

[6820-35]

**PART 1613—RESTRICTIONS ON
LEGAL ASSISTANCE WITH RESPECT
TO CRIMINAL PROCEEDINGS**

Amendments to the Regulations

AGENCY: Legal Services Corporation.

ACTION: Final regulation.

SUMMARY: Current Legal Services Corporation regulations provide for circumstances under which legal assistance may be provided in criminal proceedings involving juvenile cases. The Legal Services Corporation Act Amendments of 1977 repealed the provision on which the current regulations are based. Therefore, the regulations are being revised to reflect the change in the law. Now that juvenile cases are no longer subject to special treatment, the general provisions relating to authorized criminal representation will apply.

EFFECTIVE DATE: August 28, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Stephen S. Walters, 202-376-5113.

SUPPLEMENTARY INFORMATION: Section 10 of the Legal Services Corporation Act Amendments of 1977, Pub. L. 95-222, repealed the restriction on juvenile representation formerly contained in section 1007(b)(4) of the act. Currently, § 1613.4(b) refers to juvenile cases as instances when representation may be provided in criminal proceedings. Now that such cases are no longer subject to special treatment, however, the general provisions relating to authorized criminal representation should apply. Section 1613.4 has been modified accordingly.

The amendment to part 1613 was published for comment on March 17, 1978 (43 FR 11241). Following is the complete regulation, as amended. The comment on this regulation that appeared in the September 10, 1976, (41 FR 38506) final publication of part 1613 remains in effect.

Accordingly, 45 CFR part 1613 is revised to read as follows:

**PART 1613—RESTRICTIONS ON
LEGAL ASSISTANCE WITH RESPECT
TO CRIMINAL PROCEEDINGS**

- Sec.
- 1613.1 Purpose.
- 1613.2 Definition.
- 1613.3 Prohibition.
- 1613.4 Authorized representation.

AUTHORITY.—Sec. 1007(b)(1); 43 U.S.C. 2096(b)(1).

§ 1612.1 Purpose.

This part is designed to insure that corporation funds will not be used to provide legal assistance with respect to criminal proceedings unless such assistance is required as part of an attorney's responsibilities as a member of the bar.

§ 1612.2 Definition.

"Criminal proceeding" means the adversary judicial process prosecuted by a public officer and initiated by a formal complaint, information, or indictment charging a person with an offense denominated "criminal" by applicable law and punishable by death, imprisonment, or a jail sentence. A misdemeanor or lesser offense tried in an Indian tribal court is not a "criminal proceeding".

§ 1612.3 Prohibition.

Corporation funds shall not be used to provide legal assistance with respect to a criminal proceeding, unless authorized by this part.

§ 1612.4 Authorized representation.

Legal assistance may be provided with respect to a criminal proceeding.

(a) Pursuant to a court appointment made under a statute or a court rule or practice of equal applicability to all attorneys in the jurisdiction, if authorized by the recipient after a determination that it is consistent with the recipient's primary responsibility to provide legal assistance to eligible clients in civil matters; or

(b) When professional responsibility requires representation in a criminal proceeding arising out of a transaction with respect to which the client is being, or has been, represented by a recipient.

**ALICE DANIEL,
General Counsel,
Legal Services Corporation.**

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