

LEGAL SERVICES CORPORATION

45 CFR Part 1612

Restrictions on Lobbying and Certain Other Activities

AGENCY: Legal Services Corporation.
ACTION: Final rule.

SUMMARY: On January 30, 1987, LSC's Board of Directors approved an amended version of Part 1612 of its regulations for final publication. A revised rule was necessary because the Corporation's FY 1987 appropriations acts (Pub. L. 99-500 and 99-591) prohibited the expenditure of LSC funds to implement or enforce either the 1984 or 1986 versions of Part 1612. The general purpose and effect of the amended Rule 1612 is to clarify restrictions on certain activities of legal services programs. These latest revisions principally address four areas of concern: Payment of dues to advocacy groups, recordkeeping, participation in programs with groups that lobby, and the use of private funds.

Congress has been given the fifteen-day notice required by section 606 of Pub. L. 99-190. This revision of Part 1612 will go into effect thirty days after publication in the Federal Register.

EFFECTIVE DATE: August 28, 1987.

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SUPPLEMENTARY INFORMATION: Notice of reconsideration of the final rule, as published on August 1, 1986, was published in the Federal Register on November 7, 1986 (51 FR 40422). Interested parties were given 30 days, until December 8, 1986, in which to submit comments. A total of 45 comments, 37 of which were timely, were received and considered by the Corporation. The comments were received from recipient program directors, state bar organizations, the American Bar Association and the academic community. Public comment was heard by the LSC Board's Operations and Regulations Committee on December 15, 1986, and on January 29, 1987. On January 29, the full Board considered and approved the final rule for publication.

In revising the regulation, which governs the array of legal services available to needy members of our communities, the purpose of the Board has been to clarify what programs can be consistent with Congressional intent, *bona fide* representation of eligible clients. To that end, the Board has,

through the regulatory process, attempted to explicate and apply certain statutory restrictions. The significant changes effected by the regulation are summarized below. Excepting those parts of the Rule that have been eliminated or amended by the Board's action on January 29, 1987, and are discussed, *infra*, explanation of provisions of Part 1612, as set forth in the Preamble to the Final Rule published in the August 1, 1986 Federal Register (51 FR 27530-27548), is *pro tanto* retained and is herein incorporated by reference. Those sections of the 1986 Preamble which are no longer applicable are the discussions of: (1) The use of LSC funds to maintain separate offices, *see* 51 FR 27542; (2) the payment of dues with LSC funds, *id.* at 27542; (3) transportation costs, *id.* at 27543; (4) attendance at coalition meetings, *id.* at 27543; (5) the documentation requirements for § 1612.5 (c), (e) and (f), including discussion of the content of a client's retainer form and reports to a recipient's Board on the exhaustion of appropriate judicial and administrative relief, *id.* at 27543-27544; (6) the restrictions on the use of LSC funds for dissemination of publications to the public at large or eligible clients generally, *id.* at 27545; (7) the restrictions on organizing, but only to the extent that the discussion would exclude the organization of clients' councils, *id.* at 27546-27547; (8) timekeeping requirements, *id.* at 27547; and (9) private funds, but only to the extent that the discussion fails to recognize that the LSC Board has added three additional exceptions to the prohibition on using private funds for lobbying, *id.* at 27548.

The entire Rule, as revised, is republished for clarity and ease of use.

Section 1612.1 Definitions

The definition of "legislative activities" in § 1612.1(g) was amended to exclude adjudicatory proceedings or negotiations involving the *bona fide* representation of an eligible client with respect to a particular application, claim, or case.

The definition of "publicity and propaganda" in paragraph (m) has a brief amendment. The words "an indirect" have been changed to "amounts to a direct". The Corporation will, of course, be required to decide on a case-by-case basis whether the circumstances surrounding the communication, when taken as a whole, reasonably amount to a direct suggestion to the public to take part in proscribed activities. The words "pending or proposed" have been inserted before "legislation" in order

that the language in the regulation more fully conform to that in the appropriations act.

