

interest of the client, the recipient may proceed with the litigation or negotiation without a signed statement of facts, provided that the statement is prepared and signed as soon as possible thereafter.

§ 1636.3 Access to written statements.

(a) Written statements of facts prepared in accordance with this part are to be kept on file by the recipient and made available to the Corporation or to any Federal department or agency auditing or monitoring the activities of the recipient or to any auditor or monitor receiving Federal funds to audit or monitor on behalf of a Federal department or agency or on behalf of the Corporation.

(b) This part does not give any person or party other than those listed in paragraph (a) of this section any right of access to the plaintiff's written statement of facts, either in the lawsuit or through any other procedure. Access to the statement of facts by such other persons or parties is governed by applicable law and the discovery rules of the court in which the action is brought.

§ 1636.4 Applicability.

This part applies to cases for which private attorneys are compensated by the recipient as well as to those cases initiated by the recipient's staff.

§ 1636.5 Recipient policies, procedures and recordkeeping.

Each recipient shall adopt written policies and procedures to guide its staff in complying with this part and shall maintain records sufficient to document the recipient's compliance with this part.

PART 1637—REPRESENTATION OF PRISONERS

Sec.

1637.1 Purpose.

1637.2 Definitions.

1637.3 Prohibition.

1637.4 Change in circumstances.

1637.5 Recipient policies, procedures and recordkeeping.

AUTHORITY: 42 U.S.C. 2996g(e); Pub. L. 104-208, 110 Stat. 3009; Pub. L. 104-134, 110 Stat. 1321.

SOURCE: 62 FR 19422, Apr. 21, 1997, unless otherwise noted.

§ 1637.1 Purpose.

This part is intended to ensure that recipients do not participate in any civil litigation on behalf of persons incarcerated in Federal, State or local prisons.

§ 1637.2 Definitions.

(a) *Incarcerated* means the involuntary physical restraint of a person who has been arrested for or convicted of a crime.

(b) *Federal, State or local prison* means any penal facility maintained under governmental authority.

§ 1637.3 Prohibition.

A recipient may not participate in any civil litigation on behalf of a person who is incarcerated in a Federal, State or local prison, whether as a plaintiff or as a defendant, nor may a recipient participate on behalf of such an incarcerated person in any administrative proceeding challenging the conditions of incarceration.

§ 1637.4 Change in circumstances.

If, to the knowledge of the recipient, a client becomes incarcerated after litigation has commenced, the recipient must use its best efforts to withdraw promptly from the litigation, unless the period of incarceration is anticipated to be brief and the litigation is likely to continue beyond the period of incarceration.

§ 1637.5 Recipient policies, procedures and recordkeeping.

Each recipient shall adopt written policies and procedures to guide its staff in complying with this part and shall maintain records sufficient to document the recipient's compliance with this part.

PART 1638—RESTRICTION ON SOLICITATION

Sec.

1638.1 Purpose.

1638.2 Definitions.

1638.3 Prohibition.

1638.4 Permissible activities.

1638.5 Recipient policies.

§ 1638.1

AUTHORITY: 42 U.S.C. 2996g(e).

SOURCE: 62 FR 19424, Apr. 21, 1997, unless otherwise noted.

§ 1638.1 Purpose.

This part is designed to ensure that recipients and their employees do not solicit clients.

§ 1638.2 Definitions.

(a) *Communicate* or *communication* means to share information. Permissible forms of communication include, but are not limited to, sending information via mailings, text message, email, or other methods of voice or electronic communication.

(b) *In-person* means a face-to-face encounter, including virtual clinics or other encounters via videoconference.

(c) *Unsolicited advice* means advice to obtain counsel or take legal action given by a recipient or its employee to an individual who did not seek the advice and with whom the recipient does not have an attorney-client relationship.

[89 FR 25816, Apr. 12, 2024]

§ 1638.3 Prohibition.

(a) Recipients and their employees shall not represent a client as a result of in-person unsolicited advice.

(b) Recipients and their employees shall not refer to other recipients individuals to whom they have given in-person unsolicited advice.

[89 FR 25816, Apr. 12, 2024]

§ 1638.4 Permissible activities.

A recipient may:

(a) Communicate about legal rights and responsibilities or the recipient's services and intake procedures or provide the same information through community legal education activities. Recipients may engage in various activities including, but not limited to, outreach, public service announcements, maintaining an ongoing presence in a courthouse to provide advice, disseminating community legal education publications, and giving presentations to groups that request them.

(b) Communicate to parties in civil cases to notify them that a case has been filed against them; to inform them of upcoming court dates; to in-

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form them that counsel may be available to represent them; and to provide information about intake.

(c) Represent an otherwise eligible individual requesting legal assistance from the recipient as a result of a communication or information provided as described in paragraph (a) of this section, provided that the request has not resulted from in-person unsolicited advice.

(d) Represent or refer clients pursuant to a statutory or private ombudsman program that provides investigatory and referral services and/or legal assistance on behalf of persons who are unable to seek assistance on their own, including institutionalized individuals or individuals living with a physical or mental disability.

(e) Represent an individual with whom the recipient initiated contact over the phone or via an electronic platform so long as the communication provides only generic information that is not tailored to the individual or the specific facts of the individual's legal issues.

[89 FR 25816, Apr. 12, 2024]

§ 1638.5 Recipient policies.

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

PART 1639—WELFARE REFORM

Sec.

1639.1 Purpose.

1639.2 Definitions.

1639.3 Prohibition.

1639.4 Permissible representation of eligible clients.

1639.5 Exceptions for public rulemaking and responding to requests with non-LSC funds.

1639.6 Recipient policies and procedures.

AUTHORITY: 42 U.S.C. 2996g(e); Pub. L. 104–208, 110 Stat. 3009; Pub. L. 104–134, 110 Stat. 1321.

SOURCE: 62 FR 30766, June 5, 1997, unless otherwise noted.

§ 1639.1 Purpose.

The purpose of this rule is to ensure that LSC recipients do not initiate litigation involving, or challenge or participate in, efforts to reform a Federal or State welfare system. The rule also