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Calendar No. 238

97TH CONGRESS
1ST SESSION

S. 1533

[Report No. 97-171]

To authorize appropriations for the Legal Services Corporation for fiscal years 1982, 1983, and 1984, and to encourage the use of private attorneys in the provision of legal services under that Act, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 29 (legislative day, JULY 8), 1981

Mr. WEICKER, from the Committee on Labor and Human Resources, reported the following original bill; which was read twice and ordered to be placed on the calendar

A BILL

To authorize appropriations for the Legal Services Corporation for fiscal years 1982, 1983, and 1984, and to encourage the use of private attorneys in the provision of legal services under that Act, and for other purposes.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 That this Act may be cited as the "Legal Services Corpora-
- 4 tion Amendments of 1981".

1 SEC. 2. (a) Section 1007(a) of the Legal Services Cor-
2 poration Act (42 U.S.C. 2996f) is amended—

3 (1) by redesignating clauses (3) through (10) as
4 clauses (4) through (11), respectively, and

5 (2) by inserting after clause (2) the following new
6 clause:

7 “(3) make available, in each fiscal year to the
8 extent feasible and consistent with clause (4), substan-
9 tial funds to provide the opportunity for legal assist-
10 ance to be furnished to eligible clients by private attor-
11 neys;”.

12 (b) Section 1006(b)(5) of such Act is amended—

13 (1) by striking out “section 1007(a)(6)” and by in-
14 serting in lieu thereof “section 1007(a)(7)”; and

15 (2) by striking out “section 1007(a)(5)” and in-
16 serting in lieu thereof “section 1007(a)(6)”.

17 SEC. 3. Section 1010(a) of the Legal Services Corpora-
18 tion Act (42 U.S.C. 2966i(a)) is amended by inserting imme-
19 diately after the second sentence the following new sentence:
20 “‘There are authorized to be appropriated for purposes of car-
21 rying out the activities of the Corporation \$100,000,000 for
22 each of the fiscal years 1982, 1983, and 1984.’”.

EXTEND THE LEGAL SERVICES CORPORATION ACT

JULY 29 (legislative day, JULY 8), 1981.—Ordered to be printed

Mr. WEICKER, from the Committee on Labor and Human Resources,
submitted the following

REPORT

together with

MINORITY VIEWS

[To accompany S. 1533]

The Committee on Labor and Human Resources, having considered an original bill (S. 1533) to revise and extend the Legal Services Corporation Act, reports favorably thereon and recommends that the bill do pass.

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I. CONSIDERATION OF LEGISLATION

On February 24, 1981, Senator Weiker offered S. 1533, the Legal Services Corporation Amendments of 1981, in open executive session of the Committee on Labor and Human Resources. The bill was ordered favorably to the Senate.

II. SUMMARY OF THE BILL

As reported from Committee, the Legal Services Corporation Amendments of 1981 reauthorizes the Legal Services Corporation at

\$100,000 for each of the next 3 succeeding fiscal years. This legislation places no new restrictions upon the activities of the Corporation. The only substantive language added to the authorization statutes would encourage the use of private attorneys in the provision of legal services whenever feasible.

III. History

The concept of equal justice for all has been an integral part of Anglo-American law since the signing of the Magna Carta in 1215. Throughout the early years of this country's growth and development, a variety of methods for assisting the poor in obtaining counsel for advice and litigation were employed, but it was largely provided on an informal and unorganized basis by individual attorneys. The first formal legal services program was established by a private group in New York City in 1876. By 1900, only three cities had legal aid organizations. By 1917, there were 41 legal aid offices organized by private charities, law schools, bar associations, and municipalities. The early 1920's brought the first formal affiliation of the legal aid programs with the American Bar Association, and the creation of the National Association of Legal Aid Organizations.

Although the private bar has, throughout the history of this country, sought to provide legal representation of the poor; by the early 1960's, it was clear that private legal aid programs could not meet the legal needs of the poor.

In 1964, the Congress created the Office of Economic Opportunity in the Executive Office of the President "to provide stimulation and incentive for urban and rural communities to mobilize their resources to combat poverty through community action programs." An integral part of the strategy for the so-called War on Poverty was to assure legal representation in civil proceedings and matters for persons financially unable to afford legal assistance.

Prior to the establishment of the legal services program as a modest \$600,000 adjunct to the Community Action Program in 1965, the poor could claim little access to judicial institutions. In 1964, civil legal aid offices serving the poor reached fewer than 1 percent of those in need of legal aid in this country, with an overall national expenditure amounting to only \$4 million, or less than two-tenths of 1 percent of the total spent on legal assistance of all types in this country.

In 1966, the first amendments to the Economic Opportunity Act of 1964 specifically authorizing the legal services program were added in section 222(a) of the Act, requiring the Director of the Office of Economic Opportunity to provide the poor "legal advice and representation . . . to further the cause of justice among persons living in poverty."

In the 8-year history of the Legal Services program, from 1966 to 1974, the professional independence and integrity of the program's attorneys were continually threatened. Recognizing the need to insulate the Legal Services program from outside pressures, and at the same time to maintain a responsible program accountable to the public and to the client community, in January 1971, the President's Commission on Executive Organization recommended that the Legal Services program be administered by a non-profit corporation. The President of the United States, in transmitting his 1971 proposed legislation for a corporation, firmly emphasized the program's need for independence:

Much of the litigation initiated by legal services has placed it in direct conflict with local and state governments. The program is concerned with social issues and is thus subject to unusually strong political pressures. However, if we are to preserve the strength of the program we must make it a permanent part of our system of justice.

The legislation being sent to Congress to accomplish this has three major objectives: First, the corporation itself be structured and financed so that it will be assured of independence; second, that the lawyers in the program have full freedom to protect the best interest of their clients in keeping with the Canon of Ethics and the high standards of the legal profession, and third, that the Nation be encouraged to continue giving the program the support it needs in order to become a permanent and vital part of the American system of justice.

The Legal Services Corporation Act of 1974 was signed into law on July 25, 1974. This Act created the Legal Services Corporation as a private, non-profit organization to provide financial support for legal assistance in non-criminal proceedings or matters for persons financially unable to afford legal assistance.

Accountability to the executive branch of government is assured by the fact that the President appoints all 11 members of the Board of Directors with the advice and consent of the Senate. No more than six directors can belong to the same political party.

State Governors may appoint a nine member advisory council for their respective states to oversee local legal services activities and to guard against any violations of the Act.

Under the Act, the Corporation provides funds to 323 legal services programs in 1,400 offices in all of the 50 States, Puerto Rico, the Virgin Islands, the District of Columbia, and Micronesia. The 323 programs include 290 basic field programs, including 29 migrant components and 12 Native American components, 3 migrant programs, 8 Native American programs, 5 State support programs, and 17 national support centers. The support centers provide specialized legal assistance to eligible clients and to programs in their representation of clients. Some of the support centers concentrate on areas of law that particularly affect low-income families and individuals, such as welfare, health, and housing. Others specialize in laws affecting particularly vulnerable groups of low-income individuals, such as migrants, Native Americans and the elderly.

Local programs set their own client eligibility standards within guidelines established by the Corporation. Those guidelines set maximum eligibility at 125 percent of the poverty level established by the Office of Management and Budget. (As of May 4, 1981, maximum eligibility for an individual was \$5,388 and \$10,563 for a family of four.)

Programs provide legal representation and counseling in a wide range of civil matters. They do not provide criminal representation. Most of the legal problems of eligible clients fall into four broad categories: family law; administrative benefits, including Medicaid, AFDC, and SSI; consumer law; and housing law. Approximately 85 percent are resolved through advice, negotiation, consultation and other out-of-court mechanisms.

Local programs are currently staffed by some 6,200 full-time attorneys, 2,800 paralegal assistants, and 7,000 support persons. There are 1,450 neighborhood offices in 3,106 counties. Because none of the programs have sufficient resources to meet the needs of all these eligible for legal assistance, the Legal Services Corporation Act and the Corporation's regulations require each program to set its own priorities for service based on an assessment of client needs and available resources in the local community. Reliance on locally determined policies, rather than nationally set priorities, has been a major reason for the success of the program.

Each program which is funded by the Corporation is termed a "recipient," and each recipient must be governed by a locally selected board. The Legal Services Corporation Act requires that at least 60 percent of the governing board be a member of the bar of a state in which legal services is to be provided, and that at least one-third of the board be composed of persons who are, when selected, eligible clients who may also be representatives of associations or organizations of eligible clients. The governing body must reasonably reflect the interests and characteristics of the eligible clients in the area to be served.

During 1980 the private bar increased its role in the delivery of legal services. Ninety-six of the programs had a pro bono component; 64 had contracts with private attorneys; 7 had supplemental judicare units; and 10 programs were primarily judicare. Also \$500,000 was set aside to encourage a 50-50 cash match by the local bar in developing more pro bono programs.

Of the 1.5 million matters handled by local legal services programs in Fiscal Year 1980, only 15 percent resulted in litigation. The other matters were handled outside the courtroom through counseling, negotiation, and other means. The representation provided to poor individuals was in a number of areas of the law:

Family law made up 30 percent of the caseload, consisting of adoption, custody, divorce, support, parental rights, spouse abuse and family-related matters,

Income maintenance and housing law made up between 17 and 18 percent of the caseload respectively;

Consumer law made up 14 percent of the caseload, consisting of contracts, warranties, credit matters, debt collection, sales practices, and energy related issues;

Education, juvenile, health, individual rights and employment law made up more than 9 percent of the caseload.

Only about two-tenths of 1 percent of the total cases handled by legal services programs were class action suits.

V. COMMITTEE VIEWS

The Committee believes that the Legal Services Corporation's continuation is essential to the delivery of justice to this nation's poor persons. Administration proposals to eliminate the Corporation and rely on the block grant approach are totally unrealistic. In fiscal year 1980, under Title XX of the Social Security Act, Grants to States for Services, only 17 states provided any legal services to the poor, and

the total expenditure within those states for legal assistance was \$14.9 million. The inherent conflicts of interest, combined with the states' historical lack of any meaningful role in civil legal services, gives no indication that the states are willing or able to assume the role of provider of legal services to the poor.

The Committee strongly believes that the Corporation should be continued as the primary vehicle for delivery of legal services to the nation's poor. Reluctantly, but in light of the needs for unprecedented fiscal restraint, the Committee has reduced the Corporation's funding authorization from its present appropriation level of \$321.3 million to \$100 million. While it is clear that a reduction of this magnitude will work severe hardship on the nation's poor and elderly, the Committee hopes that the Corporation will be able to target carefully its remaining funds so that no segment of the eligible population will be denied some access to justice under law.