The last sentence in the definition of prohibited "publicity or propaganda" has been added to clarify its scope. Excluded from the prohibition is neutral reporting of the content, status, or effect on eligible clients of pending or proposed legislation. The term "neutral reporting" has been added to make clear that advocacy reporting is not allowed. For instance, a newsletter article that appears to be fairly neutral in its report of legislation becomes prohibited advocacy if the reader is told how to contact his representative or the committee dealing with the legislation. Information on how to support or oppose legislation is also considered advocacy.

Section 1612.2 Legal Assistance Activities

The phrase "[e]xcept as hereinafter provided" refers to § 1612.13 which controls how private funds may be used.

Section 1612.3 Legislative Activity in General

This section delineates those activities which may not be funded with LSC money. Paragraph (a) which proscribed the use of funds to maintain separate offices for the sole purpose of engaging in political or legislative activities was deleted as unnecessary.

Former paragraph (b), now paragraph (a), was changed to allow the payment of dues to organizations which engage in, *inter alia*, political or legislative activities, provided the dues are not used to engage in legislative activities for which LSC funds cannot be directly used. The recipient retains the burden to show with appropriate documentation that LSC funds have not been improperly used. The prohibition in this paragraph does not apply to dues paid to certain bar associations such as national, state, and local bars that have a general purpose and general membership. This definition precludes payments to special interest bar associations such as the Federalist Society, the Republican National Lawyers' Association, or the National Legal Aid and Defender Association.

Paragraph (b), formerly paragraph (c), prohibits the use of LSC funds to pay the transportation costs to legislative or administrative proceedings except for a limited number of persons. LSC funds may be used to pay the transportation costs for recipient employees or law students, but only if they are directly engaged in permissible activities.

In order for employees to have their transportation paid for, they must be actually engaged in permitted legislative or administrative representation. Nevertheless, a new provision has been added making it permissible to use LSC funds to pay for transportation costs for employees if they are being trained to handle administrative adjudicatory proceedings, even if they are not actively involved in the proceedings.

Funds made available by the Corporation may also be used to pay transportation costs for the client and the client's family when necessary and appropriate. If is necessary and appropriate to use LSC funds to pay transportation costs, for example, when the client has an elderly parent or dependent children who cannot be left alone at home while the client attends the proceedings. This provision does not mean that any family member may have his costs paid for merely because the member is related to the client.

A suggestion that "lay advocates" have their transportation costs paid for was rejected, because the term is too vague.

Paragraph (f), formerly paragraph (g), was amended to focus on the purpose of the meeting, rather than the principal purpose of the coalition. If the principal purpose of a coalition meeting is to discuss or engage in legislative or political activities, program funds may not be used.

Section 1612.5 Permissible Activities on Behalf of Eligible Clients

The requirement in § 1612.5(b) that the program director document the need for relief to an eligible client has been deleted as unnecessary paperwork. Recipients are left to determine how best to properly prove compliance.

In paragraph (c) "eligible" was inserted before "client" to clarify that a client, in order to receive assistance from a program, must be "eligible" according to the requirements of Part 1611. A suggestion to drop the word "current" before "eligible client" was rejected. Language was also inserted adding "that client's" before "specific and distinct legal problems" in order to insure that the legal problems communicated are those of a specific, current, eligible client.

The type of testimony allowed before a legislative committee under this paragraph was broadened from testimony on the specific legal problems of the client to testimony relating to the legal problems of the client. The change accommodates the reality that when a person testifies before a legislative committee, it is difficult to limit the scope of inquiry.

The documentation requirements of paragraph (c) have also been changed. The requirement that the project director or chief executive make a prior determination that certain qualifications have been met to justify a communication under this paragraph has been changed to require the official's written approval after having determined that the delineated criteria have been met. This language better tracks the language in the appropriations act. One of the criteria to be considered has been moved from § 1612.5(e)(5) to § 1612.5(c)(3).

Several documentation requirements were deleted in paragraph (e). Still required are: (1) Preservation of the content of written communications, (2) the director's written approval of the communications, and (3) the client's retainer form. The information required in the retainer form has also been changed. Prior language required a statement by the client in his own words explaining the interest for which he seeks assistance. There was concern that the requirement would interfere with the attorney/client relationship. Because LSC experience has indicated that the retainer forms do not play a significant role in a monitoring effort, the provision has been amended to require only that the legal interest be identified by the client.

