

matter of which judicial notice may be taken in a federal court, or of any other matter whose existence, authenticity, or accuracy is not open to serious question.

(h) A record or summary of the hearing shall be made in a manner determined by the responsible official, and shall be made available to a party upon payment of costs; but a party seeking to avoid costs may be allowed to make its own record of the proceeding.

#### § 1606.10 Burden of proof.

At a hearing under Section 1606.9,

(a) If denial of refunding is proposed on a ground set forth in paragraph (c) or (d) of Section 1606.4, the Corporation shall have the burden of proving, by a preponderance of the evidence, the existence of any disputed fact relied upon as justification for denial of refunding; and

(b) The recipient shall have the burden of persuasion on all other issues.

#### § 1606.11 Final decision.

(a) Within 10 days after the conclusion of a hearing the responsible official shall issue, in writing, a recommended final decision

(1) granting the application for refunding, subject to any modification or condition which may be deemed necessary on the basis of information adduced at the hearing; or

(2) denying the application for refunding.

(b) If the recommended final decision is to deny refunding, or to subject a grant of refunding to a modification or condition it shall state the reasons for denial, and findings of fact concerning the recipient. A finding of fact concerning the recipient shall be based solely upon evidence adduced at the hearing or matters of which official notice was taken.

(c) If the responsible official is the President, a recommended final decision shall become final upon receipt by the recipient.

(d) If the responsible official is not the President,

(1) Within ten days after receipt of a recommended final decision the recipient and any other party who was authorized under Section 1606.10(b) to participate in the hearing may submit written comments to the President; and

(2) Within 20 days after conclusion of a hearing the President shall issue a written decision which shall conform to the requirements of Paragraph (b) of this section. A decision by the President shall become final upon receipt by a recipient.

#### § 1606.12 Right to counsel.

At a hearing under Section 1606.9, the Corporation and a recipient each shall be entitled to be represented by counsel, or by another person. The attorney designated may be an employee; or may be outside counsel retained for the purpose, who may be compensated at the reasonable and customary rate for an attorney practicing in the vicinity of the attorney retained.

#### § 1606.13 Reimbursement.

If an application for refunding is granted after a Notice of Proposed Denial has been issued under Section 1606.5, a recipient, at the discretion of the President, may receive reimbursement by the Corporation, in whole or part, for reasonable out-of-pocket expenses that were required in connection with proceedings under this Part.

#### § 1606.14 Interim funding.

Failure by the Corporation to meet a time requirement of this Part shall not entitle a recipient to funding, but if the Corporation fails to take final action upon an application for refunding prior to expiration of the term of a recipient's current grant or contract, the Corporation shall provide the recipient with interim funding necessary to maintain its current level of legal assistance activities under § 1006(a)(1)(A) of the Act until

(a) The application for refunding has been approved and funds pursuant thereto received, or

(b) A final decision denying the application has been made.

#### § 1606.15 Termination funding.

After a final decision to deny refunding, the Corporation may authorize any temporary funding that is necessary to enable a recipient to close or transfer current matters in a manner consistent with the recipient's professional responsibility to its present clients.

#### § 1606.16 Waiver.

With the consent of the recipient affected, the responsible official may waive any provision of this Part.

#### § 1606.17 Notice.

A notice required to be sent to a recipient under this Part shall be sent to the director of the recipient, and may be sent to the head of its governing body.

THOMAS EHRLICH,  
President,  
Legal Services Corporation.

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### [ 45 CFR Part 1607 ]

#### GOVERNING BODIES OF RECIPIENTS

##### Accountability to Clients

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"). Section 1007(c) of the Act, 42 U.S.C. 2996f (c), provides that the Corporation shall insure that recipients are governed by bodies which meet certain specific requirements as to membership.

Pursuant to Section 1008(e) of the Act, the Corporation hereby affords notice and publishes for comment the following proposed regulations concern-

ing the governing bodies of recipients. Public comment will be received by the Corporation at its headquarters offices, Suite 700, 733 15th Street, N.W., Washington, D.C. 20005 on or before June 3, 1976. Comments must be in writing and may be accompanied by a memorandum or brief in support thereof. Comments received may be seen at the above offices during business hours Monday through Friday.