The Committee has left existing restrictions on the Corporation and recipients in the Act.

There has been some concern expressed within the Committee that the Corporation, in funding state and local services programs, has devoted the overwhelming majority of its funds to a single delivery model: the staff attorney office. The Committee believes that other valid models involving members of the private bar should receive greater attention and resources. Therefore, the Committee has added a new provision directing the Corporation to make available substantial funds to provide the opportunity to expand the delivery of legal services to eligible clients through private attorneys.

VI. Cost Estimate

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., July 13, 1981.

HON. ORRIN G. HATCH,
Chairman, Committee on Labor and Human Resources, U.S. Senate,
Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for the Legal Services Corporation Amendments of 1981.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ALICE M. RIVLIN,
Director.

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

JULY 13, 1981.

1. Bill number: Not yet assigned.
2. Bill title: Legal Services Corporation Amendments of 1981.
3. Bill status: As ordered by the Senate Committee on Labor and Human Resources, June 25, 1981.
4. Bill purpose: The bill authorizes the appropriation of \$100 million for each of the fiscal years 1982, 1983, and 1984 to the Legal Services Corporation. The amount authorized for 1982 is \$121 million less

than the amount appropriated for fiscal year 1981. The bill also encourages the utilization of private attorneys.
 Authorization level:

Fiscal year:	Millions
1982	\$100
1983	100
1984	100
1985	---
1986	---

Estimated outlays:

Fiscal year:	
1982	86
1983	100
1984	100
1985	14
1986	---

Total outlays in fiscal year 1982, including outlays from 1981 and prior years' budget authority appropriated to date, are estimated to be \$130 million, assuming appropriation of the authorized amount.

The costs of this bill fall within budget function 750.

6. Basis of estimate: The estimate assumes that the amounts authorized in each fiscal year will be appropriated. The estimate of annual outlays is based on an analysis of historical spending patterns.

7. Estimate comparison: None.

8. Previous CBO estimate: CBO prepared an estimate for H.R. 3480, the Legal Services Corporation Act Amendments of 1981, as ordered reported by the House Committee on the Judiciary on May 13, 1981. The House bill as reported authorized the appropriation of \$260 million in fiscal years 1982 and 1983 and prohibits the use of funds for lobbying, filing of class action suits against the government, and amends the enforcement and sanctions provisions of the authorizing legislation. The House passed an amended version of H.R. 3480 on June 18, 1981, which authorizes \$241 million for fiscal year 1982.

9. Estimate prepared by: Jeffrey W. Nitta.

10. Estimate approved by:

C. G. NUCKOLS,
 (For JAMES L. BLUM,
Assistant Director for Budget Analysis).

VII. VOTES IN COMMITTEE

Pursuant to section 113 (b) of the Legislative Reorganization Act of 1946, as amended the tabulation of votes cast in Committee is as follows:

A motion by Mr. Weicker to report the bill favorably, as amended, approved by a vote of 9 yeas, 7 nays as follows:

YEAS

Mr. Stafford
 Mr. Weicker
 Mr. Kennedy
 Mr. Randolph
 Mr. Williams
 Mr. Pell
 Mr. Eagleton
 Mr. Riegle
 Mr. Metzenbaum

NAYS

Mr. Hatch
 Mr. Quayle
 Mrs. Hawkins
 Mr. Nickles
 Mr. Humphrey
 Mr. Denton
 Mr. East

VIII. REGULATORY IMPACT STATEMENT

In accordance with paragraph V of rule XXIX of the Standing Rules of the Senate, the following statement of the regulatory impact of the bill is made.

This bill is, with one minor modification, a simple reauthorization of the Legal Services Corporation; therefore it has no new regulatory impact.

IX. SECTION-BY-SECTION ANALYSIS

Section I. Short title.

Section II. Would require the Legal Services Corporation to make available substantial funds for legal assistance to be furnished by private attorneys.

Section III. Would authorize appropriations for carrying the activities of the Corporation \$100,000,000 for each of the fiscal years 1982, 1983, and 1984.

X. CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

LEGAL SERVICES CORPORATION ACT

POWERS, DUTIES, AND LIMITATIONS

Sec. 1006. (a) To the extent consistent with the provisions of this title, the Corporation shall exercise the powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act (except for section 1005(o) of title 29 of the District of Columbia Code). In addition, the Corporation is authorized—

(1) (A) to provide financial assistance to qualified programs furnishing legal assistance to eligible clients, and to make grants to and contracts with—

(i) individuals, partnerships, firms, corporations, and nonprofit organizations, and

(ii) State and local governments (only upon application by an appropriate State or local agency or institution and upon a special determination by the Board that the arrangements to be made by such agency or institution will provide services which will not be provided adequately through non-governmental arrangements),

for the purposes of providing legal assistance to eligible clients under this title, and (B) to make such other grants and contracts as are necessary to carry out the purposes and provisions of this title;

(2) to accept in the name of the Corporation, and employ or dispose of in furtherance of the purposes of this title, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise; and

(3) to undertake directly, or by grant or contract, the following activities relating to the delivery of legal assistance—
(A) research, except that broad general legal or policy research unrelated to representation of eligible clients may not be undertaken by grant or contract,
(B) training and technical assistance, and
(C) to serve as a clearinghouse for information.

(b) (1) (A) The Corporation shall have authority to insure the compliance of recipients and their employees with the provisions of this title and the rules, regulations, and guidelines promulgated pursuant to this title, and to terminate, after a hearing in accordance with section 1011, financial support to a recipient which fails to comply.

(B) No question of whether representation is authorized under this title, or the rules, regulations or guidelines promulgated pursuant to this title, shall be considered in, or affect the final disposition of, any proceeding in which a person is represented by a recipient or an employee of a recipient. A litigant in such a proceeding may refer any such question to the Corporation which shall review and dispose of the question promptly, and take appropriate action. This subparagraph shall not preclude judicial review available under applicable law.

(2) If a recipient finds that any of its employees has violated or caused the recipient to violate the provisions of this title, or the rules, regulations, and guidelines promulgated pursuant to this title, the recipient shall take appropriate remedial or disciplinary action in accordance with the types of procedures prescribed in the provisions of section 1011.

(3) The Corporation shall not, under any provision of this title, interfere with any attorney in carrying out his professional responsibilities to his client as established in the Canons of Ethics and the Code of Professional Responsibility of the American Bar Association (referred to collectively in this title as "professional responsibilities") or abrogate as to attorneys in programs assisted under this title the authority of a State or other jurisdiction to enforce the standards of professional responsibility generally applicable to attorneys in such jurisdiction. The Corporation shall insure that activities under this title are carried out in a manner consistent with attorneys' professional responsibilities.

(4) No attorney shall receive any compensation, either directly or indirectly, for the provision of legal assistance under this title unless such attorney is admitted or otherwise authorized by law, rule, or regulation to practice law or provide such assistance in the jurisdiction where such assistance is initiated.

(5) The Corporation shall insure that (A) no employee of the Corporation or of any recipient (except as permitted by law in connection with such employee's own employment situation), while carrying out legal assistance activities under this title, engage in, or encourage others to engage in, any public demonstration or picketing, boycott, or strike; and (B) no such employee shall, at any time, engage in, or encourage others to engage in, any of the following activities: (i) any rioting or civil disturbance, (ii) any activity which is in violation of an outstanding injunction of any court of competent jurisdiction, (iii) any other illegal activity, or (iv) any inten-

tional identification of the Corporation or any recipient with any political activity prohibited by section [1007(a)(7)]. The Board, within ninety days after its first meeting, shall issue rules and regulations to provide for the enforcement of this paragraph and section [1007(a)(6)] which rules shall include, among available remedies, provisions, in accordance with the types of procedures prescribed in the provisions of section 1011, for suspension of legal assistance supported under this title, suspension of an employee of the Corporation or of an employee of any recipient by such recipient, and, after consideration of other remedial measures and after a hearing in accordance with section 1011, the termination of such assistance or employment, as deemed appropriate for the violation in question.

(6) In areas where significant numbers of eligible clients speak a language other than English as their principal language, the Corporation shall, to the extent feasible, provide that their principal language is used in the provision of legal assistance to such clients under this title.

(c) The Corporation shall not itself—

(1) participate in litigation unless the Corporation or a recipient of the Corporation is a party, or a recipient is representing an eligible client in litigation in which the interpretation of this title or a regulation promulgated under this title is an issue, and shall not participate on behalf of any client other than itself; or

(2) undertake to influence the passage or defeat of any legislation by the Congress of the United States or by any State or local legislative bodies, except that personnel of the Corporation may testify or make other appropriate communication (A) when formally requested to do so by a legislative body, a committee, or a member thereof, or (B) in connection with legislation or appropriations directly affecting the activities of the Corporation.

(d) (1) The Corporation shall have no power to issue any shares of stock, or to declare or pay any dividends.

(2) No part of the income or assets of the Corporation shall inure to the benefit of any director, officer, or employee, except as reasonable compensation for services or reimbursement for expenses.

(3) Neither the Corporation nor any recipient shall contribute or make available corporate funds or program personnel or equipment to any political party or association, or the campaign of any candidate for public or party office.

(4) Neither the Corporation nor any recipient shall contribute or make available corporate funds or program personnel or equipment for use in advocating or opposing any ballot measures, initiatives, or referendums. However, an attorney may provide legal advice and representation as an attorney to any eligible client with respect to such client's legal rights.

(5) No class action suit, class action appeal, or amicus curiae class action may be undertaken, directly or through others, by a staff attorney, except with the express approval of a project director of a recipient in accordance with policies established by the governing body of such recipient.

(6) Attorneys employed by a recipient shall be appointed to provide legal assistance without reasonable compensation only when such appointment is made pursuant to a statute, rule, or practice applied generally to attorneys practicing in the court where the appointment is made.

(e) (1) Employees of the Corporation or of recipients shall not at any time intentionally identify the Corporation or the recipient with any partisan or nonpartisan political activity associated with a political party or association, or the campaign of any candidate for public or party office.

(2) Employees of the Corporation and staff attorneys shall be deemed to be State or local employees for purposes of chapter 15 of title 5, United States Code, except that no staff attorney may be a candidate in a partisan political election.

(f) If an action is commenced by the Corporation or by a recipient and a final order is entered in favor of the defendant and against the Corporation or a recipient's plaintiff, the court shall, upon motion by the defendant and upon a finding by the court that the action was commenced or pursued for the sole purpose of harassment of the defendant or that the Corporation or a recipient's plaintiff maliciously abused legal process, enter an order (which shall be appealable before being made final) awarding reasonable costs and legal fees incurred by the defendant in defense of the action, except when in contravention of a State law, a rule of court, or a statute of general applicability. Any such costs and fees shall be directly paid by the Corporation.

