

**LEGAL SERVICES CORPORATION****45 CFR Part 1624****Prohibition Against Discrimination on the Basis of Handicap**

**AGENCY:** Legal Services Corporation.  
**ACTION:** Final Regulation.

**SUMMARY:** This regulation implements Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 708, with regard to recipients of funds from the Legal Services Corporation. The Legal Services Corporation was created by Act of Congress, 42 U.S.C. 2906, and is entirely supported by funds provided by Congressional appropriation. The final regulation is intended to insure that federally assisted legal services programs and activities are operated without discrimination on the basis of handicap.

**EFFECTIVE DATE:** October 25, 1979.

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**SUPPLEMENTARY INFORMATION:** Section 504 of the Rehabilitation Act of 1973, as amended, prohibits discrimination on the basis of handicap by recipients of federal assistance. Pursuant to Executive Order 11914 (April 29, 1976) the Department of Health, Education, and Welfare was given the responsibility to coordinate the implementation of Section 504 among all federal agencies and departments that dispense federal assistance. On January 13, 1978, H.E.W. issued regulations that defined generally the types of practices forbidden by the Rehabilitation Act and spelled out the responsibilities of federal agencies to implement and enforce Section 504. See 45 CFR 85.1-85.58.

The Corporation is not a federal agency or department, and is not required by the Executive Order to issue implementation and enforcement regulations. Corporation-funded

programs, however, receive federal financial assistance and are subject to the non-discrimination requirements of Section 504. In addition, the Legal Services Corporation Act requires the Corporation to "insure the maintenance of the highest quality of service . . . . 42 U.S.C. Section 2906(f)(a)(1), and "insure that grants and contracts are made so as to provide the most economical and effective delivery of legal assistance . . . . 42 U.S.C. Section 2906(f)(a)(3). The Corporation maintains that discriminatory practices by legal services programs interfere directly with the ability of those programs to provide high quality legal assistance in an efficient and effective manner. The Corporation, therefore, has undertaken to ensure that its funds are not used in a manner that discriminates against the handicapped, regardless of the fact that it is not required to do so under Section 504.

A proposed version of Part 1624 was published for notice and comment in the Federal Register on April 18, 1978, (44 FR 22482). In response to that proposal the Corporation received comments that covered a variety of issues; often with respect to the same issue some comments suggested that the proposed regulation went too far, while others complained that it did not go far enough. Many of the issues raised by the comments were fully considered in designing the proposed regulation, and are addressed elsewhere in this commentary. In most instances, the Corporation continues in the view that the proposed regulation represented the best resolution of the conflicting viewpoints. Other comments raised issues that were not addressed previously, and some modifications have been made in the regulation to respond to those issues.

In preparing the regulation, the Corporation faced, at the outset, a general issue concerning the extent to which it should follow the guidelines issued by the Department of Health, Education, and Welfare. See 45 CFR 85.1-85.58. Many commentators assumed that the H.E.W. guidelines implementing Section 504 of the Rehabilitation Act are binding on the Corporation, and these remarks are based solely on perceived variations between the proposed regulation and the guidelines. As was emphasized above, however, the Corporation is not a "federal department or agency," and is not required by the Executive Order to issue regulations that conform to the H.E.W. guidelines. However, to the extent that they were applicable to legal services program operations, the Corporation did adopt

the spirit and the substance of the H.E.W. guidelines; changes were often made in the specific language of particular provisions suggested by H.E.W. where that language was unclear. Other sections of the guidelines were either inappropriate or inapplicable to legal services practice and were excluded entirely or adapted to the circumstances under which legal services programs operate. The Corporation remains committed to this approach as the best way to advance the goal of consistency among agencies and organizations that enforce Section 504, while recognizing the specific needs of legal services programs.

The remainder of this commentary summarizes and discusses the major issues faced in drafting the final regulation and raised by comments, and notes the more substantial changes made in the regulation.

