination in employment; and

(5) monitor and evaluate the progress of each aspect of the recipient's affirmative action plan if required under the following subpart.

(d) To insure that language minority persons have equal access to legal services, in any area where 5% of the population or 100 people, whichever is greater, are numbers of a minority language group, a recipient shall take the following steps:

(1) Employ persons who are bilingual in English and in the appropriate minority language, who are specifically compensated for their ability, in public contact positions in numbers sufficient to accommodate the needs of the client community;

(2) Place bilingual employees, who are specifically compensated for their ability, in job categories other than those

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defined as public contact where necessary to promote equal access to legal services, including but not limited to clerical positions where it is necessary to translate materials into a minority language, attorney positions, paralegal positions, investigator positions and other positions which involve client contact and the direct provision of services;

(3) Provide informational literature, forms, notices, letters and other materials available to English-speaking clients in appropriate minority language(s);

(4) Conspicuously post signs in the appropriate minority language(s) stating that clients may request and receive services in those languages.

(e) Where a recipient serves an area where members of minority language groups comprise less than 5% of the population or fewer than 100 people, such recipients shall take all steps necessary to develop an appropriate capability for communicating with minority language clients or potential clients and shall make every reasonable effort to comply with § _____ (1)-(4) of this subpart.

(f)(1) A recipient that employs a total of fifteen or more persons, regardless of whether such persons are employed at one or more locations, shall provide, when necessary, appropriate auxiliary aids to persons with impaired sensory, manual or speaking skills, in order to afford such persons an equal opportunity to benefit from the legal services program's services. A legal services program is not required to maintain such aids at all times, provided they can be obtained on reasonable notice.

(2) The Corporation may require recipients with fewer than fifteen employees to provide auxiliary aids where the provision of such aids would not significantly impair the ability of the legal services program to provide its services.

(f) Auxiliary aids include, but are not limited to, brailled and taped material, interpreters, telecommunications equipment for the deaf, and other aids for persons with impaired hearing, speech or vision.

(g) A recipient shall take reasonable steps to insure that communications with its applicants, employees, and beneficiaries are available to persons with impaired vision and hearing.

§ _____ Required Recipient Civil Rights Program - Employment

(a) Recipients shall utilize the structure set out in § _____ (a) (2)-(4), (b) and (c) to ensure equal opportunity in employment regardless of race, religion, color, sex, age, marital status, national origin, handicap, political affiliation or sexual orientation.

(b) Recipients with 50 or more employees must implement an affirmative action plan approved by the appropriate Corporation official or his/her designee. All other recipients must develop an Equal Opportunity policy statement minimally containing the elements set out in § _____ (a) (2) (4), (b) and (C) of this subpart.

(c) Before developing an affirmative action plan or equal opportunity policy statement, a recipient shall determine if underutilization on the basis of race, national origin or sex occurs in any job category or unit of its work force.

(d) Written affirmative action plans required by this subpart must include at least the following elements:

- (1) an Equal Opportunity policy statement;
- (2) specific data concerning the recipient's current work force, applicant flow, hirings, promotions, provision of training opportunities, terminations and disciplinary actions by race, national origin and sex;
- (3) appropriate labor force characteristics, including a breakdown by race, national origin and sex;
- (4) a detailed narrative description of the recipient's employment policies and practices and an analysis of their effects on the employment of women and minorities;
- (5) a program of remedial or preventative action to correct employment disparities based on race, sex or national origin;
- (6) goals and timetable to correct underutilization of women and minorities;
- (7) a procedure for publicizing and disseminating the plan to all employees, applicants and the general public;
- (8) a procedure for prompt and uniform handling of complaints of employment discrimination.

(e) The enumeration of specific requirements for an affirmative action plan does not limit the authority of the Corporation to require other elements in Recipients' Affirmative Action Plans in the presence of a past history of non compliance.

D. Conduct of Investigation and Reviews

§ _____ Pre-Funding Compliance

(a) Prior to entering into any grant or contractual relationship with an applicant for Corporation funds, the [Regional Director,

Director of Field Services, Director of the Office of Equal Opportunity] or his/her designee shall review the applicant for compliance with this part and make a written determination of such compliance. The basis of such a determination shall be the submission of an assurance of compliance and a review of the compliance data and information submitted by the applicant as well as any monitoring reports on file with the Corporation. Where a determination cannot be made from this data, the Corporation will require the submission of necessary additional information and take additional steps such as communicating with local government officials or protected class organizations and conducting field reviews.