(42 U.S.C. 2996e) As added July 25, 1974, P.L. 93-355, sec. 2, 88 Stat. 381.

GRANTS AND CONTRACTS

SEC. 1007. (a) With respect to grants or contracts in connection with the provision of legal assistance to eligible clients under this title, the Corporation shall—

(1) insure the maintenance of the highest quality of service and professional standards, the preservation of attorney-client relationships, and the protection of the integrity of the adversary process from any impairment in furnishing legal assistance to eligible clients;

(2) (A) establish, in consultation with the Director of the Office of Management and Budget and with the Governors of the several States, maximum income levels (taking into account family size, urban and rural differences, and substantial cost-of-living variations) for individuals eligible for legal assistance under this title;

(B) establish guidelines to insure that eligibility of clients will be determined by recipients on the basis of factors which include—

- (i) the liquid assets and income level of the client,
- (ii) the fixed debts, medical expenses, and other factors which affect the client's ability to pay,
- (iii) the cost of living in the locality, and
- (iv) such other factors as relate to financial inability to afford legal assistance, which may include evidence of a prior determination that such individual's lack of income results from refusal or unwillingness, without good cause, to seek or accept an employment situation; and

(C) insure that (i) recipients, consistent with goals established by the Corporation, adopt procedures for determining and implementing priorities for the provision of such assistance, taking into account the relative needs of eligible clients for such assistance (including such outreach, training, and support services as may be necessary), including particularly the needs for service on the part of significant segments of the population of eligible clients with special difficulties of access to legal services or special legal problems (including elderly and handicapped individuals); and (ii) appropriate training and support services are provided in order to provide such assistance to such significant segments of the population of eligible clients;

(3) make available, in each fiscal year to the extent feasible and consistent with clause (4), substantial funds to provide the opportunity for legal assistance to be furnished to eligible clients by private attorneys;

[(4)] insure that grants and contracts are made so as to provide the most economical and effective delivery of legal assistance to persons in both urban and rural areas;

[(5)] insure that attorneys employed full time in legal assistance activities supported in major part by the Corporation refrain from (A) any compensated outside practice of law, and (B) any uncompensated outside practice of law except as authorized in guidelines promulgated by the Corporation;

[(6)] insure that no funds made available to recipients by the Corporation shall be used at any time, directly or indirectly, to influence the issuance, amendment, or revocation of any executive order or similar promulgation by any Federal, State, or local agency, or to undertake to influence the passage or defeat of any legislation by the Congress of the United States, or by any State or local legislative bodies, or State proposals by initiative petition, except where—

(A) representation by an employee of a recipient for any eligible client is necessary to the provision of legal advice and representation with respect to such client's legal rights and responsibilities (which shall not be construed to permit an attorney or a recipient employee to solicit a client in violation of professional responsibilities, for the purpose of making such representation possible); or

(B) a governmental agency, legislative body, a committee, or a member thereof—

(i) requests personnel of the recipient to testify, draft, or review measures or to make representations to such agency, body, committee, or member, or

(ii) is considering a measure directly affecting the activities under this title of the recipient or the Corporation.

[(7)] insure that all attorneys engaged in legal assistance activities supported in whole or in part by the Corporation refrain, while so engaged, from—

(A) any political activity, or

(B) any activity to provide voters or prospective voters with transportation to the polls or provide similar assistance

in connection with an election (other than legal advice and representation), or

(C) any voter registration activity (other than legal advice and representation);

[(8)] require recipients to establish guidelines, consistent with regulations promulgated by the Corporation, for a system for review of appeals to insure the efficient utilization of resources and to avoid frivolous appeals (except that such guidelines or regulations shall in no way interfere with attorneys' professional responsibilities);

[9] insure that recipients solicit the recommendations of the organized bar in the community being served before filling staff attorney positions in any project funded pursuant to this title and give preference in filling such positions to qualified persons who reside in the community to be served;

[10] insure that every grantee, contractor, or person or entity receiving financial assistance under this title or predecessor authority under this Act which files with the Corporation a timely application for refunding is provided interim funding necessary to maintain its current level of activities until (A) the application for refunding has been approved and funds pursuant thereto received, or (B) the application for refunding has been finally denied in accordance with section 1011 of this Act; and

[11] insure that all attorneys, while engaged in legal assistance activities supported in whole or in part by the Corporation, refrain from the persistent incitement of litigation and any other activity prohibited by the Canons of Ethics and Code of Professional Responsibility of the American Bar Association, and insure that such attorneys refrain from personal representation for a private fee in any cases in which they were involved while engaged in such legal assistance activities.

(b) No funds made available by the Corporation under this title, either by grant or contract, may be used—

(1) to provide legal assistance (except in accordance with guidelines promulgated by the Corporation) with respect to any fee-generating case (which guidelines shall not preclude the provision of legal assistance in cases in which a client seeks only statutory benefits and appropriate private representation is not available);

(2) to provide legal assistance with respect to any criminal proceeding, except to provide assistance to a person charged with a misdemeanor or lesser offense or its equivalent in an Indian tribal court;

(3) to provide legal assistance in civil actions to persons who have been convicted of a criminal charge where the civil action arises out of alleged acts or failures to act and the action is brought against an officer of the court or against a law enforcement official for the purpose of challenging the validity of the criminal conviction;

(4) for any of the political activities prohibited in paragraph

(6) of subsection (a) of this section;

(5) to make grants to or enter into contracts with any private law firm which expends 50 percent or more of its resources and

time litigating issues in the broad interests of a majority of the public;

(6) to support or conduct training programs for the purpose of advocating particular public policies or encouraging political activities, labor or antilabor activities, boycotts, picketing, strikes, and demonstrations, as distinguished from the dissemination of information about such policies or activities, except that this provision shall not be construed to prohibit the training of attorneys or paralegal personnel necessary to prepare them to provide adequate legal assistance to eligible clients;

(7) to initiate the formation, or act as an organizer, of any association, federation, or similar entity, except that this paragraph shall not be construed to prohibit the provision of legal assistance to eligible clients;

(8) to provide legal assistance with respect to any proceeding or litigation which seeks to procure a nontherapeutic abortion or to compel any individual or institution to perform an abortion, or assist in the performance of an abortion, or provide facilities for the performance of an abortion, contrary to the religious beliefs or moral convictions of such individual or institution;

(9) to provide legal assistance with respect to any proceeding or litigation relating to the desegregation of any elementary or secondary school or school system, except that nothing in this paragraph shall prohibit the provision of legal advice to an eligible client with respect to such client's legal rights and responsibilities; or

(10) to provide legal assistance with respect to any proceeding or litigation arising out of a violation of the Military Selective Service Act or of desertion from the Armed Forces of the United States, except that legal assistance may be provided to an eligible client in a civil action in which such client alleges that he was improperly classified prior to July 1, 1973, under the Military Selective Service Act or prior corresponding law.

(c) In making grants or entering into contracts for legal assistance, the Corporation shall insure that any recipient organized solely for the purpose of providing legal assistance to eligible clients is governed by a body at least 60 percent of which consists of attorneys who are members of the bar of a State in which the legal assistance is to be provided (except that the Corporation (1) shall, upon application, grant waivers to permit a legal services program, supported under section 222(a) (3) of the Economic Opportunity Act of 1964, which on the date of enactment of this title has a majority of persons who are not attorneys on its policy-making board to continue such a nonattorney majority under the provisions of this title, and (2) may grant, pursuant to regulations issued by the Corporation, such a waiver for recipients which, because of the nature of the population they serve, are unable to comply with such requirement) and at least one-third of which consists of persons who are, when selected, eligible clients who may also be representatives of associations or organizations of eligible clients. Any such attorney, while serving on such board, shall not receive compensation from a recipient.

(d) The Corporation shall monitor and evaluate and provide for independent evaluations of programs supported in whole or in part under this title to insure that the provisions of this title and the bylaws of the Corporation and applicable rules, regulations, and guidelines promulgated pursuant to this title are carried out.

(e) The president of the Corporation is authorized to make grants and enter into contracts under this title.

(f) At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly, and shall notify the Governor, the State bar association of any State, and the principal local bar associations (if there be any) of any community, where legal assistance will thereby be initiated, of such grant, contract, or project. Notification shall include a reasonable description of the grant application or proposed contract or project and request comments and recommendations.

(g) The Corporation shall provide for comprehensive, independent study of the existing staff-attorney program under this Act and, through the use of appropriate demonstration projects, of alternative and supplemental methods of delivery of legal services to eligible clients, including judicare, vouchers, prepaid legal insurance, and contracts with law firms; and, based upon the results of such study, shall make recommendations to the President and the Congress, not later than two years after the first meeting of the Board, concerning improvements, changes, or alternative methods for the economical and effective delivery of such services.

(h) The Corporation shall conduct a study on whether eligible clients who are—

- (1) veterans,
- (2) native Americans,
- (3) migrants or seasonal farm workers,
- (4) persons with limited English-speaking abilities, and
- (5) persons in sparsely populated areas where a harsh climate and an inadequate transportation system are significant impediments to receipt of legal services.

have special difficulties of access to legal services or special legal problems which are not being met. The Corporation shall report to Congress not later than January 1, 1979, on the extent and nature of any such problems and difficulties and shall include in the report and implement appropriate recommendations.

(42 U.S.C. 2996f) As added July 25, 1974, P.L. 93-355, sec. 2, 88 Stat. 383.

FINANCING

SEC. 1010. (a) There are authorized to be appropriated for the purpose of carrying out the activities of the Corporation, \$90,000,000 for fiscal year 1975, \$100,000,000 for fiscal year 1976, and such sums as may be necessary for fiscal year 1977. There are authorized to be appropriated for the purpose of carrying out the activities of the Corporation \$205,000,000 for the fiscal year 1978, and such sums as may be necessary for each of the two succeeding fiscal years. There are authorized to be appropriated for purposes of carrying out the activities of the Corporation \$100,000,000 for each of the fiscal years 1982, 1983

and 1984. The first appropriation may be made available to the Corporation at any time after six or more members of the Board have been appointed and qualified. Appropriations for that purpose shall be made for not more than two fiscal years, and shall be paid to the Corporation in annual installments at the beginning of each fiscal year in such amounts, as may be specified in Acts of Congress making appropriations.

(b) Funds appropriated pursuant to this section shall remain available until expended.