**Section 1624.1—Purpose.** This section has been expanded to clarify that the authority for this regulation is premised not only on Section 504, but also on those provisions of the Legal Services Corporation Act that require the Corporation to insure that its grantees provide high quality legal assistance in an efficient and effective manner. In addition, it has been modified to make clear that by promulgation of this regulation the Corporation does not intend to imply that legal services programs are systematically engaged in discriminatory practices against the handicapped. On the contrary, legal services programs have been in the forefront of the fight to establish the rights of handicapped persons, and are generally sensitive to the special problems of handicapped clients. The regulation is designed to provide guidance and assist programs with whatever difficulties they may encounter in their efforts to incorporate handicapped persons fully into their activities.

**Section 1624.3—Definitions.** The HEW guidelines use the term "recipient" to designate the class of programs covered by the policy. Corporation regulations (45 CFR 1600.1) define "recipient" to include only those "grantees or contractors receiving financial assistance from the Corporation under Section 1006(a)(1)(A) of the Act." This definition excludes some special grantees such as the Delivery Systems Study demonstrations and the Quality Improvement Projects that receive funds for innovative or experimental programs. The HEW definition of "recipient" is much broader, and would include those special grants. Rather than using a different definition for a term

that has come to have a specific meaning in the context of Corporation regulations, the proposed regulation uses an entirely new term—legal services program—that incorporates the broader HEW definition.

One comment suggested that the regulation define "financial assistance" to clarify whether programs that receive non-monetary help from the Corporation, such as technical assistance, should be subject to the regulation. The problem is an insubstantial one, inasmuch as the Corporation provides such assistance only to its grantees and contractors. No change has been made.

Several comments suggested that the definition of "physical or mental impairment" should include the non-exhaustive illustrative list contained in the HEW guidelines. 45 CFR 85.31(b)(1). The final regulation has been modified accordingly.

**Section 1624.4—Discrimination Prohibited.** Several commentators argued that the Corporation's regulation should include all of the examples of discriminatory practices listed in the HEW guidelines. The Corporation maintains the view that many of those examples are vague and not relevant to legal services; including them could only foster uncertainty in the implementation of enforcement of the regulation. The regulation, however, does adopt the suggestion of one comment that § 1624.4(c) be modified to prohibit selection of office sites that have the purpose of discriminating against handicapped persons, even if they do not have that effect. This section relates only to the selection of general geographic areas for offices, not specific facilities which are covered by § 1624.5.

The HEW guidelines contain a provision that relates to "the existence of permissibly separate or different programs or activities." See 45 CFR 85.51(b)(2). The import of the provision, which is reflected in § 1624.4(b) of the regulation, is to prohibit a program from designating a specialized unit or particular office as the *sole* location for the delivery of services to handicapped persons. It is not intended to prohibit a program from setting up special units to handle only problems that relate to handicapped status or to contradict the provisions permitting a program to make only specific locations physically accessible, as long as handicapped clients have access to all of a program's specialized services and its programs and activities are accessible "when viewed in their entirety" (See § 1624.5(b)). The language of § 1624.4(b) has been redrafted to state in clear terms this intended meaning.

Many of the comments addressed § 1624.4(d) of the proposed regulation, relating to the provision of auxiliary aids to persons with sensory, manual or speaking impairments. This provision was included in recognition of the essential need for effective communication between a legal services program and its clients. Several comments complained that the provision would impose undue financial burdens on many legal services programs; others suggested that the fifteen person cut-off ignores the possibility that a small program may have a client population with a disproportionately high percentage of handicapped persons.

The provision was based on two assumptions: First, that a program with at least fifteen employees will have a sufficiently large budget to enable it to obtain access to auxiliary aids when needed without jeopardizing its other activities; second, that a program of that size will serve a sufficiently large population to have a significant number of potential clients who could benefit by the availability of the aids. Nothing in the comments has persuaded the Corporation that these assumptions are invalid. Given the Corporation's funding approach, it is unlikely that a smaller program would be faced with a large number of handicapped clients; in all events, § 1624.4(d)(2) provides flexibility to respond to such a situation should it occur.

