

## § 1616.4

(e) Ability to communicate with persons in the client community, including, in areas where significant numbers of eligible clients speak a language other than English as their principal language, ability to speak that language; and

(f) Cultural similarity with the client community.

### § 1616.4 Recommendations.

(a) Before filling an attorney position, a recipient shall notify the organized Bar in the community of the existence of a vacancy, and of the qualifications established for it, and seek recommendations for attorneys who meet the qualifications established for the position.

(b) A recipient shall similarly notify and seek recommendations from other organizations, deemed appropriate by the recipient, that have knowledge of the legal needs of persons in the community unable to afford legal assistance.

### § 1616.5 Preference to local applicants.

When equally qualified applicants are under consideration for an attorney position, a recipient shall give preference to an applicant residing in the community to be served.

### § 1616.6 Equal employment opportunity.

A recipient shall adopt employment qualifications, procedures, and policies that meet the requirements of applicable laws prohibiting discrimination in employment, and shall take affirmative action to insure equal employment opportunity.

### § 1616.7 Language ability.

In areas where a significant number of clients speak a language other than English as their principal language, a recipient shall adopt employment policies that insure that legal assistance will be provided in the language spoken by such clients.

## PART 1617—CLASS ACTIONS

Sec.

1617.1 Purpose.

1617.2 Definitions.

1617.3 Prohibition.

## 45 CFR Ch. XVI (10–1–04 Edition)

1617.4 Recipient policies and procedures.

AUTHORITY: 29 U.S.C. 2996e(d)(5); 110 Stat. 3009 (1996); 110 Stat. 1321 (1996).

SOURCE: 61 FR 63755, Dec. 2, 1996, unless otherwise noted.

### § 1617.1 Purpose.

This rule is intended to ensure that LSC recipients do not initiate or participate in class actions.

### § 1617.2 Definitions.

(a) *Class action* means a lawsuit filed as, or otherwise declared by the court having jurisdiction over the case to be, a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure or the comparable State statute or rule of civil procedure applicable in the court in which the action is filed.

(b)(1) *Initiating or participating in any class action* means any involvement at any stage of a class action prior to or after an order granting relief. “Involvement” includes acting as amicus curiae, co-counsel or otherwise providing representation relating to a class action.

(2) *Initiating or participating in any class action* does not include representation of an individual client seeking to withdraw from or opt out of a class or obtain the benefit of relief ordered by the court, or non-adversarial activities, including efforts to remain informed about, or to explain, clarify, educate or advise others about the terms of an order granting relief.

### § 1617.3 Prohibition.

Recipients are prohibited from initiating or participating in any class action.

### § 1617.4 Recipient policies and procedures.

Each recipient shall adopt written policies and procedures to guide its staff in complying with this part.

## PART 1618—ENFORCEMENT PROCEDURES

Sec.

1618.1 Purpose.

1618.2 Definition.

1618.3 Complaints.

1618.4 Duties of Recipients.

1618.5 Duties of the Corporation.

## Legal Services Corporation

## § 1619.2

AUTHORITY: Secs. 1006(b)(1), 1006(b)(2), 1006(b)(5), 1007(d), 1008(e); (42 U.S.C. 2996e(b)(1), 2996e(b)(2), 2996e(b)(5), 2996f(d), 2996g(e)).

SOURCE: 41 FR 51608, Nov. 23, 1976, unless otherwise noted.

### § 1618.1 Purpose.

In order to insure uniform and consistent interpretation and application of the Act, and to prevent a question of whether the Act has been violated from becoming an ancillary issue in any case undertaken by a recipient, this part establishes a systematic procedure for enforcing compliance with the Act.

### § 1618.2 Definition.

As used in this part, *Act* means the Legal Services Corporation Act or the rules and regulations issued by the Corporation.

### § 1618.3 Complaints.

A complaint of a violation of the Act by a recipient or an employee may be made to the recipient, the State Advisory Council, or the Corporation.

### § 1618.4 Duties of Recipients.

A recipient shall:

(a) Advise its employees of their responsibilities under the Act; and

(b) Establish procedures, consistent with the notice and hearing requirements of section 1011 of the Act, for determining whether an employee has violated a prohibition of the Act; and shall establish a policy for determining the appropriate sanction to be imposed for a violation, including:

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

(2) Suspension and termination of employment; and

(3) Other sanctions appropriate for enforcement of the Act; but

(c) Before suspending or terminating the employment of any person for violating a prohibition of the Act, a recipient shall consult the Corporation to insure that its interpretation of the Act is consistent with Corporation policy.

### § 1618.5 Duties of the Corporation.

(a) Whenever there is reason to believe that a recipient or an employee may have violated the Act, or failed to comply with a term of its Corporation grant or contract, the Corporation shall investigate the matter promptly and attempt to resolve it through informal consultation with the recipient.

(b) Whenever there is substantial reason to believe that a recipient has persistently or intentionally violated the Act, or, after notice, has failed to take appropriate remedial or disciplinary action to insure compliance by its employees with the Act, and attempts at informal resolution have been unsuccessful, the Corporation may proceed to suspend or terminate financial support of the recipient pursuant to the procedures set forth in part 1612, or may take other action to enforce compliance with the Act.

## PART 1619—DISCLOSURE OF INFORMATION

Sec.

1619.1 Purpose.

1619.2 Policy.

1619.3 Referral to the Corporation.

1619.4 Exemptions.

AUTHORITY: Sec. 1006(b)(1), (42 U.S.C. 2996e(b)(1)); sec. 1008(e), (42 U.S.C. 2996g(e)).

SOURCE: 42 FR 4848, Jan. 26, 1977, unless otherwise noted.

### § 1619.1 Purpose.

This part is designed to insure disclosure of information that is a valid subject of public interest in the activities of a recipient.

### § 1619.2 Policy.

A recipient shall adopt a procedure for affording the public appropriate access to the Act, Corporation rules, regulations and guidelines, the recipient's written policies, procedures, and guidelines, the names and addresses of the members of its governing body, and other materials that the recipient determines should be disclosed. The procedure adopted shall be subject to approval by the Corporation.