

ceedings or matters to persons financially unable to afford legal assistance. Section 1007(b)(1) of the Act restricts the use of Corporation funds in criminal proceedings.

Pursuant to Section 1008(e) of the Act, the Corporation hereby affords notice and publishes for comment the following proposed regulations concerning restrictions on legal assistance with respect to criminal proceedings. Public comment will be received by the Corporation at its headquarters office, Suite 700, 733 15th Street, NW., Washington, D.C. 20005 on or before July 12, 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 1613 is added in proposed form as set forth below:

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: Section 1007(b)(1); 42 U.S.C. 2996f(b)(1).

§ 1613.1 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.

§ 1613.2 Definition.

"Criminal proceeding" means the adversary judicial process initiated by a formal complaint, information, or indictment charging a person with an offense punishable by death, imprisonment, or a jail sentence, but does not include a misdemeanor or lesser offense tried in an Indian tribal court.

§ 1613.3 Prohibition.

Corporation funds shall not be used to provide legal assistance with respect to a criminal proceeding, unless authorized by § 1613.4.

§ 1613.4 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 continued representation of a juvenile pursuant to § 1614.6.

THOMAS EHRLICH,
President,
Legal Services Corporation.

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[45 CFR Part 1614]

RESTRICTIONS ON LEGAL ASSISTANCE TO JUVENILES

The Legal Services Corporation ("the 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"), for the purpose of providing financial support for legal assistance in non-criminal proceedings or matters to persons financially unable to afford legal assistance. Section 1007(b)(4) of the Act restricts the use of Corporation funds in the representation of juveniles.

Pursuant to section 1008(e) of the Act, the Corporation hereby affords notice and publishes for comment the following proposed regulations concerning restrictions on legal assistance to juveniles. Public comment will be received by the Corporation at its headquarters office, Suite 700, 733 15th Street, NW., Washington, D.C. 20005 on or before July 12, 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 1614 is added in proposed form as set forth below:

PART 1614—RESTRICTIONS ON LEGAL ASSISTANCE TO JUVENILES

Sec.

1614.1 Purpose.

1614.2 Definitions.

1614.3 Restrictions.

1614.4 Request of a parent, guardian, or court.

1614.5 Representation without request of a parent, guardian, or court.

1614.6 Continuity of representation.

AUTHORITY: Section 1007(b)(4); 42 U.S.C. 2996f(b)(4).

§ 1614.1 Purpose.

This part is designed to prevent improper interference in parent-child relationships, while permitting legal assistance when it is necessary to protect essential rights of a juvenile.

§ 1614.2 Definitions.

As used in this part,

(a) "Guardian" means a person or institution lawfully appointed to protect the interests of a juvenile.

(b) "Institution" means any facility, public or private, providing a juvenile with shelter, care, education or other services.

(c) "Juvenile" means any person less than 18 years of age who is not emancipated under applicable law.

§ 1614.3 Restrictions.

(a) Corporation funds shall not be used to provide legal assistance to a juvenile, unless authorized by this part.

(b) Legal assistance shall not be provided in criminal proceedings, as defined in § 1613.2, unless required as part of an attorney's professional responsibilities, as provided for in § 1613.4 or § 1614.6.

(c) Legal assistance may be provided with respect to a case, matter, or proceeding in which a juvenile has a legal right to appointed counsel:

(1) Pursuant to a statute or a court rule or practice of equal applicability to all attorneys in the jurisdiction; or

(2) At the request of a court if reasonable compensation is provided to the recipient furnishing assistance; or

(3) At the request of the juvenile, or a parent or guardian of the juvenile, if no other counsel can be obtained.

§ 1614.4 Request of a parent, guardian, or court.

Subject to § 1614.3, legal assistance may be provided to a juvenile

(a) When the written request of a parent or guardian of the juvenile is received; or

(b) At the request of an official or agent of a court of competent jurisdiction.

§ 1614.5 Representation without request of a parent, guardian, or court.

Subject to § 1614.3, legal assistance may be provided to a juvenile without a request from a parent, guardian, or court in

(a) Cases, proceedings, or matters

(1) Involving child abuse or neglect;

(2) To determine legal custody or guardianship of a juvenile;

(3) In which a court has jurisdiction by reason of a juvenile's alleged need for supervision and control, including but not limited to proceedings formally designated for persons in need of supervision (PINS) under state law; or

(4) Involving the initiation, continuation, or conditions of institutionalization of a juvenile; and

(b) When no judicial action is commenced against the parent or non-institutional guardian of the juvenile, legal assistance may be provided

(1) To secure or prevent the loss of benefits or services, or

(2) To prevent the imposition of services against the will of the juvenile.

§ 1614.6 Continuity of representation.

If a criminal proceeding, as defined in § 1613.2, arises out of a case, proceeding, or matter with respect to which a juvenile has received assistance authorized by this Part, an attorney should make a good faith effort, consistent with professional responsibility, to obtain approval of the court to withdraw from representation in the criminal proceed-

ing, but may continue to provide representation unless relieved by the court.

THOMAS EHRLICH,
President,
Legal Services Corporation.

