
LEGAL SERVICES CORPORATION

45 CFR Part 1612

Restrictions on Certain Activities

AGENCY: Legal Services Corporation.

ACTION: Final rule.

SUMMARY: Section 1007(a)(5)(A) of the Legal Services Corporation Act, 42 U.S.C. 2996f, requires the Corporation to ensure that funds awarded to recipients are not used for legislative advocacy except as part of the representation of an eligible client, at the request of a legislative body, or in connection with a measure which directly affects the activities under the provisions of the Act of the recipient or the Corporation. On July 28, 1978, the Corporation promulgated Part 1612, § 1612.4, in order to implement the limitations of the Act. After some experience with these provisions, it has become necessary to impose new requirements in order to ensure that day-to-day observance of these limitations by recipients.

DATES: Effective April 13, 1981.

ADDRESS: Legal Services Corporation, 733 15th Street NW., Suite 700, Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT: Linda Hanten, 202-272-4010.

SUPPLEMENTARY INFORMATION: On December 31, 1980 (46 FR 86511) these requirements were published for comment in the Federal Register. All comments received supported their adoption. The Board of Directors of the Legal Services Corporation authorized the publication of these requirements as final at their March 6, 1981 meeting.

These requirements are part of an overall effort to ensure that all recipient legislative advocacy is conducted in compliance with the congressionally imposed restrictions. In addition to

promulgating these regulatory changes, the Corporation is focusing on monitoring and training to ensure that recipients are aware of and understand congressional limitations on legislative advocacy. Further, a formal complaint procedure is being initiated so that complaints of impermissible legislative advocacy will be resolved in a consistent and timely manner.

The first addition to Part 1612, § 1612.4(b), will require recipients to implement a system under which appropriate documentation will be secured before any legislative advocacy is undertaken by an employee. If legislative advocacy is to be undertaken on behalf of an eligible client, the recipient will secure an agreement in writing or other appropriate documentation specifically authorizing such representation. Similarly, if the recipient has been requested by a member or a committee of the legislature to engage in legislative advocacy, the request must be appropriately documented. Finally, if legislative advocacy is undertaken because of possible legislation directly affecting the activities of a recipient, the executive or program director will authorize the initiation of such advocacy in writing. Recipients will further be required to notify their staff of this system of prior authorization for legislative advocacy and to insure that it is complied with.

A second addition to Part 1612.4, § 1612.4(c) will prohibit programs from establishing legislative offices until the recipient's board of directors, primarily composed of attorneys, approves such an action consistent with the programs' priorities, the attorneys' professional responsibility and as an economical and efficient approach to meeting clients' needs for legislative representation.

Finally, because of the amendments, it will be necessary to redesignate current § 1612.4(b) as § 1612.4(d).

Section 1612.4 is amended by redesignating paragraph (b) as (d) and adding new paragraphs (b) and (c) to read as follows:

§ 1612.4 Legislative and administrative representation.

(b) Recipients shall adopt appropriate procedures and forms to document that the legislative activities in which they engage fall within the activities permitted in § 1612.4(a).

(c) Recipients may not establish full time legislative offices unless the decision to establish such an office is formally made by the Board of Directors of the recipient consistent with the provisions of Section 1620, provided that

the legislative activities of these offices are solely activities permitted under § 1612.4(a).

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