

Title 45—Public Welfare  
 CHAPTER XVI—LEGAL SERVICES CORPORATION  
 PART 1603—STATE ADVISORY COUNCILS

Adoption of Regulations

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"). Section 1004(f) of the Act, 42 U.S.C. 2996c(f), provides that within six months after the first meeting of the Board of Directors of the Corporation, the Board shall request the Governor of each state to appoint a state advisory council for legal services programs.

On page 53272 of the FEDERAL REGISTER of November 17, 1975, the Corporation published proposed regulations for the establishment of state advisory councils. Interested persons were given until December 18, 1975 to submit comments, suggestions or objections to those proposed regulations. All comments received were given consideration by the Corporation. The following regulations were duly adopted by the Corporation. They represent changes from the proposed regulations in the following ways:

1. A definition of the term "apparent violation" was added to § 1603.2.
2. Section 1603.4 was re-drafted to clarify the recommended appointment procedure for naming council members. A sentence setting forth the power of the Board of Directors to appoint a council if the Governor does not was struck as redundant of the Act. A new provision was added to treat procedures for dealing with vacancies on the council after the original members' terms expire.
3. Section 1603.5(b) was substantially shortened to clarify the duties of state advisory councils when they receive a complaint about legal services programs.
4. Former § 1603.5(c) was struck as redundant because of the redrafted § 1603.5(b).
5. Former § 1603.5(d) is now § 1603.5(c). The present § 1603.5(c) now obligates the Corporation to inform a state advisory council of any action which the Corporation takes on a complaint which comes to the Corporation directly.
6. Section 1603.7(c) was revised by striking the limitation of four meetings annually for a council.
7. Section 1603.7(e) was struck as redundant of Section 1004(g) of the Act, which provides that meetings of state

advisory councils shall be open to the public.

8. Section 1603.8(a) was entirely rewritten to state that the Corporation will provide specified amounts of money for the conduct of council business and reasonable travel expenses for members.

9. The second sentence of § 1603.8(b) was struck as redundant.

10. Section 1603.8(c) was redrafted to place the burden of posting notices in local offices on the recipient, rather than on the person in charge of the local office.

11. Section 1603.9 was amended to give state advisory councils more latitude regarding the subject matter of their annual reports.

12. Section 1603.10 was amended to state that a council must forward notifications of apparent violations to the local and administrative offices of a recipient, where a recipient operates in more than one state.

13. Several additional minor changes of a perfecting or stylistic nature, not having substantive implications, were made throughout the text.

Accordingly, the state advisory council regulations are adopted as set forth below, to become effective 30 days hereafter, pursuant to Section 1008(e) of the Act.

PART 1603—STATE ADVISORY COUNCILS

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AUTHORITY: Sec. 1004(f), 88 Stat. 379-380 (42 U.S.C. 2996c(f)).

§ 1603.1 Purpose.

The purpose of this part is to implement section 1004(f) of the Legal Services Corporation Act of 1974, 42 U.S.C. 2996c(f), which provides authority for the appointment of state advisory councils.

§ 1603.2 Definitions.

As used in this part, the term—

(a) "Act" means the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996f;

(b) "apparent violation" means a complaint or other written communication alleging facts which, if established, constitute a violation of the Act, or any applicable rules, regulations or guidelines promulgated pursuant to the Act;

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

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

(e) "council" means a state advisory council established pursuant to Section 1004(f) of the Act;

(f) "eligible client" means any person financially unable to afford legal assistance;

(g) "Governor" means the chief executive officer of a State;

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

(i) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

§ 1603.3 Composition and term of office of council membership.

A council shall be composed of nine members. A majority of the members of a council shall be attorneys admitted to practice in the State. It is recommended that the remainder of the council, to the maximum extent possible, be broadly representative of persons concerned with the effective functioning of legal services programs. Membership of a council shall be subject to annual reappointment, but it is recommended that no member of a council be appointed to serve for more than three consecutive years.

§ 1603.4 Procedure for appointment of council.