Final regulations will be issued by the Corporation after review and consideration of public comments received pursuant to this notice.

Part 1607 is added in proposed form as set forth below:

#### PART 1607—GOVERNING BODIES OF RECIPIENTS

Sec.	
1607.1	Purpose.
1607.2	Definition.
1607.3	Composition.
1607.4	Functions of a governing body.
1607.5	Waiver.
1607.6	Compensation.

AUTHORITY: Sec. 1007(c), 1008(e) (42 U.S.C. 2996f (c), 2996g(e)).

##### § 1607.1 Purpose.

This Part is designed to insure that the governing body of a recipient will be well qualified to guide a recipient in its efforts to provide high quality legal assistance to those who otherwise would be unable to obtain adequate legal counsel, and to insure that the recipient is accountable to its clients.

##### § 1607.2 Definition.

"Eligible client," as used in this Part, means a person eligible to receive legal assistance under the Act, without regard to whether the person is receiving assistance at the time of selection for membership on a governing body.

##### § 1607.3 Composition.

(a) A recipient shall be incorporated in a State in which it provides legal assistance, and shall have a governing body that reasonably reflects the interests and characteristics of the eligible clients in the area served.

(b) At least sixty (60) percent of a governing body shall be attorneys admitted to practice in a State in which a recipient is to provide legal assistance, who are supportive of the purposes of the Act and have interest in, and knowledge of, the delivery of quality legal services to the poor.

(c) The attorneys shall be selected from, or designated by, appropriate Bar Associations and other groups, including, but not limited to, law schools, civil rights or anti-poverty organizations, and organizations of eligible clients.

(d) At least one member of a governing body shall be, when selected, an eligible client, and at least one-third of the members shall be either eligible clients, or representatives of associations, groups, or organizations of eligible clients.

(e) The members who are, or who represent those who are, eligible clients,

shall be selected from, or designated by, a variety of appropriate groups including, but not limited to, client and neighborhood associations and organizations.

(f) The categories of "attorney" and "eligible client representative" are not mutually exclusive; a single individual may be counted toward satisfaction of both requirements.

(g) The remaining members of a governing body may be selected from, or designated by, other community groups that support the findings and purposes of the Act.

(h) No category of governing board membership shall be dominated by representatives of a single association, group, or organization.

(i) Members of a governing body may be selected by appointment, election, or other means. The method of selection and composition shall be subject to approval by the Corporation. A recipient whose current governing body does not satisfy the requirements of this section shall submit for approval a plan for achieving compliance as soon as possible.

**§ 1607.4 Functions of a Governing Body.**

(a) A governing body shall have at least four meetings a year. Timely and effective prior public notice of all meetings shall be given, and all meetings shall be public except for those concerned with matters properly discussed in executive session.

(b) A governing body shall establish and enforce broad policies governing the operation of a recipient, but shall not interfere with any attorney's professional responsibilities to clients.

**§ 1607.5 Waiver.**

(a) Upon application, the President shall waive the requirements of this Part to permit a recipient that was funded under Section 222(a) (3) of the Economic Opportunity Act of 1964 and, on July 25, 1974, had a majority of persons who were not attorneys on its governing body, to continue such a non-attorney majority.

(b) The President may waive the requirements of this Part upon application of a recipient that demonstrates that it cannot comply with them because of (1) the nature of the population or area served; or (2) special circumstances, including, but not limited to, conflicting requirements of the recipient's major funding source.

(c) A recipient seeking a waiver shall demonstrate that it has made diligent efforts to comply with the requirements of this Part.

**§ 1607.6 Compensation.**

While serving on a governing body no member shall receive compensation from a recipient, but a member may receive payment for normal travel and other out-of-pocket expenses required for fulfillment of the obligations of membership.

THOMAS EHRLICH,  
President,  
Legal Services Corporation.

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[45 CFR Part 1608]

**PROHIBITED POLITICAL ACTIVITIES**

**Quality Legal Assistance**

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"). Sections of the Act, including Sections 1005(b), 1006(b) (5), 1006 (d) (3) and (4), 1006(e) (1) and (2), 1007(a) (6) and 1007(b) (2) prohibit certain political activities by the Corporation, recipients, and their respective employees.

