

certain terms not previously defined to bring the definitions into conformance with more recent legislative changes and increasingly complex relationships within the national legal services program.

EFFECTIVE DATE: June 20, 1984.

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SUPPLEMENTARY INFORMATION: On February 28, 1984, the Legal Services Corporation published in the Federal Register (49 FR 7255) a proposed rule containing new and revised definitions pursuant to the Legal Services Corporation Act, as amended. Interested parties were given thirty days, until March 29, 1984 to submit comments on the proposed rule. Thirty comments were received and given full consideration. The final rule contains modifications made in response to these comments.

The definitions issued pursuant to the Act have not been revised since they were published on May 5, 1978. The Corporation and recipient relationships have grown dramatically in complexity since that time. Thus, the definitions are no longer as explanatory as they should be, nor do they reflect changes in authorizing legislation or clarification of Congressional intent.

These definitions clarify the previously issued regulations in three general ways: (1) They refer to the reauthorization legislation which was adopted in 1977; (2) they acknowledge additional legislative direction given through continuing resolutions and appropriations language by referring to "other applicable law"; and (3) they acknowledge the complex organizational nature of legal services grantees by specifically including additional descriptive designations such as "subrecipients".

In addition, the proposed regulation are consistent stylistically with other regulations, and conform to clear language in the Act. Terms which are included in the proposed definitions and which were not previously defined in either the Act or the regulations are "financial assistance", and "political".

The definition of "eligible client" was modified in response to comments to delete the words "financially unable to afford legal assistance and". The Corporation's eligibility regulations, 45 CFR Part 1611, set the standards which must be met by a client to determine eligibility. The deleted words were redundant, and might have created a mistaken impression that a separate, additional standard was thereby being

imposed. The words "these regulations" were added to indicate that eligibility standards are stated elsewhere in the regulations.

A number of comments expressed the opinion that the Corporation's new definition of "financial assistance" was unduly restrictive in limiting that term to funding granted under section 1006(a)(1)(A) of the Act. They argued that it should apply to all LSC grants or contracts relating to the provision of legal assistance. After careful consideration of the matter, the Corporation has determined that the use of that term in the Act itself justifies the interpretation given in the definition. This definition will be retained.

The definition of the term "lobbying" was deleted on the basis of comments, and due to the fact that, with one minor exception, the term is used only in Part 1612 of the regulations.

On the basis of comments received, the definition of the term "political" was modified by deleting of the words "policy positions", and adding the words "ballot measures" after the phrase "public office". The deletion was made because comments indicated that the inclusion of that term would appear to prohibit testimony before legislative and administrative bodies. The addition was made to bring the language into conformance with the appropriations rider.

A number of comments were received concerning the proposed definition of "public funds". The major objection arose from the language in the definition which appeared to make funds received indirectly from other governmental agencies, such as under Title III of the Older Americans Act, susceptible to the Corporation's regulations. Therefore, to clarify that such a result was not intended, the words "directly from" after the words "from the Corporation or" have been deleted.

Finally, in response to comments, the definition of "recipient" has been modified in the final rules by deletion of the words "qualifying to receive and", to make it clear that no separate and distinct standard was implied.

List of Subjects in 45 CFR Part 1600

Legal services.

For the reasons set out in the preamble, 45 CFR Part 1600 is revised as follows:

PART 1600—DEFINITIONS

§ 1600.1 Definitions.

As used in these regulations, Chapter XVI, unless otherwise indicated, the term—

LEGAL SERVICES CORPORATION

45 CFR Part 1600

Definitions

AGENCY: Legal Services Corporation.

ACTION: Final rule.

SUMMARY: This final rule revises certain of the definitions of terms used in the Corporation's regulations and adds

"Act" means the Legal Services Corporation Act, Pub. L. 93-355 (1974), as amended, Pub. L. 95-222 (1977), 42 U.S.C. 2996-29961.

"Appeal" means any appellate proceeding in a civil action as defined by law or usage in the jurisdiction in which the action is filed.

"Attorney" means a person who provides legal assistance to eligible clients and who is authorized to practice law in the jurisdiction where assistance is rendered.

"Corporation" means the Legal Services Corporation established under the Act.

"Director of a recipient" means a person directly employed by a recipient in an executive capacity who has overall day-to-day responsibility for management of operations by a recipient.

"Eligible client" means any person determined to be eligible for legal assistance under the Act, these regulations or other applicable law.

"Employee" means a person employed by the Corporation or by a recipient, or a person employed by a subrecipient whose salary is paid in whole or in major part with funds provided by the Corporation.

"Fee generating case" means any case or matter which, if undertaken on behalf of an eligible client by an attorney in private practice, reasonably may be expected to result in a fee for legal services from an award to a client from public funds or from an opposing party.

"Financial assistance" means annualized funding from the Corporation granted under 1006(a)(1)(A) for the direct delivery of legal assistance to eligible clients.

"Legal assistance" means the provisions of any legal services consistent with the purposes and provisions of the Act or other applicable law.

"Outside practice of law" means the provisions of legal assistance to a client who is not eligible to receive legal assistance from the employer of the attorney rendering assistance, but does not include, among other activities, teaching, consulting, or performing evaluations.

"Political" means that which relates to engendering public support for or opposition to candidates for public office, ballot measures, or political parties, and would include publicity or propaganda used for that purpose.

"President" means the President of the Corporation.

"Public funds" means the funds received directly or indirectly from the Corporation or a Federal, State, or local

government or instrumentality of a government.

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

"Staff attorney" means an attorney more than one half of whose annual professional income is derived from the proceeds of a grant from the Legal Services Corporation or is received from a recipient, subrecipient, grantee, or contractor that limits its activities to providing legal assistance to clients eligible for assistance under the Act.

"Tribal funds" means funds received from an Indian tribe or from a private foundation for the benefit of an Indian tribe.

(Pub. L. 93-355, 86 Stat. 378, 42 U.S.C. 2996-2996)

Dated: May 15, 1984.

Alan R. Swandiman,

General Counsel.

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