In paragraph (f) subsection (1) the requirement that the periodic reports to the governing body include a report on the exhaustion of appropriate judicial and administrative relief has been deleted to eliminate paperwork. The substantive requirement mandated by the appropriations act that judicial and administrative relief be explored and exhausted remains. If the Corporation should question a certain action, proof of judicial and administrative exhaustion may be required. The Boards of local programs are still encouraged to require such documentation.

In paragraph (g) the definition of "private relief bill" has been expanded to include a private relief bill "as defined by the legislative body to which the communication is addressed." This additional language recognizes that there are at least two types of private relief bills. One type provides for the direct compensation for claims against the government in cases where there is no other remedy. The second type waives sovereign immunity so that a citizen can take his case to court. Of course, LSC recognizes that an individual legislature may otherwise define bills affording private relief.

Two new subsections have been added to paragraph (h). Subsection (4) allows an employee to participate in

meetings or serve on committees of bar associations as long as the participation does not include grassroots lobbying. Here, "bar associations" includes only those associations allowed under § 1612.3(a); that is, national, state and local bars that have a general purpose and general membership.

Subsection (5) allows a lawyer, pursuant to his duty to fully inform his client, to tell his client that he has a right to communicate with public officials.

Section 1612.6 Permissible Activities Undertaken Pursuant to Request of Public Officials

In paragraph (c) the words "specific concern" were added before the word "regulation". This use of this term is meant to indicate those instances where a public official requests information on a specific subject. This provision, for instance, excludes a request for information on a broad area such as the housing needs of the poverty population, but allows a response to a request for information on a specific issue such as whether public subsidy of low-rent housing or public subsidy of private home ownership is more costly. The intent of § 1612.6 is to allow informational responses by recipients. It is not the intent to allow recipient employees to become staff researchers for legislative offices.

Section 1612.7 Grassroots Lobbying

In paragraph (b), subsection (5) the word "allocable" replaces "incident". "Allocable" is considered to be a better accounting term. Paragraph (b) identifies the persons to whom communications paid for out of LSC funds may be sent. They may be sent to the Corporation, recipients, recipient staff and board members, private attorneys representing eligible clients, and eligible clients currently being represented on a matter directly related to the legislation. They may not be sent to the public at large or to eligible clients generally, unless all references in the communication to pending or proposed legislation are incidental to the topic of publication. A reference to legislation would not ordinarily be considered incidental if a newsletter discusses proposed agency regulations for many pages. On the other hand, an article that explains over several pages how agency hearings are held may correctly include a reference of several paragraphs to pending or proposed legislation that would change the procedure. However, if the incidental reference falls within the definition of "publicity and propaganda", it is a prohibited communication under this section.

Section 1612.10 Organizing

The last sentence in paragraph (a) has been added to make clear that the organizational provisions do not prohibit informational meetings among legal services staff. Getting people together to discuss common problems and concerns about different areas of law is not organizing, it is informational. Also, the prohibitions do not apply to organizations composed exclusively of eligible clients formed for the sole purpose of advising a legal services program about the delivery of legal services. Such an organization is a clients' council. Although the LSC Act prohibits organizing, it also encourages eligible client contribution and for years recipients have been permitted to organize clients' councils.

Section 1612.11 Accounting

All references to timekeeping and timekeeping requirements have been deleted. Although the Board has consistently expressed the view that timekeeping documentation should be required for documentation purposes, the Board decided to delete the requirements and will review the issue at a later date. The burden is still on recipients, however, to establish that all of their expenditures are proper. As a practical matter, this may require keeping time records.

Section 1612.12 Enforcement

The last sentence in § 1612.12(b) has been deleted. Instead, the reference to the Corporation's authority to recover costs under section 1630 has been integrated into the first sentence.

Section 1612.13 Private Funds

Consistent with its past policy and its understanding of pertinent statutory provisions, the Corporation believes, fundamentally, that private funds provided for the provision of legal assistance and LSC funds should be subject to the same restrictions. However, the Board has been persuaded to allow certain exceptions to this principle and to permit private funds to be used in the instances delineated in paragraphs (b), (c) and (d). Paragraph (b) allows a recipient to engage in certain legislative activities, but only if assistance is requested by a current eligible client. The recipient may not solicit the client. The legislative activities engaged in by the recipient must also be necessary to the provision of advice and representation to the client with respect to the client's legal rights and responsibilities. Thus, the recipient may bring the client's legal matter to a public official's attention,

discuss solutions to the legal problem with the politician, write speeches, and work on committee reports. Grassroots lobbying is not, however, allowed under this provision.