Pursuant to Section 1008(e) of the Act, the Corporation hereby affords notice and publishes for comment the following proposed regulations concerning prohibited political activities. Public comment will be received by the Corporation at its headquarters offices, Suite 700, 733 15th Street, N.W., Washington, D.C. 20005 on or before June 3, 1976. Comments must be in writing and may be accompanied by a memorandum or brief in support thereof. Comments received may be seen at the above offices during business hours Monday through Friday.

Final regulations will be issued by the Corporation after review and consideration of public comments received pursuant to this notice.

Part 1608 is added in proposed form as set forth below:

**PART 1608—PROHIBITED POLITICAL ACTIVITIES**

**Sec.**

- 1608.1 Purpose.
- 1608.2 Definition.
- 1608.3 Prohibitions applicable to the Corporation and to recipients.
- 1608.4 Prohibition applicable to all employees.
- 1608.5 Prohibitions applicable to Corporation employees and staff attorneys.
- 1608.6 Prohibitions applicable to attorneys and to staff attorneys.
- 1608.7 Attorney-client relationship.
- 1608.8 Enforcement.

**AUTHORITY:** Sections 1001(b), 1006(b) (2), 1006(b) (3), 1006(b) (5) (B), 1006(d) (3), 1006 (d) (4), 1006(e) (1), 1006(e) (2), 1007(a) (6), 1007(b) (2), (42 U.S.C. 2996(f), 2996d) (b) (2), 2996e) (b) (3), 2006e) (b) (5) (B), 2006e) (d) (3), 2996e) (d) (4), 2996e) (e) (1), 2996e) (e) (2), 2996f) (a) (6), 2996f) (b) (2).

**§ 1608.1 Purpose.**

This Part is designed to insure that the Corporation's resources will be used to provide high quality legal assistance and not to support or promote political activities or interests. The Part should be construed and applied so as to further this purpose without infringing upon the constitutional rights of employees or the professional responsibilities of attorneys to their clients.

**§ 1608.2 Definition.**

"Legal assistance activities," as used in this Part, means any activity.

(a) carried out during an employee's working hours;

(b) using resources provided by the Corporation or by a recipient; or

(c) that, in fact, provides legal advice, or representation to an eligible client.

**§ 1608.3 Prohibitions Applicable to the Corporation and to Recipients.**

(a) Neither the Corporation nor any recipient shall use any political test or qualification in making any decision, taking any action, or performing any function under the Act.

(b) Neither the Corporation nor any recipient shall contribute or make available Corporation funds, or any personnel or equipment

(1) to any political party or association,

(2) to the campaign of any candidate for public or party office, or

(3) for use in advocating or opposing any ballot measure, initiative, or referendum.

**§ 1608.4 Prohibitions Applicable to All Employees.**

(a) No employee shall intentionally identify the Corporation or a recipient with any partisan or nonpartisan political activity, or with the campaign of any candidate for public or party office.

(b) No employee shall use any Corporation funds for activities prohibited to attorneys under Section 1608.6; nor shall an employee intentionally identify or encourage others to identify the Corporation or a recipient with such activities.

**§ 1608.5 Prohibitions Applicable to Corporation Employees and to Staff Attorneys.**

While employed under the Act, no Corporation employee and no staff attorney shall, at any time,

(a) use official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for office, whether partisan or nonpartisan;

(b) directly or indirectly coerce, attempt to coerce, command or advise an employee of the Corporation or of any recipient to pay, lend, or contribute anything of value to a political party, or committee, organization, agency or person for political purposes; and

(c) no staff attorney shall be a candidate for elective public office, whether partisan or nonpartisan; nor shall a Corporation employee be a candidate for partisan elective public office.

**§ 1608.6 Prohibitions Applicable to Attorneys and to Staff Attorneys.**

(a) While engaged in legal assistance activities supported under the Act, no attorney shall engage in

(1) any political activity,

(2) any activity to provide voters with transportation to the polls, or to provide similar assistance in connection with an election, or

(3) any voter registration activity.

(b) While employed under the Act, no staff attorney shall engage in the activities prohibited by paragraphs (a) (2) or (a) (3) of this section at any time.