

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: Section 1007 of the Legal Services Corporation Act Amendments of 1977, Pub. L. 95-222, expanded the restriction in section 1007(a)(5) of the Act regarding legislative representation to include activities designed to influence the outcome of State proposals by initiative petition, expanded the exceptions to the prohibition to include lobbying regarding measures directly affecting the activities of the recipient or the Corporation, and clarified the restriction on soliciting clients for purposes of legislative representation to include only activities that violate the Code of Professional Responsibility. Section 1612.4(a) of the regulations has been revised to include the new language. In addition, section 1612.5(a) has been revised to reflect the fact that the Corporation has prescribed procedures governing suspension and termination proceedings. Thus, it is no longer necessary to rely on OEO regulations for enforcement of part 1612.

It bears emphasis that the new exception for matters "directly affecting" a recipient does not permit lobby on poor people's issues generally. To the contrary, an amendment in the House bill that would have permitted such lobbying was dropped in conference. The exception extends only to appropriations or other measures directed to the Corporation, or the recipient or its employees, as opposed to eligible clients. See Conf. Rep. 95-825, 95th Cong., 1st Sess. (1977), at 13.

The amendment to this regulation was published for comment on March 17, 1978 (43 FR 11241). Following is the complete regulation, as amended. The comment that appeared in the May 5, 1978 final publication of part 1612 remains in effect (41 FR 18514).

Accordingly, 45 CFR Part 1612 is revised to read as follows:

- Sec.
- 1612.1 Definition.
 - 1612.2 Public demonstrations and other activities.
 - 1612.3 Attorney-client relationship.
 - 1612.4 Legislative and administrative representation.
 - 1612.5 Enforcement.

Authority: Secs. 1004(b)(5), 1007(a)(5), 1011, 1008(e), Public Law 93-355, 88 Stat. 378 (42 U.S.C. 2996(b)(5), 2996(a)(5), 2996), 29 USC 6101.

§ 1612.1 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

[4820-35]

PART 1612—RESTRICTIONS ON CERTAIN ACTIVITIES

Amendments to the Regulations

AGENCY: Legal Services Corporation.

ACTION: Final regulation.

SUMMARY: The current regulations restrict the availability of Corporation funds which are used to influence legislation. This rule clarifies and revises these restrictions. One of the effects of the new regulations is to restrict the use of Corporation funds for activities designed to influence the outcome of State proposals by initiative petition. The rule is being adopted to reflect new language in the Legal Services Corporation Act Amendments of 1977. In addition, the regulations are revised to reflect the Corporation's new procedures governing suspension and termination proceedings. Thus, it is no longer necessary to rely on OEO regulations for enforcement of certain of the Corporation's regulations.

DATES: Effective date: August 28, 1978.

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RULES AND REGULATIONS

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

§ 1612.3 Public demonstrations and other activities.

(a) While carrying out legal assistance activities under the Act no employee shall

(1) Knowingly 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) Intentionally exhort, 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 employed under the Act, no employee shall, at any time,

(1) Knowingly participate in any
(i) Rioting or civil disturbance;
(ii) Activity in violation of an outstanding injunction of any court of competent jurisdiction; or
(iii) Any other illegal activity that is inconsistent with an employee's responsibilities under the Act, Corporation regulations, or the Code of Professional Responsibility; or

(2) Intentionally exhort, 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.

§ 1612.3 Attorney-client relationship.

Nothing in this part shall prohibit an attorney from

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

(b) Attending a public demonstration, picketing, boycott, or strike for the purpose of providing legal assistance to a client; or

(c) Fulfilling the professional responsibilities of an attorney to a client.

§ 1612.4 Legislative and administrative representation.

(a) No funds made available to a recipient by the Corporation shall be used, directly or indirectly, to support activities intended to influence the issuance, amendment, or revocation of any executive or administrative order or regulation of a Federal, State or local agency, or to influence the passage or defeat of any legislation by the Congress of the United States or by any State or local legislative body or State proposals by initiative petition.

(1) An employee may engage in such activities in response to a request from a governmental agency or a legislative body, committee, or member made to the employee or to a recipient; and

(2) An employee may engage in such activities on behalf of an eligible client of a recipient, if the client may be af-

ected by a particular legislative or administrative measure but no employee shall solicit a client in violation of professional responsibilities for the purpose of making such representation possible; and,

(3) An employee may engage in such activities if a governmental agency, legislative body, committee, or member thereof is considering a measure directly affecting the activities under the Act of the recipient or the Corporation.

(b) Nothing in this 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; or

(2) Informing a client about a new or proposed statute, executive order, or administrative regulation; or

(3) Communicating with the Corporation for any purpose.

§ 1612.5 Enforcement.

(a) The Corporation shall have authority in accordance with the procedures set forth in part 1606 and part 1623 of these regulations:

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

(2) To suspend or terminate financial assistance to a recipient who fails to insure that its employees refrain from activities prescribed by the Act or by this part.

(b) A recipient shall

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

(2) Establish procedures, consistent with the notice and hearing requirements of section 1011 of the Act, for determining whether an employee has violated a provision of this part; and shall establish a policy 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) Consult the General Counsel of the Corporation before suspending or terminating the employment of any person for violation of this part.

ALICE DANIEL,
General Counsel,
Legal Services Corporation.

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