

45 CFR Part 1612

Restrictions on Lobbying and Certain Other Activities**AGENCY:** Legal Services Corporation.**ACTION:** Proposed rule.

SUMMARY: This proposed rule amends regulations to conform with a statutory proviso in the Legal Services Corporation's ("LSC" or "Corporation") appropriations act for the current fiscal year that limits the Corporation's ability to implement certain private funds provisions to those restrictions expressly set out in the LSC Act.

DATES: Comments must be received by August 31, 1992.

ADDRESSES: Office of the General Counsel, Legal Services Corporation, 750 First Street NE., Washington, DC 20002-4250.

FOR FURTHER INFORMATION CONTACT: Victor M. Fortuno, General Counsel, Office of the General Counsel, (202) 336-8810.

SUPPLEMENTARY INFORMATION: On July 29, 1987, LSC published at 52 FR 28434 its final lobbying rule, 45 CFR part 1612. At the same time, LSC requested public comments on part 1612's private funds provisions. See 52 FR 28441 (July 29, 1987). On August 27 and 28, the Committee on Operations and Regulations ("Committee") of the Corporation's Board of Directors ("Board") heard public comment at its meeting in Seattle, Washington. As a result of its deliberations in Seattle, the Board approved two clarifying changes to the rule but rejected arguments that LSC's regulation of private funds was unauthorized and unconstitutional. The approved revisions were never published as final.¹

Congress soon thereafter imposed a restriction in the form of a proviso in LSC's appropriations act on the Corporation's authority to use any LSC funds to implement or enforce those private funds provisions in the 1987 rule

that were not explicitly authorized by the LSC Act. Pub. L. No. 100-202, 101 Stat. 1329 (1987). This restriction was applicable to the already published 1987 rule. Publication of the clarifying amendments would not have satisfied the concerns of Congress. With some minor changes, Congress has continued to include in LSC's appropriations acts the restriction on part 1612's private funds provisions. See Pub. L. No. 100-459, 102 Stat. 2226-2227 (1988); Pub. L. No. 101-162, 103 Stat. 1036-1037 (1989); Pub. L. No. 102-140, 105 Stat. 824 (1991), incorporating Pub. L. No. 101-515, 104 Stat. 2152 (1990).

The consistent use of this restriction demonstrates a congressional intent that LSC not regulate a grantee's private funds for restrictions in LSC's appropriations acts that are not also included in the LSC Act. Therefore, the Corporation is soliciting comments on part 1612's private funds provisions.

There is an important distinction between the LSC Act and LSC's appropriations act. Section 1010(c) of the LSC Act prohibits the use of private funds by LSC grantees for activities prohibited by the Act. 42 U.S.C. 2996i(c). The appropriations act, on the other hand, generally applies only to LSC's grantees' federal funds. Part 1612 extends the application of section 1010(c) to activities prohibited by LSC's appropriations act that are allowed under the LSC Act.² Thus, part 1612 presently prohibits the use of private funds by LSC grantees for activities prohibited by LSC's appropriations act in addition to those activities prohibited by the LSC Act.

The above cited proviso prohibits application of part 1612's private funds provisions to activities prohibited by LSC's appropriations act but not prohibited by the LSC Act. LSC has identified three activities that are restricted by the appropriations act but not prohibited by the LSC Act. Under the LSC Act, recipients may:

- (1) Engage in self-interest lobbying;
- (2) Engage in grassroots lobbying on behalf of an eligible client; and
- (3) Disseminate information about public policies and political activities.

These three activities are prohibited by LSC's appropriations act.

Only one revision to part 1612 is necessary to conform the rule to the appropriations act proviso since § 1612.13 already provides exceptions for two of these three activities. A new § 1612.13(e) is proposed to be added that

would allow grassroots lobbying on behalf of an eligible client. An exception for self-interest lobbying already exists in § 1612.13(a), and § 1612.13(d) already provides an exception for the dissemination of information about public policies and political activities.

List of Subjects in 45 CFR Part 1612

Civil disorders, Legal services, Lobbying, Reporting and recordkeeping requirements.

For reasons set out in the preamble, 45 CFR part 1612 is proposed to be amended as follows:

PART 1612—RESTRICTIONS ON LOBBYING AND CERTAIN OTHER ACTIVITIES

1. The authority citation for part 1612 continues to read as follows:

Authority: Sec. 1006(b)(5), 1007(a) (5), (6) and (7), 1011, 1006(e), Legal Services Corporation Act of 1974, as amended (42 U.S.C. 2996e(b)(5), 2996f(a) (5), (6) and (7), 2996j, 2996g(e)); Pub. L. 95-431, 92 Stat. 1021; Pub. L. 96-68, 93 Stat. 416; Pub. L. 96-536, 94 Stat. 3166; Pub. L. 97-161, 96 Stat. 22; Pub. L. 97-377, 96 Stat. 1874; Pub. L. 98-166, 97 Stat. 1071; Pub. L. 99-180, 99 Stat. 1165.

2. Section 1612.13 is amended by adding paragraph (e) to read as follows:

§ 1612.13 Private funds.

(e) A recipient may use private funds to engage in grassroots lobbying at the request of a current eligible client of that recipient to the extent such activities are necessary to the provision of legal advice and representation with respect to such client's legal rights and responsibilities, but no recipient shall solicit a client for the purpose of making such representation possible.

Dated: July 24, 1992.

Victor M. Fortuno,
General Counsel.

[FR Doc. 92-18001 Filed 7-29-92; 8:45 am]

BILLING CODE 7050-01-M

45 CFR Part 1626**Restrictions on Legal Assistance to Aliens****AGENCY:** Legal Services Corporation.**ACTION:** Proposed rule.

SUMMARY: This proposed rule amends regulations to allow representation of permanent amnesty aliens, *i.e.*, aliens who have adjusted their status to that of permanent resident alien under the provisions of the Immigration and Nationality Act ("INA").

¹ The Board voted approval of a revision to § 1612.13(c) that would have added the language emphasized below to provide that: "A recipient may use private funds to pay reasonable annual dues to organizations which are tax exempt under section 501(c)(3) of the Internal Revenue Code, provided, however, that such funds may be used only for purposes otherwise permitted by the Act and all regulations adopted pursuant thereto that apply to private funds."

Second, the Board voted approval of a grandfather provision that provided as follows:

"(e) A recipient may use private funds to fulfill existing obligations under the grant or contract from a private donor entered into prior to February 21, 1988, if the activities could be carried out consistent with sections 1007(e)(5) and 1010(c) of the Act. This authority shall expire on February 21, 1988."

² Section 1612.2 provides that recipients may not use private funds for any legal assistance activities prohibited by the rule. 45 CFR § 1612.2. Exceptions to this prohibition are set out in § 1612.13.