

## § 1611.8

### § 1611.8 Change in financial eligibility status.

(a) If, after making a determination of financial eligibility and accepting a client for service, the recipient becomes aware that a client has become financially ineligible through a change in circumstances, a recipient shall discontinue representation supported with LSC funds if the change in circumstances is sufficient, and is likely to continue, to enable the client to afford private legal assistance, and discontinuation is not inconsistent with applicable rules of professional responsibility.

(b) If, after making a determination of financial eligibility and accepting a client for service, the recipient later determines that the client is financially ineligible on the basis of later discovered or disclosed information, a recipient shall discontinue representation supported with LSC funds if the discontinuation is not inconsistent with applicable rules of professional responsibility.

### § 1611.9 Retainer agreements.

(a) When a recipient provides extended service to a client, the recipient shall execute a written retainer agreement with the client. The retainer agreement shall be executed when representation commences or as soon thereafter as is practicable. Such retainer agreement must be in a form consistent with the applicable rules of professional responsibility and prevailing practices in the recipient's service area and shall include, at a minimum, a statement identifying the legal problem for which representation is sought, and the nature of the legal services to be provided.

(b) No written retainer agreement is required for advice and counsel or brief service provided by the recipient to the client or for legal services provided to the client by a private attorney pursuant to 45 CFR part 1614.

(c) The recipient shall maintain copies of all retainer agreements generated in accordance with this section.

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### APPENDIX A TO PART 1611—INCOME LEVEL FOR INDIVIDUALS ELIGIBLE FOR ASSISTANCE

#### LEGAL SERVICES CORPORATION 2024 INCOME GUIDELINES \*

Size of household	48 Contiguous states and the District of Columbia	Alaska	Hawaii
1 .....	\$18,825	\$23,513	\$21,638
2 .....	25,550	31,925	29,375
3 .....	32,275	40,338	37,113
4 .....	39,000	48,750	44,850
5 .....	45,725	57,163	52,588
6 .....	52,450	65,575	60,325
7 .....	59,175	73,988	68,063
8 .....	65,900	82,400	75,800
For each additional member of the household in excess of 8, add: .....	6,725	8,413	7,738

\*The figures in this table represent 125% of the Federal Poverty Guidelines by household size as determined by HHS.

#### REFERENCE CHART—200% OF FEDERAL POVERTY GUIDELINES \*

Size of household	48 Contiguous states and the District of Columbia	Alaska	Hawaii
1 .....	\$30,120	\$37,620	\$ 34,620
2 .....	40,880	51,080	47,000
3 .....	51,640	64,540	59,380
4 .....	62,400	78,000	71,760
5 .....	73,160	91,460	84,140
6 .....	83,920	104,920	96,520
7 .....	94,680	118,380	108,900
8 .....	105,440	131,840	121,280
For each additional member of the household in excess of 8, add: .....	10,760	13,460	12,380

\*The figures in this table represent 200% of the Federal Poverty Guidelines by household size as determined by HHS.

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

[89 FR 4563, Jan. 24, 2024; 89 FR 7294, Feb. 2, 2024]

## PART 1612—RESTRICTIONS ON LOBBYING AND CERTAIN OTHER ACTIVITIES

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AUTHORITY: Pub. L. 104-208, 110 Stat. 3009; Pub. L. 104-134, 110 Stat. 1321, secs. 504(a)(2), (3), (4), (5), (6), and (12), 504(b) and (e); 42 U.S.C. 2996e(b)(5), 2996f(a)(5) and (6), 2996f(b)(4), (6) and (7), and 2996g(e).

SOURCE: 62 FR 19404, Apr. 21, 1997, unless otherwise noted.

### § 1612.1 Purpose.

The purpose of this part is to ensure that LSC recipients and their employees do not engage in certain prohibited activities, including representation before legislative bodies or other direct lobbying activity, grassroots lobbying, participation in rulemaking, public demonstrations, advocacy training, and certain organizing activities. The part also provides guidance on when recipients may participate in public rulemaking or in efforts to encourage State or local governments to make funds available to support recipient activities, and when they may respond to requests of legislative and administrative officials.