(b) No application for funding shall be approved unless it is determined that the applicant is in compliance with this part or the applicant has agreed in writing to take necessary enumerated steps within a stated period to come into compliance. Such agreement must be approved by the [appropriate Corporation official] or his/her designee and be made part of the conditions of the grant or terms of the contract.

§ _____ Post-funding monitoring

(a) During the course of yearly monitoring activities, the Regional Office shall seek to review those recipients which have the greatest disparity in the delivery of legal services on any basis prohibited by this part or which appear to have the most serious systemic employment problems. Selection for review shall be made on the basis of the following factors:

- (1) The relative disparities between the percentages of

potentially eligible minority and female clients in the recipient's service are and the percentages of minorities and females actually receiving services;

(2) The relative disparities between the percentage of minorities and females in the relevant labor market and the percentage and distribution of minorities and females in the recipients' work force;

(3) the number and nature of complaints filed against the recipient with the Corporation or other appropriate agencies; and

(4) the scope of problems revealed as a result of an investigation filed with the Corporation or other agency.

If the monitoring process finds deficiencies the [appropriate Corporation official] or his/her designee shall notify the recipient [and anyone else?] in writing of:

(1) Preliminary findings;

(2) Recommendations for achieving voluntary compliance, where appropriate; and

(3) the opportunity to engage in voluntary compliance negotiations, where appropriate.

(d) If within ___ days of the Corporation's recommendations for achieving voluntary compliance has not been secured, or the preliminary findings have not been shown to be false, the [appropriate Corporation official] shall make a formal written determination of non-compliance and the Corporation shall undertake the imposition of such sanctions as may be appropriate under Subpart E of this part.

(e) All agreements to come into voluntary compliance shall be in writing, shall set forth the specific steps the recipient has agreed to take, and shall be signed by [the appropriate Corporation official] and an official of the recipient with authority to legally bind the recipient.

§ _____ Complaint Process

(a) Recipients shall adopt a complaint procedure for the prompt and uniform handling of complaints of employment discrimination and discrimination in the delivery of legal services. This procedure shall be in writing and shall be approved by [the appropriate Corporation official]. The procedure shall be made known to all recipient employees, applicants for employment, clients and interested members of the public.

(b) A complainant may file a complaint directly with the Corporation's Office of Equal Opportunity alleging discrimination in the delivery of services or a pattern and practice of employment discrimination.

(c) [should the procedure for acting on a complaint be set out here along the lines of § _____ (c) (d) (e) (compliance reviews) or should a general statement about prompt and uniform resolution be made? Would the Office of Equal Opportunity like to set out its currently used complaint resolution procedure here?].

(d) No recipient shall intimidate, threaten, coerce, retaliate or discriminate against a person in order to interfere with any right secured by this part or applicable federal or state law, or because he/she has made a complaint, testified, assisted or

participated in any manner in any investigation, proceeding or hearing under this part.

E - Procedure of Effecting Compliance

§ _____ General

(a) Failure to comply with this part shall be regarded by the Corporation in the same manner as the Corporation regards a recipient's failure to comply with any other section of the Act or implementing regulations.

§ _____ Imposition of Sanctions

(a) The procedures described in Part 1618 and [short-funding regulation] apply to any alleged violation of this part by a legal services program.

F - Miscellaneous

§ _____ The role of the Corporation

(a) The Corporation shall, to the fullest extent possible, seek the cooperation of recipients in obtaining compliance with this part, shall provide assistance and guidance to recipients to help them comply voluntarily with this part and shall issue such guidelines and instructions as may be appropriate to provide such assistance and guidance.

LEGAL SERVICES CORPORATION

MEMORANDUM

DATE: September 30, 1980
TO: Committee on Operations
FROM: Mario Lewis, General Counsel
SUBJECT: Short-funding

Clint Lyons and I will give an oral report on the question of short-funding at the October 14, 1980 meeting.

LEGAL SERVICES CORPORATION

MEMORANDUM

DATE: September 30, 1980
TO: Committee on Operations
FROM: Mario Lewis, General Counsel
SUBJECT: Proposed Modifications of Part 1607

Clint Lyons and Linda Perle will give a oral report on the status of the discussion regarding proposed modifications of Part 1607.