

necessary to ensure that its client is not included in the class or that any class order would not apply to the recipient's client. Any other activity in the case, however, is not permitted.

In summary, the final rule clarifies the definition of "initiating or participating in any class action" as extending to all types of involvement at all stages of a class action. Recipients may not initiate a class action or participate in one initiated by others, either at the trial or appellate level, nor may they continue involvement in a case that is later certified or otherwise determined by the court to be a class action. However, in response to comments on a situation where the recipient's client does not file for or move for certification of a class action, the Board requested that the following example be included in this commentary regarding the definition of "initiating or participating in a class action": In a case where the recipient files or otherwise initiates action to have the case certified as a class action, participation in the case is prohibited from the point that the recipient takes such actions. On the other hand, if the recipient is representing a client in a pending action that was not filed as a class action, and another party moves to have the case certified as a class action, the recipient will not be deemed to be participating in a class action until the court certifies it as such. Finally, recipients may not act as *amicus curiae* or co-counsel in a class action or intervene in a class action on behalf of individual clients who seek to intervene in, modify, or challenge the adequacy of the representation of a class. Finally, recipients may not represent defendants in a class action.

Certain situations are not within the definition and are thus not prohibited by this rule. For example, recipients may advise clients about the pendency of a class action or its effect on the client and what the client would need to do to benefit from the case. Recipients may represent an eligible client in withdrawing from or opting out of a class action. Furthermore, the definition of a class action would not include a mandamus action or injunctive or declaratory relief actions, unless such actions are filed or certified as class actions.

Recipients may also represent an individual client seeking the benefit of the order, provided that any such involvement is only on behalf of an individual client and does not involve representation of an entire class and may represent an individual client seeking to withdraw from or opt out of a class.

Section 1617.3 Prohibition

This section prohibits LSC recipients from initiating or participating in any class action.

Section 1617.4 Recipient Policies and Procedures

This section requires recipients to adopt written policies and procedures to guide the recipient's staff in ensuring compliance with this rule.

List of Subjects in 45 CFR Part 1617

Grant programs—law, Legal services.

For reasons set out in the preamble, LSC revises 45 CFR part 1617 to read as follows:

PART 1617—CLASS ACTIONS

Sec.

1617.1 Purpose.

1617.2 Definitions.

1617.3 Prohibition.

1617.4 Recipient policies and procedures.

Authority: 29 U.S.C. 2996e(d)(5); 110 Stat. 3009 (1996); 110 Stat. 1321 (1996).

§ 1617.1 Purpose.

This rule is intended to ensure that LSC recipients do not initiate or participate in class actions.

§ 1617.2 Definitions.

(a) *Class action* means a lawsuit filed as, or otherwise declared by the court having jurisdiction over the case to be, a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure or the comparable State statute or rule of civil procedure applicable in the court in which the action is filed.

(b)(1) *Initiating or participating in any class action* means any involvement at any stage of a class action prior to or after an order granting relief. "Involvement" includes acting as *amicus curiae*, co-counsel or otherwise providing representation relating to a class action.

(2) *Initiating or participating in any class action* does not include representation of an individual client seeking to withdraw from or opt out of a class or obtain the benefit of relief ordered by the court, or non-adversarial activities, including efforts to remain informed about, or to explain, clarify, educate or advise others about the terms of an order granting relief.

§ 1617.3 Prohibition.

Recipients are prohibited from initiating or participating in any class action.

§ 1617.4 Recipient policies and procedures.

Each recipient shall adopt written policies and procedures to guide its staff in complying with this part.

Dated: November 26, 1996.

Victor M. Fortuno,

General Counsel.

[FR Doc. 96-30620 Filed 11-29-96; 8:45 am]

BILLING CODE 7050-01-P

45 CFR Part 1632

Redistricting

AGENCY: Legal Services Corporation.

ACTION: Final rule.

SUMMARY: This final rule revises the Legal Services Corporation's ("LSC" or "Corporation") regulation on redistricting to implement a new restriction contained in the Corporation's Fiscal Year ("FY") 1997 appropriations act, which extends the rule's prohibition to all the funds of recipients.

DATES: This final rule is effective on January 1, 1997.

FOR FURTHER INFORMATION CONTACT: Victor M. Fortuno, General Counsel, at (202) 336-8910.

SUPPLEMENTARY INFORMATION: The prior LSC regulation on redistricting that is revised by this final rule allowed recipients to use some non-LSC funds on redistricting activities. New legislation, enacted as Section 504(a)(1) of the Corporation's FY 1996 appropriations act, Pub. L. 104-134, 110 Stat. 1321 (1996), went further than the Corporation's prior rule and prohibited the Corporation from providing financial assistance to any person or entity ("recipient") that makes available any funds, personnel or equipment for use in advocating or opposing any plan, proposal or litigation that is intended to or has the effect of altering, revising or reapportioning a legislative, judicial or elective district at any level of government, including influencing the timing or manner of the taking of a census. This legislative restriction prohibited recipient involvement in redistricting activities, regardless of the source of funds used for such activities. The Corporation's FY 1997 appropriations act continues this restriction, Pub. L. 104-208, 110 Stat. 3009, by incorporating by reference the restrictions in the FY 1996 appropriations act.

On May 19, 1996, the Operations and Regulations Committee ("Committee") of the Corporation's Board of Directors ("Board") requested LSC staff to prepare an interim rule to implement the new statutory restriction on redistricting activities. The Committee held hearings on staff proposals on July 8 and 19, and the Board adopted an interim rule on July 20 for publication in the Federal

Register. The Committee recommended and the Board agreed to publish the rule as an interim rule. However, the Corporation also solicited public comment on the rule for review and consideration by the Committee and Board.