### § 1612.2 Definitions.

(a)(1) *Grassroots lobbying* means any oral, written or electronically transmitted communication or any advertisement, telegram, letter, article, newsletter, or other printed or written matter or device which contains a direct suggestion to the public to contact public officials in support of or in opposition to pending or proposed legislation, regulations, executive decisions, or any decision by the electorate on a measure submitted to it for a vote. It also includes the provision of financial contributions by recipients to, or participation by recipients in, any demonstration, march, rally, fundraising drive, lobbying campaign, letter writing or telephone campaign for the purpose of influencing the course of such legislation, regulations, decisions by administrative bodies, or any decision by the electorate on a measure submitted to it for a vote.

(2) *Grassroots lobbying* does not include communications which are limited solely to reporting on the content or status of, or explaining, pending or proposed legislation or regulations.

(b)(1) *Legislation* means any action or proposal for action by Congress or by a State or local legislative body which is intended to prescribe law or public policy. The term includes, but is not limited to, action on bills, constitutional amendments, ratification of treaties and intergovernmental agreements, approval of appointments and budgets, and approval or disapproval of actions of the executive.

(2) *Legislation* does not include those actions of a legislative body which adjudicate the rights of individuals under existing laws; nor does it include legislation adopted by an Indian Tribal Council.

(c) *Public policy* means an overall plan embracing the general goals and procedures of any governmental body and pending or proposed statutes, rules, and regulations.

(d)(1) *Rulemaking* means any agency process for formulating, amending, or repealing rules, regulations or guidelines of general applicability and future effect issued by the agency pursuant to Federal, State or local rulemaking procedures, including:

(i) The customary procedures that are used by an agency to formulate and adopt proposals for the issuance, amendment or revocation of regulations or other statements of general applicability and future effect, such as negotiated rulemaking and “notice and comment” rulemaking procedures under the Federal Administrative Procedure Act or similar procedures used by State or local government agencies; and

(ii) Adjudicatory proceedings that are formal adversarial proceedings to formulate or modify an agency policy of general applicability and future effect.

(2) *Rulemaking* does not include:

(i) Administrative proceedings that produce determinations that are of particular, rather than general, applicability and affect only the private rights, benefits or interests of individuals, such as Social Security hearings,

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welfare fair hearings, or granting or withholding of licenses;

(ii) Communication with agency personnel for the purpose of obtaining information, clarification, or interpretation of the agency's rules, regulations, guidelines, policies or practices.

(e) *Public rulemaking* means any rule-making proceeding or portion of such proceeding or procedure that is open to the public through notices of proposed rulemaking published in the FEDERAL REGISTER or similar State or local journals, announcements of public hearings on proposed rules or notices of proposed rulemaking including those that are routinely sent to interested members of the public, or other similar notifications to members of the public;

(f) *Similar procedure* refers to a legislative process by which matters must be determined by a vote of the electorate.

[62 FR 19404, Apr. 21, 1997; 62 FR 22895, Apr. 28, 1997]

### § 1612.3 Prohibited legislative and administrative activities.

(a) Except as provided in §§ 1612.5 and 1612.6, recipients shall not attempt to influence:

(1) The passage or defeat of any legislation or constitutional amendment;

(2) Any initiative, or any referendum or any similar procedure of the Congress, any State legislature, any local council, or any similar governing body acting in any legislative capacity;

(3) Any provision in a legislative measure appropriating funds to, or defining or limiting the functions or authority of, the recipient or the Corporation; or,

(4) The conduct of oversight proceedings concerning the recipient or the Corporation.

(b) Except as provided in §§ 1612.5 and 1612.6, recipients shall not participate in or attempt to influence any rule-making, or attempt to influence the issuance, amendment or revocation of any executive order.

