

an interim rule to implement the new restriction on redistricting activities. The Committee held hearings on staff proposals on July 8 and 19, and the Board adopted this interim rule on July 20 for publication in the Federal Register. The Committee recommended and the Board agreed to publish this rule as an interim rule. An interim rule is necessary in order to provide prompt and critically necessary guidance to LSC recipients on legislation which is already effective and which carries strong penalties for noncompliance. Because of the great need for guidance on how to comply with substantially revised legislative requirements, prior notice and public comment are impracticable, unnecessary, and contrary to the public interest. See 5 U.S.C. 553(b)(3)(B) and 553(d)(3). Accordingly, this rule is effective upon publication.

However, the Corporation also solicits public comment on the rule for review and consideration by the Committee and Board. The Committee intends to hold public hearings to discuss written comments received by the Corporation and to hear oral comments. It is anticipated that a final rule will be issued which will supersede this interim rule.

A section by section discussion of the interim rule is provided below.

Section 1632.1 Purpose

The purpose section has been revised to reflect an intent to implement the new statutory restrictions on involvement of LSC recipients in redistricting activities. The prior rule 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 change to the definition is not substantive and the revisions are only intended to track more closely the statutory restriction contained in the Corporation's FY 1996 appropriations act.

Section 1632.3 Prohibition

The prohibition in paragraph (a) has been revised 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 is 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. This provision was set out in § 1632.4(a) of the prior rule.

Section 1632.4 Recipient Policies

Section 1632.4 requires recipients to adopt written policies to implement the requirements of this part.

Miscellaneous Changes

All provisions of the prior § 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. Paragraph (b) of the prior rule was deleted because it was contrary to current law and 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 interim rule as required by LSC's appropriations act. Finally, paragraphs (c) and (d) in the prior rule were 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. 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 section 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 represent any party or participate 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: August 6, 1996.

Victor M. Fortuno,

General Counsel.

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45 CFR Part 1633

Restriction on Representation in Certain Eviction Proceedings

AGENCY: Legal Services Corporation.

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule revises the Legal Services Corporation's ("LSC" or "Corporation") regulation that prohibits recipients from using LSC funds to provide representation in public housing eviction proceedings of persons engaged in certain illegal drug activity. The revisions are intended to extend the prohibition to a recipient's non-LSC funds. Although this rule is effective upon publication, the Corporation also solicits public comment in anticipation of adoption of a final rule at a later time.

DATES: This interim rule is effective on August 13, 1996. Comments must be submitted on or before September 12, 1996.

ADDRESSES: Comments should be submitted to the Office of the General Counsel, Legal Services Corporation, 750 First Street, NE, 11th Floor, Washington, DC 20002-4250.

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

SUPPLEMENTARY INFORMATION: The Legal Services Corporation's ("LSC" or "Corporation") regulation, 45 CFR Part 1633, which is revised by this interim rule, prohibited involvement by

recipients in certain eviction proceedings but only applied when the prohibited activity was supported with LSC funds. Section 504(a)(17) of the Corporation's Fiscal Year 1996 appropriations act, Public Law 104-134, 110 Stat. 1321 (1996), extends the prohibition to a recipient's non-LSC funds. Accordingly, the purpose and prohibition sections of the prior rule have been revised in this interim rule to implement the new statutory restriction. However, the entire rule is reprinted as revised. For discussion of those provisions of the rule that have not been revised, see 60 FR 48950 (September 21, 1995).

On May 19, 1996, the Operations and Regulations Committee ("Committee") of the LSC Board of Directors ("Board") requested LSC staff to prepare an interim rule to implement the new restriction. The Committee held hearings on staff proposals on July 9 and 19, and the Board adopted this interim rule on July 20 for publication in the Federal Register. The Committee recommended and the Board agreed to publish this rule as an interim rule. An interim rule is necessary in order to provide prompt and critically necessary guidance to LSC recipients on legislation which is already effective and which carries strong penalties for noncompliance. Because of the great need for guidance on how to comply with substantially revised legislative requirements, prior notice and public comment are impracticable, unnecessary, and contrary to the public interest. See 5 U.S.C. 553(b)(3)(B) and 553(d)(3). Accordingly, this rule is effective upon publication.