Paragraph (c) allows a recipient to use private funds to pay reasonable annual dues to section 501(c)(3) organizations as long as the funds are not used for purposes prohibited by the Act and regulations adopted pursuant thereto.

Paragraph (d) allows the use of private funds to pay for publications that contain references to proposed or pending legislation. The two restrictions on the use of LSC funds for such publications delineated in § 1612.7 are not applicable here. Publications may be circulated to the public at large and to eligible clients generally, and references to pending or proposed legislation are not limited to being incidental to the topic of the publication. However, the publication may not contain any publicity or propaganda.

List of Subjects in 45 CFR Part 1612

Legal services, Restrictions on certain activities, Lobbying.

For the reasons set out in the preamble, 45 CFR Part 1612 is revised as follows:

PART 1612—RESTRICTIONS ON LOBBYING AND CERTAIN OTHER ACTIVITIES**Sec.**

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- 1612.12 Enforcement.
- 1612.13 Private funds.

Authority: Secs. 1008(b)(6), 1007(a) (5), (6) and (7), 1011, 1008(e), Legal Services Corporation Act of 1974, as amended (41 U.S.C. 2008(b)(6), 2008(a) (5), (6) and (7), 2008i, 2008g(e)); Pub. L. 95-431, 92 Stat. 1021; Pub. L. 95-68, 93 Stat. 416; Pub. L. 95-536, 94 Stat. 3186; Pub. L. 97-161, 90 Stat. 22; Pub. L. 97-377, 90 Stat. 1874; Pub. L. 98-103, 97 Stat. 1071; Pub. L. 98-268, 90 Stat. 1185.

§ 1612.1 Definitions.

(a) "Adjudicatory proceeding", as used in this part, means a proceeding by a Federal, State, or local agency, commission, authority or government corporation which makes a determination that is of particular rather than general applicability, that affects

private rights or interests, and that results in a final disposition, whether affirmative, negative, injunctive, or declaratory in form. The term does not include rulemaking but does include licensing.

(b) "Administrative lobbying", as used in this part, means any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or other device, intended or designed to influence any decision by a Federal, State or local official, agency, commission, authority or government corporation.

(c) "Administrative representation", as used in this part, means administrative lobbying carried out on behalf of an eligible client.

(d) "Grassroots lobbying", as used in this part, means publicity or propaganda intended or designed to support or defeat legislation pending before Congress or before State, county, or municipal legislative bodies, including any commission, authority or government corporation with rulemaking authority, or intended or designed to influence any decision by a Federal, State, county, or municipal administrative body or intended or designed to influence any decision by the electorate on a measure submitted to it for a vote.

(e) "Legal assistance activities", as used in this part, means any activity—

(1) Carried out during working hours or while on official travel;

(2) Using resources provided by the Corporation or a recipient, directly or through a subcontractor; or

(3) That, in fact, provides legal advice or representation to an eligible client.

(f) "Legislation", as used in this part, means any action or proposal for action by Congress, by a State legislature, or by any other body of governmental, municipal or local officials, whether elected or appointed, (including any commission, authority or government corporation with rulemaking authority) formulating a rule for the future or formulating a statement of general or particular applicability and future effect which is designed to implement, interpret, or prescribe law or public policy. The term includes, but is not limited to, action on bills, constitutional amendments, rules, regulations, the ratification of treaties and intergovernmental agreements, approval of appointments and budgets, adoption of resolutions not having the force of law, and approval or disapproval of actions of the executive. It does not include those actions of a legislative body which adjudicate the rights of individuals under existing laws (such as

action taken by a local council sitting as a Board of Zoning Appeals).

"Legislature" as used herein does not include any Indian Tribal Council.

(g) "Legislative activities", as used in this part, means administrative, legislative, and grassroots lobbying and liaison activities; but does not include adjudicatory proceedings or negotiations directly involving a client's legal rights or responsibilities with respect to a particular application, claim or case.

