

§ 10.10 New plans or report forms.

- (C) \* \* \*
- (1) \* \* \*
- (iii) [Deleted]

(5) Consultations within the Federal Government. When data is tabulated, it is to be done in a manner that will maximize its usefulness to other government agencies. Also, sponsoring agencies are responsible for ensuring that the data they collect does not unnecessarily duplicate data already available in the Federal Government. A showing must be made that other Federal agencies (whether or not subject to this part) which collect similar data have been contacted (other than through the FEDERAL REGISTER Notice) and were given the opportunity to comment on the proposed plan or report form.

(i) Give the names and positions of the representatives of other Federal agencies with whom the plan or report form was discussed and state the comments made and the disposition of the comments.

(ii) Indicate specifically any similar data already available in the subject field and why it cannot be used for this purpose.

(iii) The agency will maintain and make available for GAO review copies of written comments, formal or informal, of other Federal agencies.

(6) Consultations outside the Federal Government. Potential respondents and other interested parties must have been given the opportunity to comment on the proposed plan or report form prior to its submission to GAO for clearance. As a minimum, an opportunity for interested parties to comment must be given through a FEDERAL REGISTER Notice.

(i) Give names of persons and their companies, organizations, or associations, who commented on the proposed plan or report form. Summarize the comments received and the disposition of those comments. Particular emphasis must be given to explaining why comments cannot be adopted.

(ii) The agency will maintain and make available for GAO review copies of written comments from respondents and other interested parties.

(7) Estimation of compliance burden. To minimize the compliance burden on persons affected and to improve governmental efficiency, each agency will consider and determine, in connection with each plan or report form submitted, whether the proposed plan or report form exceeds the limits of reasonable needs or practical utility, with respect to the number of respondents, frequency of collection or difficulty of the items and whether all items of information to be furnished or recorded are essential to the central purpose of such plan or report form. Special consideration will be given to the burden on individuals, small business, and other organizations with limited clerical, financial management and statistical staffs. The level of detail

supporting the estimate of burden should correspond to the complexity and burdensomeness of the proposed plan or report form.

(i) Evidence must be presented that sufficient attention has been given to weighing respondent burden against possible benefits that will result from the information collection. Specify the efforts that have been made to minimize respondent burden.

(ii) Explain the basis used in developing the figure shown in item 15e "Estimated average number of man-hours required per person" of Standard Form 83. Estimates should be based on the most reliable information available including experience gained from a pre-test or use of related forms and estimates offered by interested parties. If there are significant differences between the estimates contained on the Form 83 and the estimates provided by interested parties, particularly potential respondents, these differences must be explained.

(iii) In developing an estimate of compliance burden, all factors affecting the burden must be taken into account. Provide a detailed explanation of what is involved in completing the proposed report form, including a discussion of the availability of the data, the time needed to gather and compile the data, and the clerical time needed to complete the form.

(iv) Where the compliance burden is expected to vary considerably because of respondent size or complexity, a range of such estimated burden must be shown, with an explanation of the variation and an estimate of the average time per response included.

(44 U.S.C. 3512(f), added by sec. 409(b), 87 Stat. 593. Interpret or apply (44 U.S.C. 3512 (a), (c), (d)))

[SEAL]

ELMER B. STAATS,  
Comptroller General  
of the United States.

[FR Doc.76-6450 Filed 3-4-76;8:45 am]

**LEGAL SERVICES CORPORATION**

[ 45 CFR Part 1600 ]

**RESTRICTIONS ON CERTAIN ACTIVITIES**

**Picketing, Boycotts, Strikes, Illegal Activities; Legislative and Administrative Representation**

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996f ("the Act").

Temporary regulations regarding picketing, boycotts, strikes, illegal activities; legislative and administrative representation, were published September 12, 1975 (40 FR 42362) and became effective October 14, 1975.

Pursuant to Section 1008(e) of the Act, the Corporation hereby affords notice and publishes for comment the following proposed regulations regarding picketing, boycotts, strikes, illegal activities; legislative and administrative representation,

which revise the temporary regulations.

Section 1600.2 has a new definition of eligible client which refers to the Act.

