

PART 1623—SUSPENSION PROCEDURES

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AUTHORITY: 42 U.S.C. 2996e(b)(1), 2996f(a)(3), and 2996f(d); Pub. L. 105–119, Title V, Secs. 501(b), 502, and 503, 111 Stat. 2440, 2510–11; Pub. L. 104–134, Title V, Secs. 503(f) and 509(c), 110 Stat. 1321, 1321–53, 1321–58, and 1321–59.

SOURCE: 78 FR 10098, Feb. 13, 2013, unless otherwise noted.

§ 1623.1 Purpose.

The purpose of this rule is to:

(a) Ensure that the Corporation is able to take prompt action when necessary to safeguard LSC funds or to ensure the compliance of a recipient with applicable provisions of law, or a rule, regulation, guideline or instruction issued by the Corporation, or the terms and conditions of a recipient's grant or contract with the Corporation; and

(b) Provide procedures for prompt review that will ensure informed deliberation by the Corporation when it has made a proposed determination that financial assistance to a recipient should be suspended.

§ 1623.2 Definitions.

For the purposes of this part the definitions in 45 CFR part 1606 shall apply and also:

Suspension means an action taken during the term of the recipient's current year's grant or contract with the Corporation that withholds financial assistance to a recipient, in whole or in part, until the end of the suspension period pending prompt corrective action by the recipient or a decision by the Corporation to initiate termination proceedings.

§ 1623.3 Grounds for suspension.

(a) Financial assistance provided to a recipient may be suspended when the Corporation determines that there has been a substantial violation by the recipient of the LSC requirements, and

the Corporation has reason to believe that prompt action is necessary to:

(1) Safeguard LSC funds; or

(2) Ensure immediate corrective action necessary to bring a recipient into compliance with an applicable provision of law, or a rule, regulation, guideline or instruction issued by the Corporation, or the terms and conditions of the recipient's grant or contract with the Corporation.

(b) Financial assistance provided to a recipient may also be suspended by the Corporation pursuant to a recommendation by the Office of Inspector General when the recipient has failed to have an acceptable audit in accordance with the guidance promulgated by the Corporation's Office of Inspector General.

§ 1623.4 Suspension procedures.

(a) Prior to a preliminary determination involving a suspension of funding, the Corporation shall designate either the President or another senior Corporation employee to conduct any final review that is requested pursuant this part. The Corporation shall ensure that the person so designated has had no prior involvement in the proceedings under this part so as to meet the criterion of impartiality described in this section.

(b) When the Corporation has made a proposed determination, based on the grounds set out in § 1623.3 of this part, that financial assistance to a recipient should be suspended, the Corporation shall serve a written proposed determination on the recipient. The proposed determination shall:

(1) State the grounds and effective date for the proposed suspension;

(2) Identify, with reasonable specificity, any facts or documents relied upon as justification for the suspension;

(3) Specify what, if any, prompt corrective action the recipient can take to avoid or end the suspension;

(4) Advise the recipient that it may request, within 5 business days of receipt of the proposed determination, an informal meeting with the Corporation at which it may attempt to show that the proposed suspension should not be imposed; and

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(5) Advise the recipient that, within 10 business days of its receipt of the proposed determination and without regard to whether it requests an informal meeting, it may submit written materials in opposition to the proposed suspension.

(c) If the recipient requests an informal meeting with the Corporation, the Corporation shall designate the time and place for the meeting. The meeting shall occur within 5 business days after the recipient's request is received.

(d) The informal meeting shall be conducted by the Corporation employee who issued the preliminary determination or any other Corporation employee with a seniority level at, or equivalent to, the level of an office director or higher.

(e) At the informal meeting, the Corporation and the recipient shall both have an opportunity to state their case, seek to narrow the issues, explore the possibilities of settlement or compromise including implementation of corrective actions, and submit written materials.