(h) "Legislative lobbying", as used in this part, means any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or any other device directly or indirectly intended to influence any Member of Congress or any other Federal, State or local elected nonjudicial official—

(1) In connection with any Act, bill, resolution or similar legislation;

(2) In connection with any referendum, initiative, constitutional amendment, or any similar procedure of the Congress, any State legislature, any local council, or any similar governing body acting in a legislative capacity. The term "similar procedure" as used in this part refers to legislative consideration of matters which by law must be determined by a vote of the electorate or matters relating to the structure of government itself, such as reapportionment;

(3) In connection with inclusion of any provision in a legislative measure appropriating funds to, or defining or limiting the functions or authority of, the recipient or the Corporation; or

(4) In connection with the conduct of oversight proceedings concerning the recipient or the Corporation.

(i) "Legislative representation", as used in this part, means legislative lobbying carried out on behalf of an eligible client.

(j) "Liaison activities", as used in this part, means activities designed to facilitate administrative, legislative, or grassroots lobbying, and includes, but is not limited to, such activities as attending legislative sessions or committee hearings, gathering information regarding pending legislation, and analyzing the effect of pending legislation.

(k) "Political activities", as used in this part, means those activities intended either to influence the making, as distinguished from the administration, of public policy or to influence the electoral process. Political activities include favoring or opposing current or proposed public policy and also include administrative, legislative, and grassroots lobbying.

(l) "Public policy", as used in this part, means an overall plan embracing the general goals and acceptable procedures of any governmental body. Public policy includes but is not limited to statutes, rules, and regulations already enacted by a governmental body.

(m) "Publicity or propaganda", as used in this part, means any oral, written or electronically transmitted communication or any advertisement, telegram, letter, article, newsletter, or other printed or written matter or device which contains a direct suggestion, or, when taken as a whole, amounts to a direct suggestion to the public at large or to persons outside of the recipient program (other than a client or group of clients currently represented by a recipient with regard to a matter directly related to the legislation, or their counsel or co-counsel) to contact public officials in support of or in opposition to pending or proposed legislation, or to contribute to or participate in any demonstration, march, rally, fundraising drive, lobbying campaign, letter writing or telephone campaign for the purpose of influencing the course of such legislation. "Publicity or propaganda" does not include communications which are limited solely to neutral reporting of the content or status of pending or proposed legislation or the effect which such legislation may have on eligible clients or on their legal representation; provided, however, that such communications may not provide information about whom to contact or how to support or oppose such pending or proposed legislation.

(n) "Rulemaking", as used in this part, means an agency process for formulating, amending, or repealing legislation.

§ 1612.2 Legal assistance activities.

Except as hereinafter provided, the provisions of this part shall apply to all legal assistance activities carried out with funds made available by the Legal Services Corporation or private entities.

§ 1612.3 Legislative activities in general.

No funds made available by the Corporation shall be used to—

(a) Pay dues exceeding \$100 per recipient per annum to any organization (other than a bar association), a purpose or function of which is to engage in political or legislative activities unless such dues are not used to engage in legislative activities for which LSC funds cannot be directly used. The burden shall be on each recipient to demonstrate through appropriate documentation that the prohibitions of this subparagraph have not been violated.

(b) Pay for transportation to legislative or administrative proceedings of persons other than employees, or law students directly engaged in the activities permitted under this section or witnesses entering appearances in such proceedings on behalf of clients of the recipient, except that this does not prohibit transportation of the client and the client's family where necessary and appropriate; this paragraph does not authorize payment of transportation expenses for employees not actually engaged in permitted legislative or administrative representation, unless they are being trained in how to handle administrative adjudicatory proceedings.

(c) Pay, in whole or in part, for the conduct of, or transportation to, an event if a primary purpose of the expenditure is to facilitate political or legislative activities or any activity which would be prohibited if conducted with funds made available by the Corporation;

(d) Pay for administrative or related costs associated with any activity prohibited by this part;

(e) Knowingly assist others to engage in legislative or political activities; provided, however, that this paragraph shall not be construed to prohibit the administrative or legislative representation permitted by § 1612.5; or

(f) Attend meetings of coalitions if a principal purpose of the meeting is to discuss or engage in legislative or political activities.