The provisions of Section 1006(b)(5) of the Act, which prohibit employees of the Corporation or of any recipient from engaging in or encouraging others to engage in certain activities "while carrying out legal assistance activities under the Act," are the subject of these proposed regulations. Employees, including attorneys, are deemed to be carrying out legal assistance activities under the Act at all times during the employee's working hours or while utilizing resources provided by the Corporation or recipient. An attorney's duties to his clients cannot be confined to the working hours of the normal business day. Accordingly, the legal services attorney is deemed to be carrying out legal assistance activities under the Act whenever the attorney is providing legal advice or representation to an eligible client with whom the attorney has established an attorney-client relationship or whenever the attorney could reasonably be expected to provide such advice or representation to an eligible client with whom the attorney has established an attorney-client relationship. It is of the highest importance that attorneys retain their ability to render legal advice and representation to clients with the detached judgment that is undetermined when an attorney becomes enmeshed in the very matters about which a client seeks or may need to seek legal counsel. Thus attorneys must avoid all situations in which their ability to provide effective advice and representation is compromised. The organization of clients' public demonstrations or picketing, strikes or boycotts by an attorney is a specific form of this problem that was of special concern to Congress in enacting the Act.

Section 1600.3(a)(2) reaffirms that the prohibition against "encouraging" others to engage in prohibited activities does not extend to an attorney's providing legal advice and representation for an eligible client with respect to such client's legal rights and responsibilities, or otherwise qualify the professional responsibilities of an attorney to his clients.

There are no changes in § 1600.4 legislative and administrative representation.

New language is found in § 1600.5 providing for appropriate procedures to be established for the enforcement of §§ 1600.3 and 1600.4.

Public comment will be received by the Corporation at its headquarters offices, 733-15th Street, NW., Suite 700, Washington, D.C. 20005 on or before April 5, 1976. Comments may be accompanied by memorandum or brief in support thereof. Received comments may be seen at the above offices during business hours Monday through Friday.

Final regulations will be issued by the Corporation after the Board of Directors has reviewed and considered public comment pursuant to this notice.

Sec.	
1600.1	Purpose and scope.
1600.2	Definitions.
1600.3	Picketing, boycotts, strikes, legal activities.
1600.4	Legislative and administrative representation.
1600.5	Enforcement.

**AUTHORITY:** Secs. 1006(b)(5), 1011, 1008(e), P.L. 93-355, 83 Stat. 378, 382, 387, (42 U.S.C. 2996(b)(5), 2996j, 2996g)

#### § 1600.0 Purpose and scope.

The purpose of these proposed regulations is to implement and enforce provisions of sections 1006(b)(5), 1007(a)(5), and 1011 of the Act. Unless otherwise indicated, they shall apply to the Corporation, its employees, its recipients, and the employees of its recipients. Nothing contained herein shall affect the applicability of the other provisions of the Act, including the rights, duties and restrictions contained therein, to the Corporation, its directors, officers and employees, and to the recipients, and the employees and staff attorneys of the recipients.

#### § 1600.2 Definitions.

(a) "Act" means the Legal Services Corporation Act of 1974, Pub. L. 93-355, 83 Stat. 378, 42 U.S.C. 2996-2996j, 2971e, 2996b note;

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

(c) "Corporation" means the Legal Services Corporation established under the Act;

(d) "Eligible client" means an eligible client as defined in Section 1002(3) of the Act;

(e) "legal assistance" means the provision of any legal services consistent with the purposes and provisions of the Act;

(f) "recipient" means any grantee, contractee, or recipient of financial assistance described in clause (A) of section 1006(a)(1) of the Act; and

(g) "staff attorney" means an attorney who receives more than one-half of his annual professional income from a recipient organized solely for the provision of legal assistance to eligible clients under the Act.

#### § 1600.3 Public demonstrations or picketing, boycotts, strikes and activities.

(a) No employee of the Corporation or of any recipient (except as permitted by law in connection with such employee's own employment situation), while carrying out legal assistance activities under the Act, shall engage in or encourage others to engage in, any public demonstration or picketing, boycott or strike.

(1) For the purposes of this regulation, an employee of the Corporation or of any recipient is deemed to be "carrying out legal assistance activities under the Act."

(i) During the employee's working hours; or

(ii) When the employee utilizes resources provided by the Corporation or a recipient, including (but not limited to) office supplies, secretarial assistance,

staff assistance, telephone and office space; or

(iii) At all times, if the employee is an attorney, during which the attorney is providing or could reasonably be expected to provide legal advice or representation to an eligible client with whom the attorney has established an attorney-client relationship.