Several comments requested that § 1624.4(d) be clarified in two additional respects: to state more clearly that programs are not required to maintain auxiliary aids on hand at all times, provided that they can be obtained as needed within a reasonable period of time; and, that programs with several offices, each employing less than fifteen persons, but a total work force of more than fifteen, are covered by § 1624.4(d)(1). The points are valid ones, and the section has been clarified accordingly. In addition, in response to another comment on § 1624.4(d)(3) "telecommunications equipment for the deaf" has been added to the list of examples of auxiliary aids.

Several comments criticized §§ 1624.4(e) and 1624.4(f) of the proposed regulation, which require that programs ensure that their communications "are available to persons with impaired vision and hearing," and that, in setting its priorities, a "program may not deny handicapped persons the opportunity to participate as members of or in the meetings or activities of any planning or advisory board or process established by or conducted by the program." The

commentators argued that legal services programs should be mandated to conduct outreach and take other affirmative actions to ensure that handicapped individuals actually receive service. The Corporation maintains the view that Section 504 requires only that the services of programs as a whole be accessible to those who wish to use them. Whether to perform outreach or engage in other affirmative activities—or to make special efforts to reach certain groups—is a matter committed by the Act, 42 U.S.C. 2996f(a)(1)(C), to the priority-setting process of each program, pursuant to the procedure established by Part 1620 of the Corporation's regulations, 45 CFR 1620. In addition, the provision has been modified to clarify that programs are required to take only those steps that are "reasonable" to ensure the availability of communications. For example, under most circumstances § 1624.4(e) would not require a program to print its newsletter in braille.

**Section 1624.5—Accessibility of Legal Services.** Some comments urged the Corporation to adopt standards for accessibility of buildings established by various specialized organizations. One commentator suggested the standards issued by the United States Architectural and Transportation Barriers Compliance Board; another proposed those of the American National Standards Institute, Inc. The Corporation is not prepared to take a position on these suggestions. A better approach is for the Corporation to assemble and distribute materials and to provide programs with training to guide compliance efforts.

One comment urged that § 1624.5(b) be modified to mandate that any specialized units maintained by a program, such as a separately-housed consumer law unit, be physically accessible to handicapped persons. The regulation clearly requires that handicapped persons be able to benefit from the expertise of specialized units, and establishes a preference for methods of access that do not involve separate arrangements for the handicapped. It may well be, therefore, that the easiest way for a program to comply with § 1624.5(b) will be to make all of its facilities physically accessible. However, some flexibility is desirable, at least until programs have more experience operating under Part 1624, and some programs may find that permissible alternatives, such as home visits, delivery of services at alternate accessible sites, rearrangement or modest alterations of existing facilities,

are effective in achieving the required results.

One comment questioned whether the certification requirement of § 1624.5(c) applies generally to program accessibility, or to accessibility of physical facilities. The section expressly applies only to facility accessibility and requires no clarification on that point.

One comment suggested that programs should be absolutely prohibited from renting or purchasing inaccessible space in the future, and that the regulation should be more forceful in expressing that policy. The Corporation agrees that in almost every instance programs may not rent or buy new space that is inaccessible. There may be situations, however, where it is not practicable to find accessible space, such as when the only accessible space is located well outside of the poverty community. Therefore, the provision relating to the accessibility of new space has been strengthened and now requires more detail in the certification mandated by § 1624.5(c), but the accessibility requirement is not absolute.

The first sentence of § 1624.5(d), relating to new facilities, has also been clarified to indicate that it applies only to facilities that are specifically designed or constructed for a legal services program. New facilities that are not designed or built for a program, but are purchased by that program are covered by § 1624.5(c).