§ 1612.4 Legislative and administrative lobbying.

(a) None of the funds made available by the Legal Services Corporation may be used to pay for legislative lobbying, as defined in § 1612.1(h)(2), (3), and (4).

(b) None of the funds made available by the Legal Services Corporation may be used to pay for legislative lobbying as defined in § 1612.1(h)(1) or for administrative lobbying as defined in § 1612.1(b), except as provided in §§ 1612.5 and 1612.6.

§ 1612.5 Permissible activities on behalf of eligible clients.

(a) An employee of a recipient may provide administrative representation for an eligible client in an adjudicatory proceeding or in negotiations directly involving that client's legal rights or responsibilities with respect to a particular application, claim or case.

(b) Notwithstanding anything in this part to the contrary, an employee of a recipient may provide legal assistance to a current eligible client in a rulemaking proceeding, consistent with

the practices of the particular administrative official or body, on a particular application, claim or case directly involving the client's legal rights or responsibilities.

(c) An employee of a recipient may, upon the request of a current eligible client or clients, communicate directly with Federal, State or local elected officials for the sole purpose of bringing that client's specific and distinct legal problems to the attention of such officials. This provision authorizes written or oral communications notifying public officials or legislative committees of the client's problems and of the legal obstacles to the client's obtaining judicial or administrative relief; testimony before pertinent legislative committees relating to the legal problems of the client; or the provision of a legal analysis of the client's problems to officials. It does not authorize publicity or propaganda or any efforts to persuade members of the public to support or oppose the proposed legislation. Such communications may be made only if the project director or chief executive of such recipient has given prior written approval for such communications after having determined:

(1) That the client or each such client is in need of relief that can be provided by the official or the legislative body with which the official is associated;

(2) That appropriate judicial and administrative relief has been exhausted; and

(3) That such communications are not the result of participation in a coordinated effort to communicate with elected officials on the subject matter.

(d) No employee shall solicit a client for the purpose of making legislative or administrative representation possible.

(e) In connection with each communication authorized by paragraph (c) of this section, the project director shall maintain the following documentation:

(1) The content of each such communication if the communication is in writing;

(2) The director's written approval of such communication;

(3) A retainer in the form specified in § 1611.8, setting forth the specific legal interest of each client as identified by the client at whose request the communication was undertaken.

(f) The governing body of a recipient shall adopt a policy to guide the director of the recipient in determining when to approve a communication to a Federal, State or local official under paragraph (c) of this section. The policy adopted shall:

(1) Consistent with restrictions on disclosure of confidential information imposed by applicable law, require periodic reports to the governing body on the communications approved;

(2) Ensure that staff does not solicit requests or undertake communications with elected officials nor participate in a coordinated effort to provide communications on a particular subject;

(3) Require that, in determining the amount of effort to be expended in preparing the communication, the director take into account the recipient's priorities in resource allocation.

(g) Notwithstanding the prohibition in paragraph (c) of this section of communications to elected officials that do more than bring a problem to the official's attention, a project director may approve communications to elected officials requesting introduction of specific "private relief bills" as defined by the legislative body to which the communication is addressed, or, if not defined, for purposes of this part means bills allowing specifically named persons or groups to make or to be compensated for claims against a government for which there is no other remedy. The documentation required under paragraph (e) of this section shall be maintained in connection with such communications.

(h) Nothing in this or any other section is intended to prohibit an employee from—

(1) Communicating with a governmental agency for the purpose of obtaining information, clarification, or interpretation of the agency's rules, regulations practices, or policies;

(2) Informing a current client about a new or interpretation of the agency's rules, regulations, practices, or policies.

(2) Informing a current client about a new or proposed statute, executive order, or administrative regulation consistent with the provisions of § 1612.7;

(3) Communicating directly or indirectly with the Corporation for any purpose;

(4) Participating in meetings or serving on committees of her associations, provided such participation does not include grassroots lobbying; or

(5) Informing a client of the client's right to communicate directly with an elected official.

§ 1612.6 Permissible activities undertaken pursuant to request of public officials.