(c) Non-Federal funds received by the Corporation, and funds received by any recipient from a source other than the Corporation, shall be accounted for and reported as receipts and disbursements separate and distinct from Federal funds; but any funds so received for the provision of legal assistance shall not be expended by recipients for any purpose prohibited by this title, except that this provision shall not be construed to prevent recipients from receiving other public funds or tribal funds (including foundation funds benefiting Indians or Indian tribes) and expending them in accordance with the purposes for which they are provided, or to prevent contracting or making other arrangements with private attorneys, private law firms, or other State or local entities of attorneys, or with legal aid societies having separate public defender programs, for the provision of legal assistance to eligible clients under this title.

(d) Not more than 10 percent of the amounts appropriated pursuant to subsection (a) of this section for any fiscal year shall be available for grants or contracts under section 1006(a) (3) in any such year.

(42 U.S.C. 2996i) As added July 25, 1974, P.L. 93-355, sec. 2, 88 Stat. 388.

XI. MINORITY VIEWS

We are firm believers in equal justice under the law and we are very much aware that the poor have legitimate legal needs. However, we do not believe that the Legal Services Corporation is the appropriate mechanism for providing these services because it has abused its powers, diverting funds for lobbying activities and engineering social change at the expense of serving the individual needs of its clients.

For example, the Office of Management and Budget, in an opinion dated May 1, 1981, found widespread violations by the Corporation and its recipients of Federal laws prohibiting lobbying. Acting Comptroller General, Milton J. Socolar stated:

In summary, through the use of recipient organizations and their contacts at the State and local level, LSC has developed an extensive lobbying campaign to support reauthorization legislation for the Corporation and related appropriation measures being considered by the Congress. This activity violates the anti-lobbying restrictions. . . .

The Corporation engaged in a major lobbying effort in 1980 to secure its reauthorization and, after the November elections, to achieve the defeat of the Reagan Economic Package. In a lobbying strategy memorandum of December 1980, the Director of the Legal Services Corporation's Research Institute laid down an eight point plan for "waging battle" on behalf of not only reauthorizing legislation satisfactory to the Corporation, but also retention of other Federal agencies which the Administration seeks to replace with block grants. This clearly flies in the face of the prohibitions against lobbying by the Corporation. In addition, the memorandum suggested that files be maintained on members of Congress and their staffs. The memo states that these files should include background information on Senators, Congressmen and their staffs, the names of political contributors, prior voting records, and so forth.

The Corporation's actions on behalf of its reauthorization represent only a small portion of unlawful lobbying with Legal Services funds. The 17 Backup Centers funded by the Corporation engage in day-to-day efforts to identify legislative issues and activate local Legal Services recipients on behalf of them. For example, Legal Services Backup Centers and other funding recipients have worked to secure approval of a Massachusetts measure to establish a graduated income tax; exert pressure on behalf of more Federal money for food stamps and related programs; and defeat President Reagan's Economic Recovery Program.

Besides engaging in these lobbying activities, the Legal Services Corporation has attempted social reform legislation. Specifically, recipients have sued to return a third of the State of Maine to the

Passamaquoddy and Penobscot Indians; sued United States Steel in order to prevent the shut-down of an unprofitable plant; intervened on behalf of racial quotas in the *Bakke* case; litigated to prevent the University of California from engaging in research to develop labor-saving farm machinery; and sued to compel public funding for a sex change operation.

Although some of the ends sought to be achieved in the cases cited above may be laudable, it is the responsibility of the legislatures and the Congress, as elected officials answering to the taxpayers of the country, to effect this social change. The mandate of the Legal Services Corporation was advocacy for the individual needs of poor persons, not the tailoring of cases to fit into preconceived notions of social reform.

For these reasons, we are opposed to the reauthorization of the Legal Services Corporation. We believe that other avenues to provide legal services to the poor are more appropriate, such as a block granting of funds to the States. In addition, the private bar has a responsibility to provide more pro bono services to the poor.

JEREMIAH DENTON.

JOHN P. EAST.

DON NICKLES.

ORRIN HATCH.

GORDON J. HUMPHREY.

PAULA HAWKINS.

ECONOMIC OPPORTUNITY

Reorganization Plan Numbered 14 of 1950
e 1, 1934.

Added Jan. 4, 1975, P. L. 93-644, § 11, 88

AND DIRECTIVES

in this section, was probably intended
13, 1934, which appears as 40 USCS

Act Aug. 20, 1964, P. L. 88-452, Title
-222, Title I, § 110, 81 Stat 723; Sept.
pealed by Act Oct. 1, 1973, P. L. 93-
the entire former Title VIII relating to
42 USCS §§ 2993-2994d, in this

REGULATIONS

of other departments and agencies of
, and duties of the Secretary under this
Secretary may deem appropriate, and to
ers, and duties by the heads of such

ment shall exercise their powers, duties,
ring out the objectives of this title [42

out this title [42 USCS §§ 2991-2991h,
ts and agencies of the Government, if
e authorized and appropriated.

ed Jan. 4, 1975, P. L. 93-644, § 11, 88
Stat. 2443.)

AND DIRECTIVES

e functions, powers, and duties of the
substituted "the Secretary" for "he".

(Act Aug. 20, 1964, P. L. 88-452,
P. L. 90-222, Title I, § 110, 81 Stat.
Title VI, § 603, 87 Stat. 417, which
estic volunteer service programs. See

92d], the term—

ced by grant, agreement, or contract,
quipment, or goods or services;

ge" includes the reservation of any
g any band, nation, pueblo, or ranche-
mmunity under the jurisdiction of an
rancheria, with allotted lands or lands
y the United States or a State, and any
Native village or group, including any
ative organizations under the Alaska
43 USCS § 1601];

f whose ancestors were natives of the
1778.

ed Jan. 4, 1975, P. L. 93-644, § 11, 88

EVALUATION OF PROGRAMS

§ 2992d. Authorization of appropriations

There are authorized to be appropriated for the purpose of carrying out the provisions of this title [42 USCS § 2991-2991h, 2992-2992d], such sums as may be necessary for fiscal years 1979 through 1981.

(Aug. 20, 1964, P. L. 88-452, Title VIII, § 814, as added Jan. 4, 1975, P. L. 93-644, § 11, 88 Stat. 2323; Nov. 2, 1978, P. L. 95-568, § 15, 92 Stat. 2439.)

HISTORY: ANCILLARY LAWS AND DIRECTIVES

Amendments:

1978. Act Nov. 2, 1978, substituted "1979 through 1981" for "1975 through 1977".

§§ 2993-2994d. [Repealed]

HISTORY ANCILLARY LAWS AND DIRECTIVES

These sections, comprising Title VIII of the Economic Opportunity Act of 1964 (42 USCS §§ 2993-2993b—Act Aug. 20, 1964, P. L. 88-452, Title VII, Part B, §§ 820-822, as added Dec. 23, 1967, P. L. 90-222, Title I, § 110, 81 Stat. 724; Sept. 19, 1972, P. L. 92-424, § 26(c), (d), 86 Stat. 703; 42 USCS §§ 2994-2994d—Act Aug. 20, 1964, P. L. 88-452, Title VIII, Part C, §§ 831-833, as added Dec. 23, 1967, P. L. 90-222, Title I, § 110, 81 Stat. 725, 726; Oct. 22, 1968, P. L. 90-623, § 5(b), 82 Stat. 1314; Dec. 30, 1969, P. L. 91-177, Title I, § 112(b), 83 Stat. 832; Sept. 19, 1972, P. L. 92-424, § 3(d)(3), 86 Stat. 689) were repealed by Act Oct. 1, 1973, P. L. 93-113, Title VI, § 603, 87 Stat. 417. The sections provided for domestic volunteer service programs. Similar provisions as reenacted appear as 42 USCS §§ 4951 et seq. A new Title VIII of the Economic Opportunity Act of 1964 was enacted by Act Jan. 4, 1975, P. L. 93-644, § 11, 88 Stat. 2323, and appears as 42 USCS §§ 2991-2991h, 2992-2992d.

EVALUATION

§§ 2995-2995c. [Repealed]

HISTORY: ANCILLARY LAWS AND DIRECTIVES

These sections (§§ 2995-2995b—Act Aug. 20, 1964, P. L. 88-452, Title IX, §§ 901-903, as added Sept. 19, 1972, P. L. 92-424, § 27(a), 86 Stat. 704; Jan. 4, 1975, P. L. 93-644, § 12, 88 Stat. 2327; Nov. 2, 1978, P. L. 95-568, § 17(a)(42), 92 Stat. 2443; § 2995c—Act Aug. 20, 1964, P. L. 88-452, Title IX, § 904, as added Nov. 2, 1978, P. L. 95-568, § 16, 92 Stat. 2439) were repealed by Act Aug. 13, 1981, P. L. 97-35, Title VI, Subtitle B, § 683(a), 95 Stat. 519, which appears as 42 USCS § 9912(a), effective Oct. 1, 1981.

Section 2995 provided for program and project evaluation; section 2995a provided for cooperation and consultation with other federal agencies; section 2995b provided for evaluation by other administering agencies; and section 2995c authorized appropriations.

§ 2995d. [Omitted]

HISTORY: ANCILLARY LAWS AND DIRECTIVES

This section (Act Aug. 20, 1964, P. L. 88-452, Title IX, § 905, as added Sept. 19, 1972, P. L. 92-424, § 27(a), 86 Stat. 705) was omitted from Title IX of the Economic Opportunity Act of 1964 when said Title was reenacted and amended in its entirety by Act Jan. 4, 1975, P. L. 93-644, § 12, 88 Stat. 2327. The section related to publication of evaluation results and evaluation by administering agencies. Similar provisions as reenacted appear as 42 USCS § 2995b.

LEGAL SERVICES CORPORATION ACT

CODE OF FEDERAL REGULATIONS

Add:

45 CFR Part 1600.

§ 2996. Statement of findings and declaration of purpose

The Congress finds and declares that—

- (1) there is a need to provide equal access to the system of justice in our Nation for individuals who seek redress of grievances;
- (2) there is a need to provide high quality legal assistance to those who would be otherwise unable to afford adequate legal counsel and to continue the present vital legal services program;
- (3) providing legal assistance to those who face an economic barrier to adequate legal

counsel will serve best the ends of justice and assist in improving opportunities for low-income persons consistent with the purposes of this Act [42 USCS §§ 2996 et seq.];

(4) for many of our citizens, the availability of legal services has reaffirmed faith in our government of laws;

(5) to preserve its strength, the legal services program must be kept free from the influence of or use by it of political pressures; and

(6) attorneys providing legal assistance must have full freedom to protect the best interests of their clients in keeping with the Code of Professional Responsibility, the Canons of Ethics, and the high standards of the legal profession.