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[45 CFR Part 1615]

**RESTRICTIONS ON ACTIONS
CHALLENGING CRIMINAL CONVICTIONS**

The Legal Services Corporation ("the 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"), for the purpose of providing financial support for legal assistance in non-criminal proceedings or matters to persons financially unable to afford legal assistance. Section 1007(b) (1) of the Act restricts the use of Corporation funds in civil actions challenging criminal convictions.

Pursuant to section 1008(e) of the Act, the Corporation hereby affords notice and publishes for comment the following proposed regulations concerning restrictions on actions challenging criminal convictions. Public comment will be received by the Corporation at its headquarters office, Suite 700, 733 15th Street, NW., Washington, D.C. 20005 on or before July 12, 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 1615 is added in proposed form as set forth below:

**PART 1615—RESTRICTIONS ON ACTIONS
CHALLENGING CRIMINAL CONVICTIONS**

Sec.

- 1615.1 Purpose.
- 1615.2 Prohibition.
- 1615.3 Application of this part.

AUTHORITY: Section 1007(b) (1); 42 U.S.C. 2996f(b) (1).

§ 1615.1 Purpose.

This part prohibits the provision of legal assistance in certain actions brought to challenge criminal convictions.

§ 1615.2 Prohibition.

Except as authorized by § 1615.3, no Corporation funds shall be used to provide legal assistance in an action challenging the validity of a criminal conviction, if the action

(a) Is brought against an officer of a court, a law enforcement official, or a public officer who has custody of a convicted person; and

(b) Alleges that the conviction is invalid because of any misfeasance or non-feasance.

§ 1615.3 Application of this part.

This part does not prohibit legal assistance

(a) To challenge a conviction resulting from a criminal proceeding in which the defendant received representation from the recipient pursuant to §§ 1613.4 and 1614.6; or

(b) 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 primary responsibility of the recipient to provide legal assistance to eligible clients in civil matters.

THOMAS EHRLICH,
President,
Legal Services Corporation.

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[45 CFR Part 1616]

ATTORNEY HIRING

The Legal Services Corporation ("the 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"), for the purpose of providing financial support for legal assistance in non-criminal proceedings or matters to persons financially unable to afford legal assistance. Section 1007(a) (8) of the Act provides that the Corporation shall ensure that recipients solicit recommendations of the local bar in filling staff attorney positions, giving preference to qualified local residents; section 1008(b) (6) requires the Corporation to provide, to the extent feasible, in areas where a language other than English is the principal language of significant numbers of eligible clients, that such language is used in the provision of legal assistance to those clients; and section 1008(b) (4) limits compensation to attorneys admitted or authorized to practice law or to provide legal assistance in the jurisdiction where such assistance is provided.

Pursuant to section 1008(e) of the Act, the Corporation hereby affords notice and publishes for comment the following proposed regulations concerning attorney hiring. Public comment will be received by the Corporation at its headquarters office, Suite 700, 733 15th Street, NW., Washington, D.C. 20005 on or before July 12, 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 1616 is added in proposed form as set forth below:

PART 1616—ATTORNEY HIRING

Sec.

- 1616.1 Purpose.
- 1616.2 Definition.
- 1616.3 Qualifications.
- 1616.4 Recommendations.
- 1616.5 Preference to local applicants.
- 1616.6 Equal employment opportunity.

AUTHORITY: Sections 1007(a) (8); 1008(b) (6); 1008(b) (4) (42 U.S.C. 2996f(a) (8); 2996e(b) (6); 2996e(b) (4)).

§ 1616.1 Purpose.

This part is designed to promote a cooperative relationship between a recipient and the local Bar and community, and to insure that a recipient will choose the most highly qualified attorneys for its staff.

§ 1616.2 Definition.

"Community", as used in this part, means the geographical area most closely corresponding to the area served by a recipient.

§ 1616.3 Qualifications.

A recipient shall establish qualifications for individual positions for attorneys providing legal assistance under the Act, that may include, among other relevant factors:

- (a) Academic training and performance;
- (b) The nature and extent of prior legal experience;
- (c) Knowledge and understanding of:
 - (1) The legal problems of the poor, and
 - (2) The provision of legal services to the poor;
- (d) Prior working experience in the client community, or in other programs to aid the poor;
- (e) Ability to communicate with persons in the client community, including, in areas where significant numbers of eligible clients speak a language other than English as their principal language, ability to speak that language; and
- (f) Cultural similarity with the client community.

§ 1616.4 Recommendations.

(a) Before filling an attorney position, a recipient shall notify the organized Bar in the Community of the existence of a vacancy, and seek recommendations for attorneys who meet the qualifications established for the position.

(b) A recipient shall similarly notify and seek recommendations from other organizations, deemed appropriate by the recipient, that have knowledge of the legal needs of persons in the community unable to afford legal assistance.

§ 1616.5 Preference to local applicants.

When equally qualified applicants are under consideration for an attorney position, a recipient shall give preference to an applicant residing in the community to be served.

§ 1616.6 Equal employment opportunity.

A recipient shall adopt employment qualifications, procedures, and policies that meet the requirements of applicable laws prohibiting discrimination in employment, and shall take affirmative ac-