(a) To the extent compatible with meeting the demands for client service and priorities set by the recipient pursuant to Part 1629 of these regulations or to the extent compatible with the provision of support services to

recipients relating to the delivery of legal assistance, an employee may respond to a request from a governmental agency, elected official, legislative body, committee, or member made to the employee or to a recipient to testify, draft, or review legislation, or to make representations to such agency, official, body, committee, or member on a specific matter. This exception for responses to officials does not authorize communication with anyone other than the requesting party or an agent or employee of such party.

(b) No employee of the recipient shall, directly or indirectly, solicit or arrange a request from an official to testify or otherwise make representations in connection with legislation.

(c) Recipients shall adopt procedures and forms to document compliance with this section. Such documentation shall include contemporaneous documentation by the recipient which states the type of representation or assistance requested by the public official and identifies the specific concern, regulation, legislation, or executive or administrative order to be addressed.

§ 1612.7 Grassroots lobbying.

(a) No funds made available by the Corporation or by private entities shall be used for grassroots lobbying.

(b) No funds made available by the Corporation or by private entities shall be used to support the preparation, production, or dissemination of any article, newsletter, or other publication or written matter or other form of mass communication which contains any reference to proposed or pending legislation unless—

(1) The publication does not contain any publicity or propaganda;

(2) The publication does not contain directions on how to lobby generally or on particular legislation;

(3) The recipient's project director, or his or her designee, has reviewed each publication produced by the recipient prior to its dissemination for conformity to these regulations;

(4) The recipient provides a copy of any such material produced by the recipient to the Corporation within 30 days after publication; and

(5) Such funds are used only for costs allocable to the preparation, production, or dissemination of such publications to the Corporation, recipients, recipient staff and board members, private attorneys representing eligible clients, and eligible clients currently represented by a recipient with regard to a matter directly related to the legislation; but if the recipient circulates

the publication to the public at large, or eligible clients generally, any reference to pending or proposed legislation must be incidental to the topic of the publication.

§ 1612.8 Public demonstrations and activities.

(a) While carrying out legal assistance activities and while using resources provided by the Corporation, by private entities or by a recipient, directly or through a subrecipient, no person shall—

(1) Participate in any public demonstration, picketing, boycott, or strike, except as permitted by law in connection with the employee's own employment situation; or

(2) Encourage, direct, or coerce others to engage in such activities, or otherwise usurp or invade the rightful authority of a client to determine what course of action to follow.

(b) While carrying out legal assistance activities and while using resources provided by the Corporation, by private entities, or by a recipient, directly or through a subrecipient, no person shall at any time engage in or encourage others to engage in—

(1) Any rioting or civil disturbance;

(2) Any activity in violation of an outstanding injunction of any court of competent jurisdiction;

(3) Any other illegal activity; or

(4) Any intentional identification of the Corporation or any recipient with any political activity.

(c) Nothing in this section shall prohibit an attorney from—

(1) Informing and advising a client about legal alternatives to litigation or the lawful conduct thereof; or

(2) Taking such action on behalf of his client as may be required by his professional responsibilities or applicable law of any State or other jurisdiction.

§ 1612.9 Training.

(a) No funds made available by the Corporation or by private entities may be used for the purpose of supporting or conducting training programs that—

(1) Advocate particular public policies; or

(2) Encourage or facilitate political activities, labor or antilabor activities, boycotts, picketing, strikes or demonstrations, or the development of strategies to influence legislation or rulemaking; or

(3) Disseminate information about such policies or activities.

(b) To the extent compatible with meeting the demands for client service and priorities set by the recipient pursuant to Part 1620 of these

regulations or to the extent compatible with the provision of support services to recipients relating to the delivery of legal assistance, nothing in this section shall be construed to prohibit any training of attorneys or paralegal personnel necessary for preparing them—

(1) To provide adequate legal assistance to eligible clients;

(2) To advise any eligible client as to the nature of the legislative process in general as opposed to discussing a lobbying strategy for a particular bill;

(3) To inform any eligible client of his rights under any statute, order or regulation already enacted, or about the meaning or significance of particular bills; or

(4) To understand what activities are permitted or prohibited under relevant laws and regulations.

(c) No funds made available by the Corporation or by private entities may be used to pay for participation by any person or organization in training with regard to political or legislative activities, except for adjudicatory proceedings, or with regard to areas in which program involvement is prohibited pursuant to the provisions of the Act, of other applicable Federal law, or of Corporation regulations, guidelines or instructions.