(Aug. 20, 1964, P. L. 88-452, Title X, § 1001, as added July 25, 1974, P. L. 93-355, § 2, 88 Stat. 378; Dec. 28, 1977, P. L. 95-222, § 2, 91 Stat. 1619.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

Amendments:

1977. Act Dec. 28, 1977 (effective 12/28/77, as provided by § 17(b) of such Act), in para. (3), inserted "and assist in improving opportunities for low-income persons consistent with the purposes of this Act".

Short titles:

Act July 25, 1974, P. L. 93-355, § 1, 88 Stat. 378, provided: "That this Act [42 USCS §§ 2809 note, 2971e, 2996-2996f; and amendments to 42 USCS § 2809] may be cited as the 'Legal Services Corporation Act of 1974'."

Act Dec. 28, 1977, P. L. 95-222, § 1, 91 Stat. 1619 provided: "This Act may be cited as the 'Legal Services Corporation Act Amendments of 1977'." For full classification of this Act, consult USCS Tables volumes.

Other provisions:

Effective date of 1977 amendments. Act Dec. 28, 1977, P.L. 95-222, § 17(b), 91 Stat. 1624, provided "The amendments made by provisions of this Act other than sections 11 and 15 shall be effective on the date of enactment of this Act [enacted Dec. 28, 1977]."

CODE OF FEDERAL REGULATIONS

Add:

45 CFR Parts 1608, 1611, 1617, 1620, 1624.

RESEARCH GUIDE

Am Jur:

79 Am Jur 2d, Welfare Laws § 43.

Law Review Articles:

Cramton, Promise and Reality in Legal Services. 61 Cornell L Rev 670.

George, Development of the Legal Services Corporation. 61 Cornell L Rev 681.

INTERPRETIVE NOTES AND DECISIONS

Prohibition in Legal Services Corporation Act regarding cases relating to desegregation of elementary and secondary schools must be read in conjunction with other statements contained in Act regarding need to protect best interests of clients and to adhere to Code of Professional Responsibility, Canons of Ethics, and high standards of legal profession. *Tasby v Estes* (1976, DC Tex) 416 F Supp 644.

Where initial involvement of Legal Services was permissible and involvement continued after passage of Legal Services Corporation Act prohibiting assistance in cases involving school desegregation, attorneys were entitled to recover attorneys' fees

for their continued representation in this case since Board of Directors of Legal Services passed resolution recognizing its importance and authorizing continued expenditure of funds to secure successful prosecution of litigation. *Tasby v Estes* (1976, DC Tex) 416 F Supp 644.

Award of attorneys' fees to plaintiffs in action challenging constitutional and statutory propriety of state's limit on retroactive food stamp benefits was not precluded by fact that plaintiffs were represented by legal services organization which was grantee under 42 USCS §§ 2996 et seq. *Card v Dempsey* (1978, DC Mich) 445 F Supp 942.

§ 2996a. Definitions

As used in this title [42 USCS §§ 2996-2996f], the term—

(1) "Board" means the Board of Directors of the Legal Services Corporation;

(2) "Corporation" means the Legal Services Corporation established under this title [42 USCS §§ 2996-2996f];

(3) "eligible client" means any person financially unable to afford legal assistance;

(4) "Governor" means the chief executive officer of a State;

ECONOMIC OPPORTUNITY

assist in improving opportunities for low-income persons [42 USCS §§ 2996 et seq.];
legal services has reaffirmed faith in our
program must be kept free from the influence
full freedom to protect the best interests
Professional Responsibility, the Canons of
Ethics.
added July 25, 1974, P. L. 93-355, § 2, 88
Stat. 519.)

AND DIRECTIVES

provided by § 17(b) of such Act), in para.
for low-income persons consistent with

, provided: "That this Act [42 USCS
§ 2809] may be cited as the

provided: "This Act may be cited as
the 'Legal Services Corporation Act of 1977'." For full classification of this

1977, P.L. 95-222, § 17(b), 91 Stat. 1624,
this Act other than sections 11 and 15
[enacted Dec. 28, 1977]."

REGULATIONS

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Cornell L Rev 670.
61 Cornell L Rev 681.

AND DECISIONS

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the Board of Directors of Legal Services passed resolu-
tion recognizing its importance and authorizing
continued expenditure of funds to secure success-
ful prosecution of litigation. *Tasby v Estes* (1976,
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Award of attorneys' fees to plaintiffs in action
challenging constitutional and statutory propriety
of state's limit on retroactive food stamp benefits
is not precluded by fact that plaintiffs were
represented by legal services organization which
is grantee under 42 USCS §§ 2996 et seq. *Card
Dempsey* (1978, DC Mich) 445 F Supp 942.

term—

the Legal Services Corporation;
Corporation established under this title [42

unable to afford legal assistance;
of a State;

EVALUATION OF PROGRAMS

- (5) "legal assistance" means the provision of any legal services consistent with the purposes and provisions of this title [42 USCS §§ 2996-2996l];
(6) "recipient" means any grantee, contractee, or recipient of financial assistance described in clause (A) of section 1006(a)(1) [42 USCS § 2996e(a)(1)(A)];
(7) "staff attorney" means an attorney who receives more than one-half of his annual professional income from a recipient organized solely for the provision of legal assistance to eligible clients under this title [42 USCS §§ 2996-2996l]; and
(8) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.
(Aug. 20, 1964, P. L. 88-452, Title X, § 1002, as added July 25, 1974, P. L. 93-355, § 2, 88 Stat. 378.)

INTERPRETIVE NOTES AND DECISIONS

Determination of "eligibility" is administrative decision within scope of decision of Legal Services Corporation under 42 USCS § 2996a(3) and 2996g(e). *Martens v Hall* (1977, DC Fla) 444 F Supp 34.

§ 2996b. Establishment of Corporation; tax exemption

- (a) There is established in the District of Columbia a private nonmembership nonprofit corporation, which shall be known as the Legal Services Corporation, for the purpose of providing financial support for legal assistance in noncriminal proceedings or matters to persons financially unable to afford legal assistance.
(b) The Corporation shall maintain its principal office in the District of Columbia and shall maintain therein a designated agent to accept service of process for the Corporation. Notice to or service upon the agent shall be deemed notice to or service upon the Corporation.
(c) The Corporation, and any legal assistance program assisted by the Corporation, shall be eligible to be treated as an organization described in section 170(c)(2)(B) of the Internal Revenue Code of 1954 [26 USCS § 170(c)(2)(B)] and as an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 [26 USCS § 501(c)(3)] which is exempt from taxation under section 501(a) of such Code [26 USCS § 501(a)]. If such treatments are conferred in accordance with the provisions of such Code [26 USCS §§ 1 et seq.], the Corporation, and legal assistance programs assisted by the Corporation, shall be subject to all provisions of such Code [26 USCS §§ 1 et seq.] relevant to the conduct of organizations exempt from taxation.
(Aug. 20, 1964, P. L. 88-452, Title X, § 1003, as added July 25, 1974, P. L. 93-355, § 2, 88 Stat. 379.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

Short titles:

Act Aug. 20, 1964, P. L. 88-452, Title X, § 1014, as added July 25, 1974, P. L. 93-355, § 2, 88 Stat. 389, provided: "This title [42 USCS §§ 2996-2996l] may be cited as the 'Legal Services Corporation Act'."

Other provisions:

Transition provisions. Section 3(a), (b), (c), (d)(1), (e) of Act July 25, 1974, provided: "(a) Notwithstanding any other provision of law, effective ninety days after the date of the first meeting of the Board of Directors of the Legal Services Corporation established under the Legal Services Corporation Act (title X of the Economic Opportunity Act of 1964, as added by this Act) [42 USCS §§ 2996-2996l], the Legal Services Corporation shall succeed to all rights of the Federal Government to capital equipment in the possession of legal services programs or activities assisted pursuant to section 222(a)(3), 230, 232 [42 USCS §§ 2809(a)(3), 2823, 2825], or any other provision of the Economic Opportunity Act of 1964 [42 USCS §§ 2701 et seq.]."

"(b) Within ninety days after the first meeting of the Board, all assets, liabilities, obligations, property, and records as determined by the Director of the Office of Management and Budget, in consultation with the Director of the Office of Economic Opportunity or the head of any successor authority, to be employed directly or held or used primarily in connection with any function of the Director of the Office of Economic Opportunity or the head of any successor authority in carrying out legal services activities under the Economic Opportunity Act of 1964 [42 USCS §§ 2701 et seq.], shall be transferred to the Corporation. Personnel transferred to the Corporation from the Office of Economic Opportunity or any successor authority shall be transferred in accordance with applicable laws and regulations, and shall not be reduced in compensation for one year after such transfer, except for cause. The Director of the Office of Economic Opportunity or the head of any successor authority shall take whatever action is necessary and reasonable to seek suitable employment for personnel who do not transfer to Corporation."

"(c) Collective-bargaining agreements in effect on the date of enactment of this Act [July 25, 1974] covering employees transferred to the Corporation shall continue to be recognized by the Corporation until the termination date of such agreements, or until mutually modified by the parties.

"(d)(1) Notwithstanding any other provision of law, the Director of the Office of Economic Opportunity or the head of any successor authority shall take such action as may be necessary, in cooperation with the president of the Legal Services Corporation, including the provision (by grant or otherwise) of financial assistance to recipients and the Corporation and the furnishing of services and facilities to the Corporation—

"(A) to assist the Corporation in preparing to undertake, and in the initial undertaking of, its responsibilities under this title;

"(B) out of appropriations available to him, to make funds available to meet the organizational and administrative expenses of the Corporation;

"(C) within ninety days after the first meeting of the Board, to transfer to the Corporation all unexpended balances of funds appropriated for the purpose of carrying out legal services programs and activities under the Economic Opportunity Act of 1964 [42 USCS §§ 2701 et seq.] or successor authority; and

"(D) to arrange for the orderly continuation by such Corporation of financial assistance to legal services programs and activities assisted pursuant to the Economic Opportunity Act of 1964 [42 USCS §§ 2701 et seq.] or successor authority.

"Whenever the Director of the Office of Economic Opportunity or the head of any successor authority determines that an obligation to provide financial assistance pursuant to any contract or grant for such legal services will extend beyond six months after the date of enactment of this Act [July 25, 1974], he shall include, in any such contract or grant, provisions to assure that the obligation to provide such financial assistance may be assumed by the Legal Services Corporation, subject to such modifications of the terms and conditions of such contract or grant as the Corporation determines to be necessary.