(2) For the purposes of this regulation, the prohibition against "encouraging" others to engage in any public demonstration or picketing, boycott or strike while carrying out legal assistance activities under the Act does not prohibit an attorney from providing legal advice or representation to an eligible client regarding the client's legal rights and responsibilities with respect to such activities, nor does it prohibit the attorney from performing acts necessary to carry out his professional responsibilities to an eligible client such as the following:

(i) Fully informing and advising the client of the existence of available alternatives, including public demonstrations or picketing, boycotts or strikes, and how the client may lawfully engage in such alternatives;

(ii) Advising, recommending and counseling the client concerning the effectiveness of available alternatives, including public demonstrations or picketing, boycotts or strikes;

(iii) Being present at a public demonstration or picketing, boycott or strike for the purpose of providing legal advice or representation to a client;

(3) An attorney may not, while carrying out legal assistance activities under the Act, do acts such as the following:

(i) Organize or assist in the organization of a public demonstration or picketing, a boycott or strike;

(ii) Coerce, direct or otherwise usurp an eligible client's rightful authority to determine which alternatives, including public demonstrations or picketing, boycotts or strikes, should be adopted.

(b) No employee of the Corporation or of any recipient shall, at any time engage in or encourage others to engage in those activities prohibited by section 1006(b)(5)(B) of the Act. *Provided, however,*

That nothing in this subsection of the regulations shall be interpreted to mean that the prohibition against "encouraging" others to engage in the specified activities prohibits an attorney from providing legal advice or representation to an eligible client regarding the client's legal rights and responsibilities with respect to such activities.

#### § 1600.4 Legislative and administrative representation.

No funds made available to recipients by the Corporation shall be used at any time, directly or indirectly, to influence the issuance, or revocation of any executive order or similar promulgation by a 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, except where:

(a) Representation by an attorney as an attorney for any eligible client is necessary to the provision of legal advice and representation with respect to such clients legal rights and responsibilities (which shall not be construed to permit a recipient or an attorney to solicit a client for the purpose of making such representation possible, or to solicit a group with respect to matters of general concern to a broad class of persons as distinguished from acting on behalf of any particular client); or

(b) A governmental agency, a legislative body, a committee, or a member thereof requests personnel of any recipient to make representations thereto.

#### § 1600.5 Enforcement.

(a) The Corporation shall have authority, in accordance with procedures set forth at § 1067.1-4(b) of this title (relating to suspension) or §§ 1067.1-5 through 1067.1-11 of this title (relating to termination):

(1) To suspend or terminate the employment of any employee of the Corporation who violates the provisions of § 1600.3 of this title; and

(2) To suspend or terminate financial assistance to any recipient which fails to prohibit activities proscribed by the Act or by §§ 1600.3 and 1600.4 of this title; *Provided,* That (i) no suspension of employment or financial assistance shall be continued for longer than 30 days unless the recipient or employee of the Corporation is provided notice and an opportunity for a hearing in accordance with the procedures set forth in §§ 1067.1-5 through 1067.1-11 of this title, and (ii) the term "OEO" in the above-referenced regulations shall mean the Corporation and the term "responsible OEO official" shall mean the President of the Corporation, or, if no President is in office, the Chairman of the Board or his designee.

(b) Recipients shall establish and utilize procedures for the enforcement of §§ 1600.3 and 1600.4 of this title, including the following:

(1) Advice to employees with respect to their responsibilities under §§ 1600.3 and 1600.4;

(2) Procedures, consistent with the notice and hearing requirements of Section 1011 of the Act, for determining whether an employee has violated the provisions of Sections 1600.3 or 1600.4, and for determining the appropriate sanction to be imposed for such violations, including:

(i) Administrative reprimands if such violations are found to be minor and unintentional, or otherwise affected by mitigating circumstances;

(ii) Suspension and termination of employment; and

(iii) Other procedures appropriate for the enforcement of this regulation.

E. CLINTON BAMBERGER, Jr.,  
Executive Vice-President  
Legal Services Corporation.

[FR Doc. 76-6907 Filed 3-4-76; 8:45 am]