

LEGAL SERVICES CORPORATION**45 CFR Part 1630****Requirements for National and State Support Centers****AGENCY:** Legal Services Corporation.**ACTION:** Proposed rule.

SUMMARY: This proposed rule would adopt as a Corporation regulation the requirements included in Instruction 83-9—Grant Conditions for National and State Support concerning the expenditure of funds granted by the Corporation to National and State support centers. The rule would require that at least ninety (90) percent of funds received from the Corporation be devoted to actual support for legal services programs. It would further require that no more than ten (10) percent of Corporation funding be spent for networking, direct or co-counsel representation, etc. Certain recordkeeping requirements, which were included in the Instruction, are retained in the proposed rule.

DATE: Comments must be received on or before September 27, 1984.

ADDRESS: Comments may be submitted to the Office of the General Counsel, Legal Services Corporation, 733 Fifteenth Street, NW, Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT: Richard N. Bagenstos, Assistant General Counsel, Office of the General Counsel, (202) 272-4010.

SUPPLEMENTARY INFORMATION: This proposed regulation sets forth the policy of the Corporation as previously stated in Instruction 83-9, which established grant conditions for national and state support centers.

The national and state support projects have four principal functions: (1) To support legal services program staff and clients through individual service work, library and resource material, training, communications, the development of manuals and material, technical assistance and development of strategies for use by local program staff; (2) to undertake litigation, including serving as counsel for eligible clients and as co-counsel with local program staff; (3) to undertake legislative and administrative representation on behalf of eligible clients, including legislative representation before Congress; and (4) to coordinate and establish networks with local program staff, other support projects, other advocates and advocate organizations representing the poor.

The corporation has not required that each project undertake every function to

the same degree, although all functions were to be undertaken to some degree by all national support centers. State support center activities have included everything that basic field programs are funded for (with some restrictions applicable to everyone), including direct representation (i.e., sole counsel, co-counsel, amicus counsel, and of counsel in judicial, administrative and legislative forums). Past Corporation policy has therefore blurred the distinction between basic field programs and support center programs.

Furthermore, there has been nothing to prevent state and national support centers from emphasizing direct representation, networking and written or oral legislative or administrative testimony not on behalf of an eligible client, regardless of the local legal services program capacity to meet those needs. The requirements set forth in the proposed rule are meant to provide clarity about the actual use of national and state support funding such that the primary obligations to act in support of the most important needs of legal services programs are met and to set the stage for development of long term policy. Information obtained through the national study of support conducted in 1983 and input from the field will be utilized to assist in developing longterm policies concerning the proper direction and use of national and state support funding. It is appropriate and timely that the Corporation review past policies and articulate current policy that addresses the impact of support and responsiveness to the field. The Corporation is committed to providing adequate support to both staff and private attorneys in the provision of quality, efficient, and effective access to justice.

The branch office prohibition for national support centers is not meant to prohibit the establishment or continuation of Washington, D.C. offices. The sole reason for the restriction is that support centers funded to serve all legal services programs with LSC funding of \$500,000 or less cannot justify the additional overhead expenses of branch offices. Nothing in the proposed rule would prohibit the establishment or continuation of branch offices through the utilization of non-LSC funding.

List of Subjects in 45 CFR Part 1630

Legal services, National and state support.

For the reasons set out above, a new 45 CFR Part 1630 is proposed to be added as follows:

PART 1630—REQUIREMENTS FOR NATIONAL AND STATE SUPPORT CENTERS

Sec

- 1630.1 Purpose
- 1630.2 National Support Centers
- 1630.3 State Support Centers
- 1630.4 Procedure.
- 1630.5 Waivers

Authority: Section 1008 (a) and (e) of the Legal Services Act of 1974, as amended 1977, 42 U.S.C. 2996g (a) and (e).

§ 1630.1 Purpose.

This part is designed to provide direction to national and state support center recipients of Legal Services Corporation funding regarding categories of activities to be emphasized. Such direction shall ensure that overlap with local program functions is prevented to the greatest extent possible, and to ensure that the primary activity of the support centers is the actual support of local program activities in the representation of eligible clients.

§ 1630.2 National Support Centers.

(a) At least ninety (90) percent of LSC funds shall be allocated for support to legal services program staff and clients through individual service work, library and resource material, training, communications, the development of manuals and material, technical assistance and development of strategies for use by local program staff. Out of this amount, an amount equal to at least twenty (20) percent of the total award shall be allocated for training of field staff (including the development of manuals and material).

(b) No more than ten (10) percent of LSC funds shall be allocated for networking, direct representation (i.e., sole counsel, co-counsel, amicus counsel, and of counsel in judicial, administrative, and legislative forums) and written or oral legislative or administrative testimony.

(c) No LSC funds shall be used for national support center branch offices.

§ 1630.3 State Support Centers.

(a) At least ninety (90) percent of LSC funds shall be allocated for support to legal services program staff and clients through individual service work, library and resource material, training, communications, the development of manuals and material, technical assistance, and development of strategies for use by local program staff. Out of this amount, an amount equal to at least twenty (20) percent of the total award shall be allocated for training of

field staff (including the development of manuals and material).

(b) No more than ten (10) percent of LSC funds shall be allocated for networking, direct representation (i.e., sole counsel, co-counsel, amicus counsel, and of counsel in judicial, administrative, and legislative forums), and written or oral legislative or administrative testimony.

(c) All state support recipients shall submit detailed functional workplans and semi-annual reports to the Corporation and to the governing body members of all LSC-funded programs in their state.

(d) All state support recipients shall adopt procedures to ensure that input from all LSC-funded programs in their state is considered in the annual priority-setting process.

§ 1630.4 Procedure.

(a) Each support center program shall affirm its agreement to the requirements

stated in this part by signing a confirmation of grant conditions imposed pursuant to this part.

(b) Executed forms affirming agreement with these requirements shall be returned to the Corporation within a reasonable time after receipt of the contract or grant award letter so that funds may be released by the Office of the Comptroller.

§ 1630.5 Waivers.

(a) The President may waive one or more of the requirements set forth in this part upon application of a recipient which demonstrates, to the satisfaction of the Corporation, that it cannot comply with it.

(b) Any waiver of the limitations set forth in §§ 1630.2(b) and 1630.3(b) shall not exceed twenty-five (25) percent of LSC funds and only upon application of a recipient which demonstrates that the following funds, when added together,

will not exceed the twenty-five (25) percent level:

(1) Non-LSC funds available for networking, direct representation, and written or oral legislative or administrative testimony;

(2) LSC carryover funds (annualized, special needs, attorney's fees awards, and any other LSC funds from prior years) available for networking, direct representation, and written or oral legislative or administrative testimony; and,

(3) Any LSC funds utilized for networking, direct representation, and written or oral legislative or administrative testimony.

Dated: August 27, 1984.

Robert D. Frank,

General Counsel, Legal Services Corporation.

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