§ 1612.10 Organizing.

(a) No funds made available by the Corporation or by private entities may be used to initiate the formation, or to act as an organizer of any association, federation, labor union, coalition, network, alliance, or any similar entity. No funds may be employed for any communication or any meeting to advocate that anyone organize or join any organization. The term "communication" does not include advice given an individual client during the course of legal consultation. This paragraph shall not be construed to apply to informational meetings attended primarily by persons engaged in the delivery of legal services at which information about new developments in poverty law and pending cases or matters are discussed and shall not apply to organizations composed exclusively of eligible clients formed for the sole purpose of advising a legal services program about the delivery of legal services.

(b) To the extent compatible with meeting the demands for client service and priorities set by the recipient pursuant to Part 1620 of these regulations or to the extent compatible with the provision of support services to recipients relating to the delivery of legal assistance, this section shall not be

interpreted to prevent recipients and their employees from providing legal advice or assistance to eligible clients who desire to plan, establish or operate organizations, such as by preparing articles of incorporation and by-laws.

§ 1612.11 Accounting.

(a) Recipients shall maintain separate records documenting the expenditure of funds for legislative activities. These records shall document the direct and indirect expenses, and the sources of the funds supporting all legislative activities, regardless of the sources of the funds employed.

(b) Recipients shall submit quarterly reports describing their legislative activities conducted pursuant to these regulations, together with such supporting documentation as specified by the Corporation, consistent with restrictions on disclosure of confidential or privileged information imposed by applicable law of any state or other jurisdiction. The Corporation may at any time specify the form in which these reports are to be submitted.

§ 1612.12 Enforcement.

(a) The Corporation shall have authority—

(1) To suspend or terminate the employment of an employee of the Corporation who violates the provisions of this part; and

(2) To impose such sanctions as are appropriate (including but not limited to recovery of questioned costs) for the enforcement of this regulation against a recipient which fails to ensure that its employees refrain from activities proscribed by the Act or by this part.

(b) The Corporation shall have authority in accordance with the procedures set forth in Parts 1606, 1618, 1623, 1625 and 1630 of these regulations to recover costs, suspend or terminate financial assistance, or deny refunding to a recipient which fails to ensure that its employees refrain from activities proscribed by the Act or by this part.

(c) A recipient shall—

(1) Advise employees about their responsibilities under this part; and

(2) Establish procedures for determining whether an employee has violated a provision of this part; and shall establish a policy, a copy of which shall be transmitted to the Corporation, for determining the appropriate sanction to be imposed for a violation, including—

(i) Administrative reprimand if a violation is found to be minor and unintentional, or otherwise affected by mitigating circumstances;

(ii) Suspension and termination of employment; and

(iii) Other sanctions appropriate for the enforcement of this regulation; and

(3) Inform the Office of Monitoring, Audit, and Compliance within 30 days of imposing any sanction on any person for violation of this part; and

(4) Make available to the Corporation the records of its investigation of any allegation of violations whether or not any sanctions were imposed. Such records shall be submitted on a quarterly basis to the Office of Monitoring, Audit, and Compliance.

§ 1612.13 Private funds.

(a) A recipient may use funds provided by private sources to engage in legislative or administrative lobbying if

a government agency, elected official, legislative body, committee, or member thereof is considering a measure directly affecting activities under the Act of the recipient or the Corporation.

(b) A recipient may use private funds to engage in legislative activities (except for grassroots lobbying) at the request of a current eligible client of a recipient, to the extent such activities are necessary to the provision of legal advice and representation with respect to such client's legal rights and responsibilities, but no recipient shall solicit a client for the purpose of making such representation possible.

(c) A recipient may use private funds to pay reasonable annual dues to organizations which are tax exempt under section 501(c)(3) of the Internal

Revenue Code, provided, however, that such funds may be used only for purposes otherwise permitted by the Act and all regulations adopted pursuant thereto.

(d) Private funds provided for the provision of legal assistance to eligible clients may be used to support the preparation, production, or dissemination of any article, newsletter, or other publication or written matter or other form of mass communication which contains references to proposed or pending legislation so long as the publication does not contain any publicity or propaganda.

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General Counsel.

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