Several comments argued that the regulation should set a time-table for making each program facility accessible. Most comments suggested three years from the effective date of the regulation as the outside limit. The regulation does not, however, require that each and every facility be accessible, as long as the "programs and activities, when viewed in their entirety, are readily accessible to and usable by handicapped persons," § 1624.5(b). A three-year deadline could be misleading, and create an impression that compliance with the quoted requirements could be delayed for three years. The regulation anticipates that programs will take immediate steps to comply with the requirements and provides that, by January 1, 1980, programs must evaluate their facilities, policies and practices to determine the extent to which they comply with the regulation. They must also consider the costs associated with changes that would be necessary if the program were voluntarily to make each of its facilities accessible, even though not required to do so under the regulation. The program must make public the plans it has, including a time-table, for correcting any

deficiencies (§ 1624.7). This provision is more likely to produce rapid results than three-year grace period proposed by the comments, and has not been changed.

**Section 1624.6—Employment.** Section 1624.6 of the regulation includes the general prohibition against discrimination in employment contained in the H.E.W. guidelines. Also included are provisions of the guidelines that list activities to which the prohibition applies, including such activities as recruitment, rates of pay, fringe benefits, and training opportunities. One comment argued that Section 504 affects employment only in federally-funded job programs. The comment urged the Corporation to apply its regulations only when "the main purpose of the program or activity is to provide employment or when delivery of program services is affected by the recipients' employment practices." Even accepting the assumption of the comment, the Corporation has consistently maintained the view that a legal services program's employment practices do affect its ability to serve its client community. Further, authority for the promulgation of the regulation is based not simply on Section 504, but on provisions of the Legal Services Corporation Act as well. The regulation continues to contain employment requirements for Corporation grantees.

The same comment urged that the Corporation delay final publication of its regulation until certain conflicts between the HEW guidelines and regulations issued by the Department of Labor are resolved. Because Executive Order 11914 designated HEW as the coordinating agency for Section 504 among federal agencies, to the extent that the Corporation chooses to follow any federal guidelines for its own regulations, it should adhere to those issued by HEW in addition, because HEW provides supplemental funding to a large number of Corporation grantees, the Corporation should attempt to avoid unnecessary burdens on those programs by conforming our regulation to the HEW requirements as much as possible.

Section 1624.6(d) of the regulations prohibits contractual or other relationships with agencies or organizations such as unions or employment agencies that have "the effect of subjecting qualified handicapped applicants or employees to discrimination \* \* \*." The Language of the HEW provision on which this section is based has been clarified to reflect that it applies to discriminatory practices by outside individuals, agencies or organizations, and does not prohibit programs, for example, from

refusing to hire handicapped applicants who are not union members or who are not referred by an employment agency with which the program has an exclusive contract, provided that the union or employment agency does not discriminate.

Several commentators argued that § 1624.6(e) of the regulation should adopt the approach of the HEW guidelines, and expressly place on legal services programs the burden of proving that accommodation to the limitations of handicapped job applicants would be unduly burdensome. The reasons advanced to support this argument are that programs have greater access to information relevant to that question, and courts are likely to follow that approach in any event. Both statements may well be true, but the regulation should not be drafted from a litigant's point of view. A program must, of course, be able to articulate persuasive reasons to support a determination that accommodation would be unreasonable. This requirement is inherent in the proposed regulation, and a "burden of proof" provision is an artificial means of reinforcing it.

Several comments suggested a need for additional definition of the phrase, "reasonable accommodation to the known physical or mental limitations of an otherwise qualified applicant or employee," as used in § 1624.6(e). Some suggested that any accommodation that was more than *de minimis*, i.e., that imposed more than a trivial cost on a program, was unreasonable *per se*. The Corporation maintains that any accommodations that would involve substantial costs or major changes in a program are not "reasonable." Beyond that, it would be difficult and impractical to set out precise criteria for judging accommodations for particular handicaps. Such determinations must be made on a case-by-case basis, at least until there is some experience under the regulation. The factors listed in § 1624.6(e) should provide some guidance in making those determinations, but are not intended to exhaust the relevant considerations.