At the formal request of the Board, to be made before January 14, 1976, the Governor may appoint a council for the State. Those council members who are attorneys admitted to practice in the State shall be appointed by the Governor after recommendations have been received from the State bar association. In making such appointments, it is recommended the Governor consult with other bar associations in the State, representatives of groups concerned with the interests of recipients, eligible clients and other interested groups. It is recommended that the Governor appoint attorneys who have interest in and knowledge of the delivery of quality legal services to the poor, and that the remaining members of the council, who are not attorneys, be selected after the Governor has consulted with representatives of groups concerned with the interests of eligible clients. It is recommended that the Governor seek recommendations from recipients in the State before appointing any members to the council. Sixty days prior to the expiration of a member's term, the Governor shall notify those groups mentioned in this Section so that their recommendations may be solicited for purposes of appointment of a new member or reappointment of an incumbent member of the council.

§ 1603.5 Council purpose and duties

(a) The purpose of the council shall be to notify the Corporation of any apparent violation as defined in § 1603.2 (b) of this chapter.

(b) In fulfilling the purpose set forth in paragraph (a) of this Section, the

council shall forward any apparent violation to the Corporation. The Chairperson of the council shall inform the complainant, the Corporation and the recipient of any action taken on the complaint. Notification of an apparent violation forwarded by the council to the Corporation shall not necessarily constitute a position of the council concerning the apparent violation.

(c) These procedures are not exclusive. Complaints may be submitted to the Corporation, and complaints submitted to a council may be submitted to the Corporation without regard to council action. The Corporation shall inform the complainant, the council and the recipient of all action taken on the complaint.

**§ 1603.6 Duties of Corporation upon receipt of notification of violation.**

(a) Upon receipt of a notification of an apparent violation, the matters contained therein shall be investigated and resolved by the Corporation in accordance with the Act and rules and regulations issued thereunder.

(b) Upon receipt from a council of a notification of an apparent violation, the Corporation shall allow any recipient affected thereby a reasonable time (but in no case less than thirty days) to reply to any allegation contained in the notification.

(c) The Corporation shall inform the Chairperson of a council of the action, if any, the Corporation has taken with regard to any notification received from such council.

**§ 1603.7 Organization and procedural functioning of council.**

(a) Within 30 days after the appointment of the council, and annually thereafter, the Governor shall send to the Secretary of the Corporation in Washington, D.C., a list of the members of the council for the State that shall include the name, address and telephone number of each council member, and indicate which members are attorneys.

(b) It is recommended that the Governor appoint from among those named to the council a Chairperson of the council.

(c) It is recommended that each council establish at its first meeting such fair and reasonable procedures for its operation as it may deem necessary to carry out the purpose set forth in § 1603.5(a) of this Chapter. The procedures for operation of the council shall include provisions for notifying the appropriate regional director of the Corporation of the time and place of any meeting of the council.

(d) It is recommended that a council meet at the call of the Chairperson thereof, or at the request of the Chairperson of at least four members thereof, at such times as may be necessary to carry out its duties, but at least annually.

**§ 1603.8 Corporation support of council.**

(a) The Corporation shall inform the Chairperson of each council of the funds available to the council from the Corporation for actual and reasonable expenses incurred by members of the council to pursue council business.

(b) It shall be the duty of the President of the Corporation to keep the Chairperson of each council informed of the work of the Corporation.

(c) The Secretary of the Corporation shall mail annually to each recipient the name and address of the Chairperson of the appropriate council and a form of notice indicating where complaints may be sent. The recipient shall post said name and address of the Chairperson and said notice in plain public view in each office of the recipient.

**§ 1603.9 Annual report of council.**

On or before March 31, 1977, and on or before March 31 of each succeeding year, a council shall submit to the Corporation a report of the activities of the council during the previous calendar year. The report may contain comments or suggestions regarding how best to provide high quality legal assistance to the poor, and regarding such other matters having to do with provision of legal services to eligible clients in the State as the council may deem advisable.

**§ 1603.10 Multi-state recipients.**

Where a recipient has offices in more than one State, the council of the State in which the apparent violation occurred has the responsibility for notifying the Corporation and the recipient at its local and administrative offices.

Effective date: January 23, 1976.

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