

Title 45—Public Welfare
CHAPTER XVI—LEGAL SERVICES CORPORATION
PART 1621—CLIENT GRIEVANCE PROCEDURE

AGENCY: Legal Services Corporation.

ACTION: Final regulation.

SUMMARY: This regulation establishes a client grievance procedure for legal services programs that receive financial assistance from the Legal Services Corporation. The procedure provides a remedy for a person who believes that he or she has been denied legal assistance improperly, or who is dissatisfied with assistance provided. The procedure will help to insure that legal services programs are accountable to those whom they are expected to serve.

EFFECTIVE DATE: August 24, 1977.

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

FOR FURTHER INFORMATION CONTACT:

Linda Davis, 733 15th Street NW., Suite 700, Washington, D.C. 20005 (202-376-5113).

SUPPLEMENTARY INFORMATION: A proposed regulation establishing a client grievance procedure for adoption by legal services programs receiving funds from the Legal Services Corporation was published on January 26, 1977. Public comments were received and considered by the Corporation's Board of Directors, and on July 7, 1977 the Board approved the following final regulation.

A person who is denied legal assistance by a recipient, or who is dissatisfied with the assistance rendered, generally is unable to obtain legal assistance from another source. This lack of choice and the fact that the client does not pay a fee make it essential that adequate recourse be available when the client believes that the services provided by a recipient do not meet the high professional standards required by the Act. Further, the fact that a recipient carries on its activities with funds from a public source imposes an additional responsibility beyond those imposed on every lawyer by the Code of Professional Responsibility. An effective client grievance procedure is an appropriate means of insuring the accountability of a recipient to its clients, and maintaining a proper balance in the attorney-client relationship.

The regulation requires the governing body of a recipient to establish a grievance committee with authority to con-

sider complaints that have not been resolved by staff action. A recipient that serves a very large geographic area, such as a statewide program, may establish separate local committees. A client is not, of course, required to submit her or his grievance to such a committee, and a decision to do so will not interfere with the right to complain to Bar committees or other bodies charged with overseeing the performance of attorneys.¹ The procedures contemplated by the regulation may, however, provide clients with a forum that is more sympathetic to them, and give programs an opportunity to correct improper practices without disruptive intervention by outside entities.

The Code of Professional Responsibility does not prevent a committee containing nonlawyers from inquiring into a lawyer's conduct of a case when the committee is acting at the request of the client. Ethical prohibitions against interference with the professional judgment of a lawyer are designed to insure that the lawyer will be directly responsible to the client, and not subject to interference or control by an intermediary. See ABA Formal Opinions 237 and 294. Inquiry by a grievance committee acting at the request of the client is consistent with these opinions.

The notice given to a person about the complaint procedure should also inform the client of the existence of a local group, such as the National Clients Council or the National Welfare Rights Organization, that may be able to counsel the client about the subject of the complaint.

The requirement in the proposed draft that a recipient provide assistance to a client in presenting a complaint has been omitted to avoid jeopardizing a recipient's malpractice insurance. Instead, Section 1621.3 requires a recipient to transcribe a brief statement made by a complainant, for inclusion in the file, if the complainant so desires.

Section 1621.4 was added in response to comments received on the proposed regulations. It authorizes a simplified procedure for handling complaints about eligibility determinations and similar decisions denying legal assistance, the number of which may make it unduly burdensome to follow the more detailed procedures. It is recognized that even

¹The State Advisory Council is not the proper forum for complaints about the quality of assistance rendered, because its jurisdiction is limited to notifying the Corporation of any apparent violation of the prohibitions of the Act and Regulations. See Section 1004(f) of the Act and Section 1603.5 (a) of Corporation Regulations.

these simplified procedures may not act quickly enough to provide relief where an applicant is facing an emergency.

Most offices, however, currently provide immediate review of eligibility determinations when an applicant protests. It is expected that such practices will continue. The further review contemplated by the regulation will enable applicants who have non-emergency problems to obtain service, and alert programs to problems in their intake process.

Secs.

- 1621.1 Purpose.
- 1621.2 Grievance Committee.
- 1621.3 Complaints about legal assistance.
- 1621.4 Complaints about denial of assistance.

AUTHORITY: Sec. 1006(b)(1), 41 U.S.C. 2996e(b)(1); sec. 1006(b)(3), 42 U.S.C. 2996e(b)(3); sec. 1007(a)(1), 42 U.S.C. 2996f(a)(1).

§ 1621.1 Purpose.

By providing an effective remedy for a person who believes that legal assistance has been denied improperly, or who is dissatisfied with the assistance provided, this Part seeks to insure that every recipient will be accountable to those it is expected to serve, and will provide the legal assistance required by the Act.

§ 1621.2 Grievance Committee.

The governing body of a recipient shall establish a grievance committee or committees, composed of lawyer and client members of the governing body in approximately the same proportion in which they are on the governing body.

§ 1621.3 Complaints about legal assistance.

(a) A recipient shall establish procedures for determining the validity of a complaint about the manner or quality of legal assistance that has been rendered.

(b) The procedures shall provide at least:

(1) Information to a client at the time of the initial visit about how to make a complaint, and

(2) Prompt consideration of each complaint by the director of the recipient, or the director's designee, and, if the director of the recipient is unable to resolve the matter,

(3) An opportunity for a complainant to submit an oral and written statement to a grievance committee established by the governing body. The complainant may be accompanied by another person. Upon request, the recipient shall transcribe a brief written statement, dictated by the complainant, for inclusion in the recipient's complaint file.

(c) A file containing every complaint and a statement of its disposition shall be preserved for examination by the Corporation. The file shall include any written statement submitted by the complainant.

§ 1621.4 Complaints about denial of assistance.

A recipient shall establish a simple procedure for review of a decision that a person is financially ineligible, or that

assistance is prohibited by the Act or Corporation Regulations, or by priorities established by the recipient pursuant to Section 1620. The procedure shall include information about how to make a complaint, adequate notice, an opportunity to confer with the director of the recipient or the director's designee, and, to the extent practicable, with a representative of the governing body.

THOMAS EHRLICH,
President,
Legal Services Corporation.

R Doc.77-21062 Filed 7-21-77;8:45 am]