One comment suggested that the use of the phrase "essential functions of the job in question" in the definition of "qualified handicapped person," § 1624.3(d), should be clarified in order not to undercut the effect of the reasonable accommodation provisions. The use of the word "essential" was intended to insure only that handicapped job applicants would not be denied employment because they were incapable of performing trivial or

unnecessary aspects of the job in question.

Several comments suggested that § 1624.6(f), which prohibits the use of discriminatory employment tests or criteria, should be changed to prohibit all such tests or criteria that are not job-related. As long as employment tests or criteria are not discriminatory, the law does not require that they be job-related. The Corporation may well be without authority to impose such a requirement as a matter of policy, and certainly should not do so in the context of this regulation.

Several comments noted that the proposed regulation's reference to the circumstances under which pre-employment medical examinations or inquiries were permissible omitted HEW's provision for confidentiality of records resulting from such inquiries. The exclusion was unintentional, and the reference has been expanded to include that provisions, with a slight modification of its language to make it relevant to Corporation grantees.

One commentator argued that programs should be permitted to negotiate arrangements with handicapped job applicants to protect the programs from extraordinary medical insurance claims. The Corporation is not persuaded that this is a serious problem. It seems unlikely that an applicant who was in imminent need of major medical attention could perform the basic functions of a position. Programs may, moreover, request all new employees to take physical examinations for purposes of pre-existing condition clauses in their insurance policies, and we would expect programs to attempt to negotiate insurance coverage that would protect all of their employees.

**Section 1624.8—Enforcement.** Several commentators observed that the proposed regulation does not require programs to sign assurances of compliance with Section 504, a procedure that is mandated by the HEW guidelines. All Corporation grantees and contractors, however, sign general assurances that they will not discriminate on the basis of handicap and will comply with the Corporation's regulations. Therefore, a special assurance for Section 504 is not necessary.

**PART 1624—PROHIBITION AGAINST DISCRIMINATION ON THE BASIS OF HANDICAP**

- Sec.
- 1624.1 Purpose.
- 1624.2 Application.
- 1624.3 Definitions.
- 1624.4 Discrimination prohibited.

- Sec.
- 1624.5 Accessibility of legal services.
- 1624.6 Employment.
- 1624.7 Self-evaluation.
- 1624.8 Enforcement.

Authority: 49 U.S.C. 706; 42 U.S.C. 2996f(a) (1) and (3)

**§ 1624.1 Purpose.**

The purpose of this part is to assist and provide guidance to legal services programs supported in whole or in part by Legal Services Corporation funds in removing any impediments that may exist to the provision of legal assistance to handicapped persons eligible for such assistance in accordance with Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. Section 794 and with Sections 1007(a) (1) and (3) of the Legal Services Corporation Act, as amended, 42 U.S.C. Sections 2996f(a) (1) and (3), with respect to the provision of services to and employment of handicapped persons.

**§ 1624.2 Application.**

This part applies to each legal services program receiving financial assistance from the Legal Services Corporation.

**§ 1624.3 Definitions.**

As used in this part, the term: (a) "Legal services program" means any recipient, as defined by § 1600.1 of these regulations, or any other public or private agency, institution, organization, or other entity, or any person to which or to whom financial assistance is extended by the Legal Services Corporation directly or through another agency, institution, organization, entity or person, including any successor, assignee, or transferee of a legal services program, but does not include the ultimate beneficiary of legal assistance;

(b) "Facility" means all or any portion of buildings, structures, equipment, roads, walks, parking lots, or other real or personal property or interest in such property;

(c)(1) "Handicapped person" means any person who (i) has a physical or mental impairment which substantially limits one or more major life activities, (ii) has a record of such an impairment, or (iii) is regarded as having such an impairment;

(2) As used in subparagraph (1) the phrase:

(i) "Physical or mental impairment" means (A) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or (B) any mental or

psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities; The phrase includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, and drug addiction and alcoholism;