"(e) There are authorized to be appropriated for the fiscal year ending June 30, 1975, such sums as may be necessary for carrying out this section."

§ 2996c. Governing body

(a) **Board of Directors, membership.** The Corporation shall have a Board of Directors consisting of eleven voting members appointed by the President, by and with the advice and consent of the Senate, no more than six of whom shall be of the same political party. A majority shall be members of the bar of the highest court of any State, and none shall be a full-time employee of the United States. Effective with respect to appointments made after the date of enactment of the Legal Services Corporation Act Amendments of 1977 [enacted Dec. 28, 1977] but not later than July 31, 1978, the membership of the Board shall be appointed so as to include eligible clients, and to be generally representative of the organized bar, attorneys providing legal assistance to eligible clients, and the general public.

(b) **Term of office.** The term of office of each member of the Board shall be three years, except that five of the members first appointed, as designated by the President at the time of appointment, shall serve for a term of two years. Each member of the Board shall continue to serve until the successor to such member has been appointed and qualified. The term of initial members shall be computed from the date of the first meeting of the Board. The term of each member other than initial members shall be computed from the date of termination of the preceding term. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which such member's predecessor was appointed shall be appointed for the remainder of such term. No member shall be reappointed to more than two consecutive terms immediately following such member's initial term.

(c) **Status.** The members of the Board shall not, by reason of such membership, be deemed officers or employees of the United States.

(d) **Chairman.** The President shall select from among the voting members of the Board a chairman, who shall serve for a term of three years. Thereafter the Board shall annually elect a chairman from among its voting members.

(e) **Removal.** A member of the Board may be removed by a vote of seven members for malfeasance in office or for persistent neglect of or inability to discharge duties, or for offenses involving moral turpitude, and for no other cause.

(f) **Nine-member State advisory council, appointment; violation notification; copy.** Within six months after the first meeting of the Board, the Board shall request the Governor of each State to appoint a nine-member advisory council for such State. A majority of the members of the advisory council shall be appointed, after recommendations have been received from the State bar association, from among the attorneys admitted to practice in the State, and the membership of the council shall be subject to annual reappointment. If ninety days have elapsed without such an advisory council appointed by the Governor, the Board is authorized to appoint such a council. The advisory council shall be charged with notifying the

ECONOMIC OPPORTUNITY

the date of enactment of this Act [July Corporation shall continue to be recognized of such agreements, or until mutually

y, the Director of the Office of Economic Authority shall take such action as may be the Legal Services Corporation, including financial assistance to recipients and the facilities to the Corporation—

ing to undertake, and in the initial title;

n, to make funds available to meet the of the Corporation;

eting of the Board, to transfer to the funds appropriated for the purpose of activities under the Economic Opportunity successor authority; and

tion by such Corporation of financial activities assisted pursuant to the Eco- § 2701 et seq.] or successor authority.

omic Opportunity or the head of any on to provide financial assistance pursuant to provide financial assistance beyond six months after [], he shall include, in any such contract ion to provide such financial assistance ion, subject to such modifications of the at as the Corporation determines to be

e fiscal year ending June 30, 1975, such ion."

ration shall have a Board of Directors the President, by and with the advice and shall be of the same political party. A t court of any State, and none shall be a th respect to appointments made after the a Act Amendments of 1977 [enacted Dec. nbership of the Board shall be appointed ally representative of the organized bar, s, and the general public.

mber of the Board shall be three years, designated by the President at the time of ch member of the Board shall continue to en appointed and qualified. The term of the first meeting of the Board. The term e computed from the date of termination o fill a vacancy occurring prior to the ecessor was appointed shall be appointed hall be reappointed to more than two er's initial term.

y reason of such membership, be deemed

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oved by a vote of seven members for or inability to discharge duties, or for cause.

t; violation notification; copy. Within six board shall request the Governor of each r such State. A majority of the members commendations have been received from admitted to practice in the State, and the ual reappointment. If ninety days have y the Governor, the Board is authorized l shall be charged with notifying the

EVALUATION OF PROGRAMS

42 USCS § 2996d

Corporation of any apparent violation of the provisions of this title [42 USCS §§ 2996–2996f] and applicable rules, regulations, and guidelines promulgated pursuant to this title [42 USCS §§ 2996–2996f]. The advisory council shall, at the same time, furnish a copy of the notification to any recipient affected thereby, and the Corporation shall allow such recipient a reasonable time (but in no case less than thirty days) to reply to any allegation contained in the notification.

(g) **Open meetings.** All meetings of the Board, of any executive committee of the Board, and of any advisory council established in connection with this title shall be open and shall be subject to the requirements and provisions of section 552b of title 5, United States Code [5 USCS § 552b] (relating to open meetings).

(h) **Quarterly meetings.** The Board shall meet at least four times during each calendar year.

(Aug. 20, 1964, P. L. 88-452, Title X, § 1004, as added July 25, 1974, P. L. 93-355, § 2, 88 Stat. 379; Dec. 28, 1977, P. L. 95-222, §§ 3, 4, 91 Stat. 1619.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

Amendments:

1977. Act Dec. 28, 1977 (effective 12/28/77, as provided by § 17(b) of such Act), in subsec. (a), inserted "Effective with respect to appointments made after the date of enactment of the Legal Services Corporation Act Amendments of 1977 but not later than July 31, 1978, the membership of the Board shall be appointed so as to include eligible clients, and to be generally representative of the organized bar, attorneys providing legal assistance to eligible clients, and the general public."; and in subsec. (g), substituted "and shall be subject to the requirements and provisions of section 552b of title 5, United States Code (relating to open meetings)." for "to the public, and any minutes of such public meetings shall be available to the public, unless the membership of such bodies, by two-thirds vote of those eligible to vote, determines that an executive session should be held on a specific occasion."

CODE OF FEDERAL REGULATIONS

Add:

45 CFR Part 1603.

45 CFR Part 1622.

§ 2996d. Officers and employees; president, appointment by Board; compensation; budget, review and comments by Office of Management and Budget.

(a) The Board shall appoint the president of the Corporation, who shall be a member of the bar of the highest court of a State and shall be a non-voting ex officio member of the Board, and such other officers as the Board determines to be necessary. No officer of the Corporation may receive any salary or other compensation for services from any source other than the Corporation during his period of employment by the Corporation, except as authorized by the Board. All officers shall serve at the pleasure of the Board.

(b)(1) The president of the Corporation, subject to general policies established by the Board, may appoint and remove such employees of the Corporation as he determines necessary to carry out the purposes of the Corporation.

(2) No political test or political qualification shall be used in selecting, appointing, promoting, or taking any other personnel action with respect to any officer, agent, or employee of the Corporation or of any recipient, or in selecting or monitoring any grantee, contractor, or person or entity receiving financial assistance under this title [42 USCS §§ 2996–2996f].

(c) No member of the Board may participate in any decision, action, or recommendation with respect to any matter which directly benefits such member or pertains specifically to any firm or organization with which such member is then associated or has been associated within a period of two years.

(d) Officers and employees of the Corporation shall be compensated at rates determined by the Board, but not in excess of the rate of level V of the Executive Schedule specified in section 5316 of title 5, United States Code [5 USCS § 5316].

(e)(1) Except as otherwise specifically provided in this title, officers and employees of the Corporation shall not be considered officers or employees, and the Corporation shall not be considered a department, agency, or instrumentality, of the Federal Government.

(2) Nothing in this title [42 USCS §§ 2996–2996f] shall be construed as limiting the authority of the Office of Management and Budget to review and submit comments upon the Corporation's annual budget request at the time it is transmitted to the Congress.

(f) Officers and employees of the Corporation shall be considered officers and employees of the Federal Government for purposes of the following provisions of title 5, United States Code: subchapter I of chapter 81 [5 USCS §§ 8101 et seq.] (relating to compensation for—

work injuries); chapter 83 [5 USCS §§ 8311 et seq.] (relating to civil service retirement); chapter 87 [5 USCS §§ 8701 et seq.] (relating to life insurance); and chapter 89 [5 USCS §§ 8901 et seq.] (relating to health insurance). The Corporation shall make contributions at the same rates applicable to agencies of the Federal Government under the provisions referred to in this subsection.

(g) The Corporation and its officers and employees shall be subject to the provisions of section 552 of title 5, United States Code [5 USCS § 552] (relating to freedom of information).

(Aug. 20, 1964, P. L. 88-452, Title X, § 1005, as added July 25, 1974, P. L. 93-355, § 2, 88 Stat. 380.)

CODE OF FEDERAL REGULATIONS

Add:
45 CFR Parts 1602, 1608.

1006 § 2996e. Powers, duties, and limitations

→ (a) To the extent consistent with the provisions of this title, the Corporation shall exercise the powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act (except for section 1005(o) of title 29 of the District of Columbia Code). In addition, the Corporation is authorized—

→ (1)(A) to provide financial assistance to qualified programs furnishing legal assistance to eligible clients, and to make grants to and contracts with—

→ (i) individuals, partnerships, firms, corporations, and nonprofit organizations, and
(ii) State and local governments (only upon application by an appropriate State or local agency or institution and upon a special determination by the Board that the arrangements to be made by such agency or institution will provide services which will not be provided adequately through nongovernmental arrangements),

→ for the purpose of providing legal assistance to eligible clients under this title, and (B) to make such other grants and contracts as are necessary to carry out the purposes and provisions of this title;

(2) to accept in the name of the Corporation, and employ or dispose of in furtherance of the purposes of this title, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise; and

(3) to undertake directly; or by grant or contract, the following activities relating to the delivery of legal assistance—

(A) research, except that broad general legal or policy research unrelated to representation of eligible clients may not be undertaken by grant or contract,

(B) training and technical assistance, and

(C) to serve as a clearinghouse for information.

(b)(1)(A) The Corporation shall have authority to insure the compliance of recipients and their employees with the provisions of this title and the rules, regulations, and guidelines promulgated pursuant to this title, and to terminate, after a hearing in accordance with section 1011, [42 USCS § 2996j] financial support to a recipient which fails to comply.

(B) No question of whether representation is authorized under this title, or the rules, regulations or guidelines promulgated pursuant to this title, shall be considered in, or affect the final disposition of, any proceeding in which a person is represented by a recipient or an employee of a recipient. A litigant in such a proceeding may refer any such question to the Corporation which shall review and dispose of the question promptly, and take appropriate action. This subparagraph shall not preclude judicial review available under applicable law.

