

**SUPPLEMENTARY INFORMATION:** Section 1011 of the Legal Services Corporation Act requires the Corporation to establish procedures to insure the financial assistance to a recipient will not be suspended without an opportunity for the recipient to show cause why the suspension should not occur. The proposed regulation was published for comment on January 3, 1978 (43 FR 19). That regulation is now being republished without change, to be effective June 21, 1978. The suspension power is in many ways the most extreme sanction available to the Corporation in discharging its responsibilities under the Act. Financial assistance is continued during proceedings to deny applications for refunding and to terminate financial assistance, and in most instances the Corporation establishes a new grantee to provide service in the community affected. This is not the case with suspension. That power should, therefore, be used only as a last resort to correct serious deficiencies in a program where the recipient has refused to do so voluntarily.

In light of these considerations, this Part provides that financial assistance can be suspended only where a recipient is guilty of a substantial failure to comply with a provision of law, a Corporation rule, regulation, guideline, or a term or condition of its current grant, or has substantially failed to provide high quality, economical, and effective legal assistance. In most cases, suspension proceedings cannot be initiated unless the recipient has been informed of its failure and had a reasonable opportunity to correct it.

The second major restriction on the power to suspend financial assistance is that a particular suspension cannot be in effect for a total of more than 30 days. The Corporation employee who orders suspension may set the effective date of the suspension to coincide with the Corporation's schedule for making grant payments, and may rescind or modify the suspension at any time based on considerations such as the progress made toward compliance and the ability of the recipient to continue serving existing clients. After financial assistance has been suspended for a total of 30 days, however, the Corporation must initiate termination proceedings if it believes further action is necessary. The recipient may, of course, agree to an extension of the suspension instead, if it believes that compliance is imminent and does not wish to suffer the expense and dislocation of termination proceedings.

Chapter XVI of title 45 of the Code of Federal Regulations is amended by adding a new Part 1623 as follows:

[6820-35]

Title 45—Public Welfare

**CHAPTER XVI—LEGAL SERVICES CORPORATION**

**PART 1623—PROCEDURES GOVERNING SUSPENSION OF FINANCIAL ASSISTANCE**

**AGENCY:** Legal Services Corporation.

**ACTION:** Final regulation.

**SUMMARY:** The Legal Services Corporation establishes procedures to insure that financial assistance provided for a recipient will not be suspended without an opportunity to show good cause. The suspension power is only used when it's necessary to discharge the Corporation's statutory authority. This regulation specifies the circumstances in which a suspension may occur and the limitation on that power.

**EFFECTIVE DATE:** June 21, 1978.

**FOR FURTHER INFORMATION CONTACT:**

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Authority: Secs. 1006(b)(1), 1011 (42 U.S.C. 2996c(b)(1), 2996j).

**§ 1623.1 Purpose.**

By providing procedures for prompt review that will insure informed deliberation by the Corporation when there is reason to believe that financial assistance to a recipient should be suspended, this Part seeks to avoid unnecessary disruption in the delivery of legal assistance to eligible clients.

**§ 1623.2 Definition.**

"Suspension" means any action temporarily suspending or curtailing financial assistance to a recipient in whole or in part prior to the expiration of the recipient's current grant from or contract with the Corporation.

**§ 1623.3 Grounds for suspension.**

Financial assistance provided to a recipient may be suspended when:

(a) There has been substantial failure by a recipient to comply with a provision of law, or a rule, regulation, or guideline issued by the Corporation, or a term or condition of the recipient's current grant from or contract with the Corporation; or

(b) There has been substantial failure by a recipient to provide high quality, economical, and effective legal assistance, as measured by generally accepted professional standards, the provisions of the Act, or a rule, regulation, or guideline issued by the Corporation.

(c) In the absence of unusual circumstances, suspension shall not take place unless the Corporation has given the recipient notice of its failure and an opportunity to take effective corrective action.

**§ 1623.4 Suspension.**

(a) When there is reason to believe that financial assistance to a recipient should be suspended, the Corporation shall serve a written preliminary determination on the recipient stating the grounds and effective date for the proposed suspension, and identifying, with reasonable specificity, any facts or documents relied upon as justification for the suspension. The preliminary determination shall also specify any corrective action that the recipient must take to avoid or end the suspension.

(b) The preliminary determination shall advise the recipient that it may, within 5 days of receipt of the preliminary determination, request an informal meeting with the Corporation at which it may attempt to show that the proposed suspension should not

become effective. The Corporation shall designate the place for such a meeting and shall set the time at least 5 days after the recipient's request is received. The preliminary determination shall also advise the recipient that, within 10 days of its receipt of the preliminary determination and without regard to whether it requested an informal meeting, it may submit written materials in opposition to the proposed suspension.

(c) The Corporation shall consider any written materials submitted by the recipient in opposition to the proposed suspension and any oral presentation or written materials submitted by the recipient at the informal meeting, if one is requested. If after considering these materials the Corporation concludes that the recipient has failed to show that the suspension should not become effective, it may suspend financial assistance to the recipient in whole or in part and under such terms and conditions as it deems proper.

(d) Written notice of the suspension shall be promptly transmitted to the recipient, and the suspension shall become effective when the notice is received by the recipient or on such later date as is specified in the notice.

(e) The Corporation employee ordering suspension may at any time rescind or modify the terms of the suspension and, on written notice to the recipient, reinstate the suspension without further proceedings under this Part. In no event shall the total time of suspension exceed 30 days, unless the Corporation and the recipient agree to a continuation of the suspension for an additional period of time and without further proceedings under this Part.

**§ 1623.5 Time extension and waiver.**

(a) Any period of time provided in this Part, except the total time for suspension, may, upon good cause shown and determined, be extended by the person issuing the preliminary determination under § 1623.4 or by the President.

(b) Requests for extensions of time shall be considered in light of the overall objective that the procedures prescribed by this Part ordinarily shall be concluded within 30 days of the preliminary determination.

(c) Any other provision of this Part may be waived or modified by agreement of the recipient and the Corporation, or by the President upon good cause shown and determined.

**§ 1623.6 Interim funding.**

Failure by the Corporation to meet a time requirement of this Part shall not entitle a recipient to continued funding. Pending the completion of suspension proceedings under this Part, the Corporation shall provide the recipient with interim funding

necessary to maintain its current level of legal assistance activities under the Act.

THOMAS EHRLICH,  
President.

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