

Legal Services Corporation

§ 1612.2

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

1612.11 Recipient policies and procedures.

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, welfare fair hearings, or granting or withholding of licenses;

§ 1612.3

(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 rulemaking 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 rulemaking, 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 activity prohibited in paragraphs (a) and (b) in this section.

45 CFR Ch. XVI (10–1–03 Edition)

§ 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.