(2) If a recipient finds that any of its employees has violated or caused the recipient to violate the provisions of this title or the rules, regulations, and guidelines promulgated pursuant to this title, the recipient shall take appropriate remedial or disciplinary action in accordance with the types of procedures prescribed in the provisions of section 1011 [42 USCS § 2996j].

(3) The Corporation shall not, under any provision of this title, interfere with any attorney in carrying out his professional responsibilities to his client as established in the Canons of Ethics and the Code of Professional Responsibility of the American Bar Association (referred to collectively in this title as "professional responsibilities") or abrogate as to attorneys in programs assisted under this title the authority of a State or other jurisdiction to enforce the standards of professional responsibility generally applicable to attorneys in

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q.] (relating to civil service retirement); life insurance); and chapter 89 [5 USCS Corporation shall make contributions at Federal Government under the provisions

es shall be subject to the provisions of S § 552] (relating to freedom of informa-

dded July 25, 1974, P. L. 93-355, § 2, 88

REGULATIONS

his title, the Corporation shall exercise the by the District of Columbia Nonprofit 29 of the District of Columbia Code). In

d programs furnishing legal assistance to ntracts with—

tions, and nonprofit organizations, and on application by an appropriate State or ecial determination by the Board that the or institution will provide services which ongovernmental arrangements),

to eligible clients under this title, and (B) e necessary to carry out the purposes and

nd employ or dispose of in furtherance of erty, real, personal, or mixed, tangible or urtherwise; and

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or policy research unrelated to representa- by grant or contract,

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o insure the compliance of recipients and his title and the rules, regulations, and tle, and to terminate, after a hearing in 996j] financial support to a recipient which

is authorized under this title, or the rules, ant to this title, shall be considered in, or ng in which a person is represented by a itigant in such a proceeding may refer any shall review and dispose of the question s subparagraph shall not preclude judicial

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sion of this title, interfere with any attorney to his client as established in the Canons of isibility of the American Bar Association ssional responsibilities) or abrogate as to he authority of a State or other jurisdiction isibility generally applicable to attorneys in

EVALUATION OF PROGRAMS

such jurisdiction. The Corporation shall ensure that activities under this title are carried out in a manner consistent with attorneys' professional responsibilities.

(4) No attorney shall receive any compensation, either directly or indirectly, for the provision of legal assistance under this title unless such attorney is admitted or otherwise authorized by law, rule, or regulation to practice law or provide such assistance in the jurisdiction where such assistance is initiated.

(5) The Corporation shall insure that (A) no employee of the Corporation or of any recipient ~~(except as permitted by law in connection with such employee's own employment situation)~~, while carrying out legal assistance activities under this title, engage in, or encourage others to engage in, any public demonstration or picketing, boycott, or strike; and (B) no such employee shall, at any time, engage in, or encourage others to engage in, any of the following activities: (i) any rioting or civil disturbance, (ii) any activity which is in violation of an outstanding injunction of any court of competent jurisdiction, (iii) any other illegal activity, or (iv) any intentional identification of the Corporation or any recipient with any political activity prohibited by section 1007(a)(6) [42 USCS § 2996f(a)(6)]. The Board, within ninety days after its first meeting, shall issue rules and regulations to provide for the enforcement of this paragraph and section 1007(a)(5) [42 USCS § 2996f(a)(5)], which rules shall include, among available remedies, provisions, in accordance with the types of procedures prescribed in the provisions of section 1011 [42 USCS § 2996j], for suspension of legal assistance supported under this title, suspension of an employee of the Corporation or of any employee of any recipient by such recipient, and, after consideration of other remedial measures and after a hearing in accordance with section 1011 [42 USCS § 2996j], the termination of such assistance or employment, as deemed appropriate for the violation in question.

(6) In areas where significant numbers of eligible clients speak a language other than English as their principal language, the Corporation shall, to the extent feasible, provide that their principal language is used in the provision of legal assistance to such clients under this title.

(c) The Corporation shall not itself—

(1) participate in litigation unless the Corporation or a recipient of the Corporation is a party, or a recipient is representing an eligible client in litigation in which the interpretation of this title or a regulation promulgated under this title is an issue, and shall not participate on behalf of any client other than itself; or

(2) undertake to influence the passage or defeat of any legislation by the Congress of the United States or by any State or local legislative bodies, except that personnel of the Corporation may testify or make other appropriate communication (A) when formally requested to do so by a legislative body, a committee, or a member thereof, or (B) in connection with legislation or appropriations directly affecting the activities of the Corporation.

(d)(1) The Corporation shall have no power to issue any shares of stock, or to declare or pay any dividends.

(2) No part of the income or assets of the Corporation shall inure to the benefit of any director, officer, or employee, except as reasonable compensation for services or reimbursement for expenses.

(3) Neither the Corporation nor any recipient shall contribute or make available corporate funds or program personnel or equipment to any political party or association, or the campaign of any candidate for public or party office.

(4) Neither the Corporation nor any recipient shall contribute or make available corporate funds or program personnel or equipment for use in advocating or opposing any ballot measures, initiatives, or referendums. However, an attorney may provide legal advice and representation as an attorney to any eligible client with respect to such client's legal rights.

(5) No class action suit, class action appeal, or amicus curiae class action may be undertaken, directly or through others, by a staff attorney, except with the express approval of a project director of a recipient in accordance with policies established by the governing body of such recipient.

(6) Attorneys employed by a recipient shall be appointed to provide legal assistance without reasonable compensation only when such appointment is made pursuant to a statute, rule, or practice applied generally to attorneys practicing in the court where the appointment is made.

(e)(1) Employees of the Corporation or of recipients shall not at any time intentionally identify the Corporation or the recipient with any partisan or nonpartisan political activity, associated with a political party or association, or the campaign of any candidate for public or party office.

(2) Employees of the Corporation and staff attorneys shall be deemed to be State or local employees for purposes of chapter 15 of title 5, United States Code [5 USCS §§ 1501 et seq.]; except that no staff attorney may be a candidate in a partisan political election.

attys fees
(f) If an action is commenced by the Corporation or by a recipient and a final order is entered in favor of the defendant and against the Corporation or a recipient's plaintiff, the court shall, upon motion by the defendant and upon a finding by the court that the action was commenced or pursued for the sole purpose of harassment of the defendant or that the Corporation or a recipient's plaintiff maliciously abused legal process, enter an order (which shall be appealable before being made final) awarding reasonable costs and legal fees incurred by the defendant in defense of the action, except when in contravention of a State law, a rule of court, or a statute of general applicability. Any such costs and fees shall be directly paid by the Corporation.

(Aug. 20, 1964, P. L. 88-452, Title X, § 1006, as added July 25, 1974, P. L. 93-355, § 2, 88 Stat. 381; Dec. 28, 1977, P. L. 95-222, §§ 5(a), (b), 6, 7(a), 8, 91 Stat. 1619, 1620.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

References in text:

"This title", referred to in this section, is Title X of the Economic Opportunity Act of 1964, and appears as 42 USCS §§ 2996-2996l.

Amendments:

1977. Act Dec. 28, 1977 (effective 12/28/77, as provided by § 17(b) of such Act), in subsec. (a), in para. (3), substituted ", or" for "and not", in para. (3)(A) inserted "except that broad general legal or policy research unrelated to representation of eligible clients may not be undertaken by grant or contract,"; in subsec (b)(1), inserted "(A)" after "(b)(1)" and added subpara. (B): in subsec (C), substituted para. (1) for one which read:

"(1) participate in litigation on behalf of clients other than the Corporation; or"; in subsec. (d), added para. (6); in subsec (e), inserted, in para. (2), "and staff attorneys" and ", except that no staff attorney may be a candidate in a partisan political election"; in subsec. (f), substituted "shall" for "may".

CODE OF FEDERAL REGULATIONS

Add:

45 CFR Parts 1600, 1606, 1608, 1612, 1616-1619, 1621, 1623.

INTERPRETIVE NOTES AND DECISIONS

Since under 42 USCS § 2996d Legal Services Corporation is not agency of federal government, its decisions are not reviewable under Administrative Procedure Act (5 USCS §§ 701 et seq.). *Spokane County Legal Services, Inc. v Legal Services Corp.* (1980, CA9 Wash) 614 F2d 662.

District Court erred in course of discovery on attorneys' fees in ordering plaintiffs to answer interrogatory as to whether they had been referred by legal aid society to lawyer referral service; 42 USCS § 2996e bars such question, which under § 2996e and its implementing regulations must be submitted to Legal Services Corporation subject to judicial review. *McManama v Lukhard* (1980, CA4 Va) 616 F2d 727.

Legal Services has statutory authority to terminate funding of one of its grantees if grantee does not meet requirements of statute and guidelines promulgated under it; Legal Services is under statutory duty to monitor and provide for independent evaluations of service programs of its grantees so as to insure provisions of statute and guidelines are being carried out. *San Juan Legal Services, Inc. v Legal Services Corp.* (1981, CA1 Puerto Rico) 655 F2d 434.

Determination of "eligibility" falsely or improperly made by employee or recipient is within primary jurisdiction of Legal Services Corporation under 42 USCS § 2996e(b)(1). *Martens v Hall* (1977, DC Fla) 444 F Supp 34.

Determination of whether adequate factual basis exists for assessing award of attorney fees and costs against plaintiffs under 42 USCS § 2000e-5 and against Legal Services Corporation under 42

USCS § 2996e(f) rest upon substantially same rationale, whenever element of bad faith can be found to exist. *Flora v Moore* (1978, DC Miss) 461 F Supp 1104.

Local legal services organizations are autonomous in their employment decisions and are not agents of Legal Service Corporations. *White v North Louisiana Legal Assistance Corp.* (1979, WD La) 468 F Supp 1347.

Defendant had no standing to complain of any impropriety with respect to representation and consequential award of legal fees against defendant because any challenge to scope of Legal Services Corporation recipient must be addressed to Corporation itself and then Corporation's decision is subject to judicial review of administrative action so that collateral litigation of propriety of recipient's representation decisions is barred. *Anderson v Redman* (1979, DC Del) 474 F Supp 511.

Without benefit of legislative guidance, courts must construe statutes in accordance with their clear and unambiguous meaning and abstain from engrafting exceptions by implication or which do not otherwise plainly appear in language used by Congress; Supreme Court's definition of term "meritless" in *Christiansburg Garment Company v EEOC* (1978) 434 US 412, 54 L Ed 2d 648, 98 S Ct 694, sheds light on how 42 USCS § 2996e(f) should be construed; reasonable attorney fee and costs of action will be assessed against legal services corporation which pursued employees' race discrimination claim against employer in vexatious, wanton and oppressive manner. *Flora v Moore* (1978, DC Miss) 22 CCH EPD ¶ 30635.