(c) Recipients shall not use any funds to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, administrative expense, or related expense associated with an activ-

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ity prohibited in paragraphs (a) and (b) in this section.

### § 1612.4 Grassroots lobbying.

A recipient shall not engage in any grassroots lobbying.

### § 1612.5 Permissible activities using any funds.

(a) A recipient may provide administrative representation for an eligible client in a proceeding that adjudicates the particular rights or interests of such eligible client or in negotiations directly involving that client's legal rights or responsibilities, including pre-litigation negotiation and negotiation in the course of litigation.

(b) A recipient may initiate or participate in litigation challenging agency rules, regulations, guidelines or policies, unless such litigation is otherwise prohibited by law or Corporation regulations.

(c) Nothing in this part is intended to prohibit a recipient from:

(1) Applying for a governmental grant or contract;

(2) Communicating with a governmental agency for the purpose of obtaining information, clarification, or interpretation of the agency's rules, regulations, practices, or policies;

(3) Informing clients, other recipients, or attorneys representing eligible clients about new or proposed statutes, executive orders, or administrative regulations;

(4) Communicating directly or indirectly with the Corporation for any purpose including commenting upon existing or proposed Corporation rules, regulations, guidelines, instructions and policies;

(5) Permitting its employees to participate in bar association activities, provided that recipient resources are not used to support and the recipient is not identified with activities of bar associations that are devoted to activities prohibited by this part.

(6) Advising a client of the client's right to communicate directly with an elected official; or

(7) Participating in activity related to the judiciary, such as the promulgation of court rules, rules of professional responsibility and disciplinary rules.

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### § 1612.6 Permissible activities using non-LSC funds.

(a) If the conditions of paragraphs (b) and (c) of this section are met, recipients and their employees may use non-LSC funds to respond to a written request from a governmental agency or official thereof, elected official, legislative body, committee, or member thereof made to the employee, or to a recipient to:

- (1) Testify orally or in writing;
- (2) Provide information which may include analysis of or comments upon existing or proposed rules, regulations or legislation, or drafts of proposed rules, regulations or legislation; or
- (3) Participate in negotiated rulemaking under the Negotiated Rulemaking Act of 1990, 5 U.S.C. 561, *et seq.*, or comparable State or local laws.

(b) Communications made in response to requests under paragraph (a) may be distributed only to the party or parties that made the request and to other persons or entities only to the extent that such distribution is required to comply with the request.

(c) No employee of the recipient shall solicit or arrange for a request from any official to testify or otherwise provide information in connection with legislation or rulemaking.

(d) Recipients shall maintain copies of all written requests received by the recipient and written responses made in response thereto and make such requests and written responses available to monitors and other representatives of the Corporation upon request.

(e) Recipients may use non-LSC funds to provide oral or written comment to an agency and its staff in a public rulemaking proceeding.

(f) Recipients may use non-LSC funds to contact or communicate with, or respond to a request from, a State or local government agency, a State or local legislative body or committee, or a member thereof, regarding funding for the recipient, including a pending or proposed legislative or agency proposal to fund such recipient.

### § 1612.7 Public demonstrations and activities.

(a) During working hours, while providing legal assistance or representation to the recipient's clients or while

using recipient resources provided by the Corporation or by private entities, no person shall:

(1) Participate in any public demonstration, picketing, boycott, or strike, except as permitted by law in connection with the employee's own employment situation; or

(2) Encourage, direct, or coerce others to engage in such activities.

(b) No employee of a recipient shall at any time engage in or encourage others to engage in any:

- (1) Rioting or civil disturbance;
- (2) Activity determined by a court to be in violation of an outstanding injunction of any court of competent jurisdiction; or

(3) Other illegal activity that is inconsistent with an employee's responsibilities under applicable law, Corporation regulations, or the rules of professional responsibility of the jurisdiction where the recipient is located or the employee practices law.