One comment was received by the Corporation on this rule which expressed approval of the interim rule and made no recommendations for changes. The Committee held public hearings on the interim rule on September 29, 1996, and made a recommendation to the Board on September 30, 1996, to adopt the interim rule as a final rule with no revisions. The Board adopted the rule as recommended.

A section-by-section discussion of the final rule is provided below. See note 1.

Section 1632.1 Purpose

The purpose section implements the new statutory restrictions on involvement of LSC recipients in redistricting activities. The prior rule¹ was not based on any express statutory restriction, but on policies adopted by a former board of directors.

Section 1632.2 Definitions

Section 1632.2 is amended by revising the definition of "redistricting" and adding paragraph designations to the definitions. The revision to "redistricting" is not substantive and is only intended to track more closely the statutory restriction contained in the Corporation's appropriations act.

Section 1632.3 Prohibition

The prohibition in § 1632.4(a) of the prior rule has been revised and renumbered as § 1632.3(a) to track the statutory restriction in the Corporation's appropriations act. Also, some language which simply restates the definition of redistricting has been deleted, since its repetition was confusing and unnecessary. Paragraph (b) clarifies that not all litigation brought under the Voting Rights Act of 1965 is prohibited. Only litigation which involves redistricting activities as defined by this rule is prohibited.

Section 1632.4 Recipient Policies

A new § 1632.4 requires recipients to adopt written policies to implement the requirements of this part.

¹ References to the "prior rule" refer to the rule prior to the interim rule. Because the interim rule and final rule are the same, explanations of the revisions here are essentially the same as in the interim rule.

Miscellaneous Changes

All provisions of the prior rule's § 1632.4 on permissible activity have been deleted. Paragraph (a) of the prior rule, on litigation brought under the Voting Rights Act, has been moved and is now included in § 1632.3 of this final rule. Paragraph (b) of the prior rule was deleted because it was contrary to current law as it would have allowed a recipient to use some non-LSC funds for redistricting activities. Such use of non-LSC funds is now prohibited by this final rule as required by LSC's appropriations act. Finally, paragraphs (c) and (d) in the prior rule have been deleted, because they simply restate law that is already reflected in other regulations.

List of Subjects in 45 CFR Part 1632

Grant programs—law; Legal services.

For reasons set forth in the preamble, 45 CFR part 1632 is revised to read as follows.

PART 1632—REDISTRICTING

Sec.

- 1632.1 Purpose.
- 1632.2 Definitions.
- 1632.3 Prohibition.
- 1632.4 Recipient policies.

Authority: 42 U.S.C. 2996e(b)(1)(A); 2996f(a)(2)(C); 2996f(a)(3); 2996(g)(e); 110 Stat. 3009; 110 Stat. 1321(1996).

§ 1632.1 Purpose.

This part is intended to ensure that recipients do not engage in redistricting activities.

§ 1632.2 Definitions.

(a) *Advocating or opposing any plan* means any effort, whether by request or otherwise, even if of a neutral nature, to revise a legislative, judicial, or elective district at any level of government.

(b) *Recipient* means any grantee or contractor receiving funds made available by the Corporation under sections 1006(a)(1) or 1006(a)(3) of the LSC Act. For the purposes of this part, *recipient* includes subrecipient and employees of recipients and subrecipients.

(c) *Redistricting* means any effort, directly or indirectly, that is intended to or would have the effect of altering, revising, or reapportioning a legislative, judicial, or elective district at any level of government, including influencing the timing or manner of the taking of a census.

§ 1632.3 Prohibition.

(a) Neither the Corporation nor any recipient shall make available any funds, personnel, or equipment for use in advocating or opposing any plan or

proposal, or representing any party, or participating in any other way in litigation, related to redistricting.

(b) This part does not prohibit any litigation brought by a recipient under the Voting Rights Act of 1965, as amended, 42 U.S.C. 1971 *et seq.*, provided such litigation does not involve redistricting.

§ 1632.4 Recipient policies.

Each recipient shall adopt written policies to implement the requirements of this part.

Dated: November 26, 1996.

Victor M. Fortuno,

General Counsel.

[FR Doc. 96-30621 Filed 11-29-96; 8:45 am]

BILLING CODE 7050-01-P

45 CFR Part 1633

Restriction on Representation in Certain Eviction Proceedings

AGENCY: Legal Services Corporation.

ACTION: Final rule.

SUMMARY: This final rule revises the Legal Services Corporation's ("LSC" or "Corporation") interim regulation that prohibits the representation of persons in public housing eviction proceedings when such persons have been charged with or convicted of engaging in certain illegal drug activity. The prohibition in the prior rule applied only to LSC funds. This rule is revised to implement new legislation that extends the prohibition to a recipient's non-LSC funds. Revisions are also made to respond to comments received by the Corporation.

DATES: This final rule is effective on January 1, 1997.

FOR FURTHER INFORMATION CONTACT: Victor M. Fortuno, General Counsel, at (202) 336-8910.

SUPPLEMENTARY INFORMATION: The Legal Services Corporation's regulation, 45 CFR Part 1633, prohibits recipients from representing persons in public housing eviction proceedings when such persons have been charged with or convicted of engaging in certain illegal drug activity. The prior rule applied the prohibition only to a recipient's LSC funds. The interim rule extended the prohibition to a recipient's non-LSC funds as required by § 504(a)(17) of the Corporation's Fiscal Year ("FY") 1996 appropriations act, Pub. L. 104-134, 110 Stat. 1321 (1996). The Corporation's FY 1997 appropriations act, Pub. L. 104-208, 110 Stat. 3009 (1996), retains the restriction by incorporating Section 504 of the FY 1996 appropriations act by reference.