However, the Corporation also solicits public comment on the rule for review and consideration by the Committee and Board. The Committee intends to hold public hearings to discuss written comments received by the Corporation and to hear oral comments. It is anticipated that a final rule will be issued which will supersede this interim rule.

After the LSC Board initially adopted part 1633, the United States Department of Housing and Urban Development ("HUD") announced, in March 1996, its "One Strike and You're Out" policy for public housing. Several elements of that policy affect drug-related evictions from public housing and bear consideration by recipients. One element of the policy requires public housing authorities (PHAs) to include in each tenant's lease provisions holding the leaseholder responsible for the actions of all members of the household and guests. Another authorizes eviction for all drug-related activity whether on or off

premises. Section 504 (a)(17) of Public Law 104-134, 110 Stat. 1321, the Corporation's FY 1996 appropriations act, expressly prohibits representation by LSC recipients in any eviction proceeding on behalf of a person charged with the illegal sale or distribution of a controlled substance, and then only if the illegal drug activity threatens the health or safety of another tenant or employee of the public housing agency. This interim rule generally adheres to the specific provisions of the appropriations act, but LSC particularly solicits comments on the proper role for recipients in light of the somewhat differing policy position of HUD.

In general, the revisions to part 1633 implement section 504(a)(17) of the Corporation's appropriations act which prohibits the Corporation from providing funds to recipients that defend, in public housing eviction proceedings, persons who have been charged with the illegal sale or distribution of a controlled substance, regardless of the source of the funds used to pay for the representation. Accordingly, revisions have been made to the rule's "purpose" and "prohibition" sections. The entire rule is reprinted as revised.

List of Subjects in 45 CFR part 1633

Grant programs-law, Legal services.

For reasons set forth in the preamble, 45 CFR part 1633 is revised to read as follows:

PART 1633—RESTRICTION ON REPRESENTATION IN CERTAIN EVICTION PROCEEDINGS

Sec.

1633.1 Purpose.

1633.2 Definitions.

1633.3 Prohibition.

1633.4 Recipient policies, procedures and recordkeeping.

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

§ 1633.1 Purpose.

This part is designed to ensure that in certain public housing eviction proceedings recipients refrain from defending persons charged with or convicted of illegal drug activities.

§ 1633.2 Definitions.

(a) *Controlled substance* has the meaning given that term in § 102 of the Controlled Substances Act (21 U.S.C. 802);

(b) *Public housing project* and *public housing agency* have the meanings given those terms in § 3 of the United States Housing Act of 1937 (42 U.S.C. 1437a);

(c) A person has been *charged with* engaging in illegal drug activities if a criminal proceeding has been instituted against such person by a governmental entity with authority to initiate such proceeding and such proceeding is pending.

§ 1633.3 Prohibition.

Recipients are prohibited from defending any person in a proceeding to evict that person from a public housing project if:

(a) The person has been charged with or, within one year prior to the date when services are requested from a recipient, has been convicted of the illegal sale or distribution of a controlled substance; and

(b) The eviction proceeding is brought by a public housing agency on the basis that the illegal drug activity for which the person has been charged or for which the person has been convicted did or does now threaten the health or safety of other tenants residing in the public housing project or employees of the public housing agency.

§ 1633.4 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.

Dated: August 6, 1996.

Victor M. Fortuno,

General Counsel.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[Gen. Docket 86-285, FCC 96-332]

Schedule of Application Fees

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission has amended its Schedule of Application Fees to adjust the fees for processing applications and other filings. Section 8(b) of the Communications Act requires the Commission to adjust its application fees every two years after October 1, 1991 to reflect the net change in the Consumer Price Index for all Urban Consumers (CPI-U). The increased fees reflect the net change in the CPI-U of 21.5 percent, calculated from December 1989 to September 1995.