(ii) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working;

(iii) "Has a record of such impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities;

(iv) "Is regarded as having an impairment" means (A) has a physical or mental impairment that does not substantially limit major life activities but is treated by a legal services program as constituting such a limitation; (B) has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairments; or (C) has none of the impairments defined in paragraph (c)(2)(i) of this section but is treated by a legal services program as having such an impairment;

(d) "Qualified handicapped person" means: (1) With respect to employment, a handicapped person who, with reasonable accommodation, can perform the essential functions of the job in question; (2) with respect to other services, a handicapped person who meets the eligibility requirements for the receipt of such services from the legal services program.

**§ 1624.4 Discrimination prohibited.**

(a) No qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination by any legal services program, directly or through any contractual or another arrangement.

(b) A legal services program may not deny a qualified handicapped person the opportunity to participate in any of its programs or activities or to receive any of its services provided at a facility on the ground that the program operates a separate or different program, activity or facility that is specifically designed to serve handicapped persons.

(c) In determining the geographic site or location of a facility, a legal services

program may not make selections that have the purpose or effect of excluding handicapped persons from, denying them the benefits of, or otherwise subjecting them to discrimination under any program or activity of the legal services program.

(d)(1) A legal services program that employs a total of fifteen or more persons, regardless of whether such persons are employed at one or more locations, shall provide, when necessary, appropriate auxiliary aids to persons with impaired sensory, manual or speaking skills, in order to afford such persons an equal opportunity to benefit from the legal services program's services. A legal services program is not required to maintain such aids at all times, provided they can be obtained on reasonable notice.

(2) The Corporation may require legal services programs with fewer than fifteen employees to provide auxiliary aids where the provision of such aids would not significantly impair the ability of the legal services program to provide its services.

(3) For the purpose of §§ 1624.4(d)(1) and (2), auxiliary aids include, but are not limited to, brailled and taped material, interpreters, telecommunications equipment for the deaf, and other aids for persons with impaired hearing, speech or vision.

(e) A legal services program shall take reasonable steps to insure that communications with its applicants, employees, and beneficiaries are available to persons with impaired vision and hearing.

(f) A legal services program may not deny handicapped persons the opportunity to participate as members of or in the meetings or activities of any planning or advisory board or process established by or conducted by the legal services program, including but not limited to meetings and activities conducted in response to the requirements of Part 1620 of these regulations.

#### § 1624.5 Accessibility of legal services.

(a) No qualified handicapped person shall, because a legal services program's facilities are inaccessible to or unusable by handicapped persons, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination by any legal services program.

(b) A legal services program shall conduct its programs and activities so that, when viewed in their entirety, they are readily accessible to and usable by handicapped persons. This paragraph does not necessarily require a legal services program to make each of its

existing facilities or every part of an existing facility accessible to and usable by handicapped persons, or require a legal services program to make structural changes in existing facilities when other methods are effective in achieving compliance. In choosing among available methods for meeting the requirements of this paragraph, a legal services program shall give priority to those methods that offer legal services to handicapped persons in the most integrated setting appropriate.

(c) A legal services program shall, to the maximum extent feasible, insure that new facilities that it rents or purchases are accessible to handicapped persons. Prior to entering into any lease or contract for the purchase of a building, a legal services program shall submit a statement to the appropriate Regional Office certifying that the facilities covered by the lease or contract will be accessible to handicapped persons, or if the facilities will not be accessible, a detailed description of the efforts the program made to obtain accessible space, the reasons why the inaccessible facility was nevertheless selected, and the specific steps that will be taken by the legal services program to insure that its services are accessible to handicapped persons who would otherwise use that facility. After a statement certifying facility accessibility has been submitted, additional statements need not be resubmitted with respect to the same facility, unless substantial changes have been made in the facility that affect its accessibility.