(f) 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 an informal meeting. If, after considering such materials, the Corporation determines that the recipient has failed to show that the suspension should not become effective, the Corporation may issue a written final determination to suspend financial assistance to the recipient in whole or in part and under such terms and conditions the Corporation deems appropriate and necessary. The final determination shall include a summary of the issues raised in the informal conference and presented in any written materials. The final determination need not engage in a detailed analysis of all issues raised.

(g) The final determination shall be promptly transmitted to the recipient in a manner that verifies receipt of the determination by the recipient, and the suspension shall become effective when the final determination is received by the recipient or on such later date as is specified therein.

(h) If a suspension lasts for more than 30 days, then the recipient may seek review of the suspension by the President. A request may be made in writing on the thirty-first day or any day thereafter, and shall state, in detail, the reasons for seeking review.

(1) The President may not review the suspension appeal if the President has had prior involvement in the suspension proceedings. If the President cannot review, or the President chooses not to do so, then the appeal shall be reviewed by either the individual designated to do so pursuant to §1623.4(a) of this part, or by another senior Corporation employee designated by the President who has not had prior involvement in the suspension proceedings.

(2) The President's review shall be based on the administrative record of the proceedings, including the appeal to the President, and any additional submissions, either oral or in writing that the President may request. A recipient shall be given a copy of, and an opportunity to respond to, any additional submissions made to the President. All submissions and responses made to the President shall become part of the administrative record. Upon request, the Corporation shall provide a copy of the administrative record to the recipient.

(3) The President shall affirm, modify, or terminate the suspension through a suspension appeal decision within 15 calendar days of receipt of the appeal by the Corporation, unless the Corporation and the recipient agree to a later date.

(i) The Corporation may at any time rescind or modify the terms of the final determination to suspend and, on written notice to the recipient, may reinstate the suspension without further proceedings under this part.

(j) Except as provided in §1623.4(k) of this part, the total time of a suspension shall not exceed 90 calendar days, unless the Corporation and the recipient agree to a continuation of the suspension without further proceedings under this part.

(k) When the suspension is based on the grounds in §1623.3(b) of this part, a recipient's funds may be suspended until an acceptable audit is completed.

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No appeal to the President will be available for audit-based suspensions pursuant to § 1623.3(b).

§ 1623.5 Time extensions and waiver.

(a) Except for the time limits in § 1623.4(i) and (j), any period of time provided in this part may be extended by the Corporation for good cause. 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 calendar days of the service of the proposed determination.

(b) Any other provision of this part may be waived or modified by agreement of the recipient and the Corporation for good cause.

(c) Failure by the Corporation to meet a time requirement of this part shall not preclude the Corporation from suspending a recipient's grant or contract with the Corporation.

§ 1623.6 Interim funding.

(a) Pending the completion of suspension proceedings under this part, the Corporation shall provide the recipient with the level of financial assistance provided for under its current grant or contract with the Corporation.

(b) Funds withheld pursuant to a suspension shall be released to the recipient at the end of the suspension period.

PART 1624—PROHIBITION AGAINST DISCRIMINATION ON THE BASIS OF DISABILITY

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AUTHORITY: 49 U.S.C. 794; 42 U.S.C. 2996f(a)(1) and (3).

SOURCE: 71 FR 65059, Nov. 7, 2006, unless otherwise noted.

§ 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

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exist to the provision of legal assistance to persons with disabilities eligible for such assistance in accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794 and with sections 1007(a)(1) and (3) of the Legal Services Corporation Act, as amended, 42 U.S.C. 2996f(a)(1) and (3), with respect to the provision of services to and employment of persons with disabilities. The requirements of this Part apply in addition to any responsibilities legal services programs may have under applicable requirements of the Americans with Disabilities Act and applicable implementing regulations of the Department of Justice and the Equal Employment Opportunity Commission.

§ 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 this chapter, 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) *Person with a disability* 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 paragraph (c)(1) of this section the phrase:

(i) *Physical or mental impairment* means: (A) Any physiological disorder or condition, cosmetic disfigurement,