(c) Nothing in this section shall prohibit an attorney from:

(1) Informing and advising a client about legal alternatives to litigation or the lawful conduct thereof; or

(2) Taking such action on behalf of a client as may be required by professional responsibilities or applicable law of any State or other jurisdiction.

### § 1612.8 Training.

(a) A recipient may not support or conduct training programs that:

(1) Advocate particular public policies;

(2) Encourage or facilitate political activities, labor or anti-labor activities, boycotts, picketing, strikes or demonstrations, or the development of strategies to influence legislation or rulemaking;

(3) Disseminate information about such policies or activities; or

(4) Train participants to engage in activities prohibited by the Act, other applicable law, or Corporation regulations, guidelines or instructions.

(b) Nothing in this section shall be construed to prohibit training of any attorneys or paralegals, clients, lay advocates, or others involved in the representation of eligible clients necessary for preparing them:

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(1) To provide adequate legal assistance to eligible clients; or

(2) To provide advice to any eligible client as to the legal rights of the client.

## § 1612.9 Organizing.

(a) Recipients may not use funds provided by the Corporation or by private entities to initiate the formation, or to act as an organizer, of any association, federation, labor union, coalition, network, alliance, or any similar entity.

(b) This section shall not be construed to apply to:

(1) Informational meetings attended by persons engaged in the delivery of legal services at which information about new developments in law and pending cases or matters are discussed; or

(2) Organizations composed exclusively of eligible clients formed for the purpose of advising a legal services program about the delivery of legal services.

(c) Recipients and their employees may provide legal advice or assistance to eligible clients who desire to plan, establish or operate organizations, such as by preparing articles of incorporation and bylaws.

## § 1612.10 Recordkeeping and accounting for activities funded with non-LSC funds.

(a) No funds made available by the Corporation shall be used to pay for administrative overhead or related costs associated with any activity listed in § 1612.6.

(b) Recipients shall maintain separate records documenting the expenditure of non-LSC funds for legislative and rulemaking activities permitted by § 1612.6.

(c) Recipients shall submit semi-annual reports describing their legislative activities with non-LSC funds conducted pursuant to § 1612.6, together with such supporting documentation as specified by the Corporation.

[62 FR 19404, Apr. 21, 1997; 62 FR 22895, Apr. 28, 1997]

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## § 1612.11 Recipient policies and procedures.

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

## PART 1613—RESTRICTIONS ON LEGAL ASSISTANCE WITH RESPECT TO CRIMINAL PROCEEDINGS

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1613.1 Purpose.

1613.2 Definition.

1613.3 Prohibition.

1613.4 Authorized representation.

1613.5 Criminal representation in Indian tribal courts.

AUTHORITY: Sec. 234(d), Public Law 111–211, 124 Stat. 2282; 42 U.S.C. 2996f(b)(2); 42 U.S.C. 2996g(e).

SOURCE: 43 FR 32775, July 28, 1978, unless otherwise noted.

## § 1613.1 Purpose.

This part is designed to ensure that Corporation funds will not be used to provide legal assistance with respect to criminal proceedings unless such assistance is authorized by this part.

[79 FR 21150, Apr. 15, 2014]

## § 1613.2 Definition.

*Criminal proceeding* means the adversary judicial process prosecuted by a public officer and initiated by a formal complaint, information, or indictment charging a person with an offense denominated “criminal” by applicable law and punishable by death, imprisonment, or a jail sentence.

[79 FR 21150, Apr. 15, 2014]

## § 1613.3 Prohibition.

Corporation funds shall not be used to provide legal assistance with respect to a criminal proceeding, unless authorized by this part.

## § 1613.4 Authorized representation.

Legal assistance may be provided with respect to a criminal proceeding.

(a) Pursuant to a court appointment made under a statute or a court rule of equal applicability to all attorneys in the jurisdiction, if authorized by the recipient after a determination that