(d) A legal services program shall ensure that new facilities designed or constructed for it are readily accessible to and usable by handicapped persons. Alterations to existing facilities shall, to the maximum extent feasible, be designed and constructed to make the altered facilities readily accessible to and usable by handicapped persons.

#### § 1624.6 Employment.

(a) No qualified handicapped person shall, on the basis of handicap, be subjected to discrimination in employment by any legal services program.

(b) A legal services program shall make all decisions concerning employment under any program or activity to which this part applies in a manner that insures that discrimination on the basis of handicap does not occur, and may not limit, segregate, or classify applicants or employees in any way that adversely affects their opportunities or status because of handicap.

(c) The prohibition against discrimination in employment applies to the following activities:

(1) Recruitment, advertising, and the processing of applications for employment;

(2) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, and rehiring;

(3) Rates of pay or any other form of compensation and changes in compensation;

(4) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;

(5) Leaves of absence, sick leave, or any other leave;

(6) Fringe benefits available by virtue of employment, whether or not administered by the legal services program;

(7) Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;

(8) Employer sponsored activities, including social or recreational programs; and

(9) Any other term, condition, or privilege of employment.

(d) A legal services program may not participate in any contractual or other relationship with persons, agencies, organizations or other entities such as, but not limited to, employment and referral agencies, labor unions, organizations providing or administering fringe benefits to employees of the legal services program, and organizations providing training and apprenticeship programs, if the practices of such person, agency, organization, or other entity have the effect of subjecting qualified handicapped applicants or employees to discrimination prohibited by this paragraph.

(e) A legal services program shall make reasonable accommodation to the known physical or mental limitations of an otherwise qualified handicapped applicant or employee unless the accommodation would impose an undue hardship on the operation of the program.

(1) For purposes of this paragraph (e), reasonable accommodation may include (i) making facilities used by employees readily accessible to and usable by handicapped persons, and (ii) job restructuring, part-time or modified work schedules, acquisition or modification of equipment or devices, the provision of readers or interpreters, and other similar actions.

(2) In determining whether an accommodation would impose an undue

hardship on the operation of a legal services program, factors to be considered include, but are not limited to, the overall size of the legal services program with respect to number of employees, number and type of facilities, and size of budget, and the nature and costs of the accommodation needed.

(3) A legal services program may not deny any employment opportunity to a qualified handicapped employee or applicant if the basis for the denial is a need to make reasonable accommodation to the physical or mental limitations of the employee or applicant.

(f) A legal services program may not use employment tests or criteria that discriminate against handicapped persons, and shall insure that employment tests are adapted for use by persons who have handicaps that impair sensory, manual, or speaking skills.

(g) A legal services program may not conduct a pre-employment medical examination or make a pre-employment inquiry as to whether an applicant is a handicapped person or as to the nature or severity of a handicap except under the circumstances described in 45 CFR 84.14(a)-(d)(2). The Corporation shall have access to relevant information obtained in accordance with this section to permit investigations of alleged violations of this part.

(h) A legal services program shall post in prominent places in each of its offices a notice stating that the legal services program does not discriminate on the basis of handicap.

(i) Any recruitment materials published or used by a legal services program shall include a statement that the legal services program does not discriminate on the basis of handicap.

#### § 1624.7 Self-Evaluation.

(a) By January 1, 1980, a legal services program shall evaluate, with the assistance of interested persons including handicapped persons or organizations representing handicapped persons, its current facilities, policies and practices and the effects thereof to determine the extent to which they may or may not comply with the requirements of this part and the cost of structural or other changes that would be necessary to make each of its facilities accessible to handicapped persons.

(b) The results of the self-evaluation, including steps the legal services program plans to take to correct any deficiencies revealed and the timetable for completing such steps, shall be made available for review by the Corporation and interested members of the public.

#### § 1624.8 Enforcement.

The procedures described in Part 1618 of these regulations shall apply to any alleged violation of this part by a legal services program.

Dan J. Bradley,

President, Legal Services Corporation.

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