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attorneys shall be deemed to be State or local, United States Code [5 USCS §§ 1501 et al.] candidate in a partisan political election.

on or by a recipient and a final order is Corporation or a recipient's plaintiff, the upon a finding by the court that the action of harassment of the defendant or that the abused legal process, enter an order (which may require reasonable costs and legal fees incurred when in contravention of a State law, a rule or such costs and fees shall be directly paid

added July 25, 1974, P. L. 93-355, § 2, 88 Stat. 6, 7(a), 8, 91 Stat. 1619, 1620.)

US AND DIRECTIVES

X of the Economic Opportunity Act of

s provided by § 17(b) of such Act), in "and not", in para. (3)(A) inserted "except related to representation of eligible clients"; in subsec (b)(1), inserted "(A)" after substituted para. (1) for one which read: "recipients other than the Corporation; or"; in inserted, in para. (2), "and staff attorneys" candidate in a partisan political election";

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21, 1623.

AND DECISIONS

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EVALUATION OF PROGRAMS

§ 2996f. Grants and contracts

(a) Quality of service and standards; determination of maximum income levels; eligibility guidelines; priorities; legal assistance attorneys; review of appeals, guidelines. With respect to grants or contracts in connection with the provision of legal assistance to eligible clients under this title, the Corporation shall—

(1) insure the maintenance of the highest quality of service and professional standards, the preservation of attorney-client relationships, and the protection of the integrity of the adversary process from any impairment in furnishing legal assistance to eligible clients;

(2)(A) establish, in consultation with the Director of the Office of Management and Budget and with the Governors of the several States, maximum income levels (taking into account family size, urban and rural differences, and substantial cost-of-living variations) for individuals eligible for legal assistance under this title;

(B) establish guidelines to insure that eligibility of clients will be determined by recipients on the basis of factors which include—

(i) the liquid assets and income level of the client,

(ii) the fixed debts, medical expenses, and other factors which affect the client's ability to pay,

(iii) the cost of living in the locality, and

(iv) such other factors as relate to financial inability to afford legal assistance, which may include evidence of a prior determination that such individual's lack of income results from refusal or unwillingness, without good cause, to seek or accept an employment situation; and

(C) insure that (i) recipients, consistent with goals established by the Corporation, adopt procedures for determining and implementing priorities for the provision of such assistance, taking into account the relative needs of eligible clients for such assistance (including such outreach, training, and support services as may be necessary), including particularly the needs for service on the part of significant segments of the population of eligible clients with special difficulties of access to legal services or special legal problems (including elderly and handicapped individuals); and (ii) appropriate training and support services are provided in order to provide such assistance to such significant segments of the population of eligible clients;

(3) insure that grants and contracts are made so as to provide the most economical and effective delivery of legal assistance to persons in both urban and rural areas;

(4) insure that attorneys employed full time in legal assistance activities supported in major part by the Corporation refrain from (A) any compensated outside practice of law, and (B) any uncompensated outside practice of law except as authorized in guidelines promulgated by the Corporation;

(5) insure that no funds made available to recipients by the Corporation shall be used at any time, directly or indirectly, to influence the issuance, amendment, or revocation of any executive order or similar promulgation by any Federal, State, or local agency, or to undertake to influence the passage or defeat of any legislation by the Congress of the United States, or by any State or local legislative bodies, or State proposals by initiative petition, except where—

(A) representation by an employee of a recipient for any eligible client is necessary to the provision of legal advice and representation with respect to such client's legal rights and responsibilities (which shall not be construed to permit an attorney or a recipient employee to solicit a client, in violation of professional responsibilities, for the purpose of making such representation possible); or

(B) a governmental agency, legislative body, a committee, or a member thereof—

(i) requests personnel of the recipient to testify, draft, or review measures or to make representations to such agency, body, committee, or member, or

(ii) is considering a measure directly affecting the activities under this title of the recipient or the Corporation.

(6) insure that all attorneys engaged in legal assistance activities supported in whole or in part by the Corporation refrain, while so engaged, from—

(A) any political activity, or

(B) any activity to provide voters or prospective voters with transportation to the polls or provide similar assistance in connection with an election (other than legal advice and representation), or

(C) any voter registration activity (other than legal advice and representation);

(7) require recipients to establish guidelines, consistent with regulations promulgated by the Corporation, for a system for review of appeals to insure the efficient utilization of

resources and to avoid frivolous appeals (except that such guidelines or regulations shall in no way interfere with attorneys' professional responsibilities);

(8) insure that recipients solicit the recommendations of the organized bar in the community being served before filling staff attorney positions in any project funded pursuant to this title and give preference in filing such positions to qualified persons who reside in the community to be served;

(9) insure that every grantee, contractor, or person or entity receiving financial assistance under this title or predecessor authority under this Act which files with the Corporation a timely application for refunding is provided interim funding necessary to maintain its current level of activities until (A) the application for refunding has been approved and funds pursuant thereto received, or (B) the application for refunding has been finally denied in accordance with section 1011 of this Act [42 USCS § 2996j]; and

(10) insure that all attorneys, while engaged in legal assistance activities supported in whole or in part by the Corporation, refrain from the persistent incitement of litigation and any other activity prohibited by the Canons of Ethics and Code of Professional Responsibility of the American Bar Association, and insure that such attorneys refrain from personal representation for a private fee in any cases in which they were involved while engaged in such legal assistance activities.

(b) **Funds, limitations.** No funds made available by the Corporation under this title, either by grant or contract, may be used—

(1) to provide legal assistance (except in accordance with guidelines promulgated by the Corporation) with respect to any fee-generating case (which guidelines shall not preclude the provision of legal assistance in cases in which a client seeks only statutory benefits and appropriate private representation is not available);

(2) to provide legal assistance with respect to any criminal proceeding, except to provide assistance to a person charged with a misdemeanor or lesser offense or its equivalent in an Indian tribal court;

(3) to provide legal assistance in civil actions to persons who have been convicted of a criminal charge where the civil action arises out of alleged acts or failures to act and the action is brought against an officer of the court or against a law enforcement official for the purpose of challenging the validity of the criminal conviction;

(4) for any of the political activities prohibited in paragraph (6) of subsection (a) of this section;

(5) to make grants to or enter into contracts with any private law firm which expends 50 percent or more of its resources and time litigating issues in the broad interests of a majority of the public;

(6) to support or conduct training programs for the purpose of advocating particular public policies or encouraging political activities, labor or antilabor activities, boycotts, picketing, strikes, and demonstrations, as distinguished from the dissemination of information about such policies or activities, except that this provision shall not be construed to prohibit the training of attorneys or paralegal personnel necessary to prepare them to provide adequate legal assistance to eligible clients;

(7) to initiate the formation, or act as an organizer, of any association, federation, or similar entity, except that this paragraph shall not be construed to prohibit the provision of legal assistance to eligible clients;

(8) to provide legal assistance with respect to any proceeding or litigation which seeks to procure a nontherapeutic abortion or to compel any individual or institution to perform an abortion, or assist in the performance of an abortion, or provide facilities for the performance of an abortion, contrary to the religious beliefs or moral convictions of such individual or institution;

(9) to provide legal assistance with respect to any proceeding or litigation relating to the desegregation of any elementary or secondary school or school system, except that nothing in this paragraph shall prohibit the provision of legal advice to an eligible client with respect to such client's legal rights and responsibilities; or

(10) to provide legal assistance with respect to any proceeding or litigation arising out of a violation of the Military Selective Service Act [50 USCS Appx. § 451] or of desertion from the Armed Forces of the United States, except that legal assistance may be provided to an eligible client in a civil action in which such client alleges that he was improperly classified prior to July 1, 1973, under the Military Selective Service Act [50 USCS Appx. § 451] or prior corresponding law.

(c) **Governing Board, membership.** In making grants or entering into contracts for legal assistance, the Corporation shall insure that any recipient organized solely for the purpose of providing legal assistance to eligible clients is governed by a body at least 60 percent of which

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that such guidelines or regulations shall in (responsibilities);

endations of the organized bar in the attorney positions in any project funded g such positions to qualified persons who

son or entity receiving financial assistance this Act which files with the Corporation a interim funding necessary to maintain its ion for refunding has been approved and application for refunding has been finally ct [42 USCS § 2996j]; and

in legal assistance activities supported in from the persistent incitement of litigation ions of Ethics and Code of Professional n, and insure that such attorneys refrain in any cases in which they were involved

the Corporation under this title, either by

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to persons who have been convicted of a ut of alleged acts or failures to act and the rt or against a law enforcement official for riminal conviction;

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any proceeding or litigation which seeks to pel any individual or institution to perform of an abortion, or provide facilities for the religious beliefs or moral convictions of such

o any proceeding or litigation relating to the school or school system, except that nothing on of legal advice to an eligible client with nsibilities; or

o any proceeding or litigation arising out of a [50 USCS Appx. § 451] or of desertion from pt that legal assistance may be provided to an such client alleges that he was improperly ilitary Selective Service Act [50 USCS Appx.

grants or entering into contracts for legal y recipient organized solely for the purpose of veyed by a body at least 60 percent of which

EVALUATION OF PROGRAMS

42 USCS § 2996f

consists of attorneys who are members of the bar of a State in which the legal assistance is to be provided (except that the Corporation (1) shall, upon application, grant waivers to permit a legal services program, supported under section 222(a)(3) of the Economic Opportunity Act of 1964 [42 USCS § 2809(a)(3)], which on the date of enactment of this title [July 25, 1974] has a majority of persons who are not attorneys on its policy-making board to continue such a non-attorney majority under the provisions of this title, and (2) may grant, pursuant to regulations issued by the Corporation, such a waiver for recipients which, because of the nature of the population they serve, are unable to comply with such requirement) and at least one-third of which consists of persons who are, when selected, eligible clients who may also be representatives of associations or organizations of eligible clients. Any such attorney, while serving on such board, shall not receive compensation from a recipient.

(d) **Program evaluation.** The Corporation shall monitor and evaluate and provide for independent evaluations of programs supported in whole or in part under this title to insure that the provisions of this title and the bylaws of the Corporation and applicable rules, regulations, and guidelines promulgated pursuant to this title are carried out.

(e) **Authorization.** The president of the Corporation is authorized to make grants and enter into contracts under this title.

(f) **Grant approval, public notification.** At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly, and shall notify the Governor, the State bar association of any State, and the principal local bar associations (if there be any) of any community, where legal assistance will thereby be initiated, of such grant, contract, or project. Notification shall include a reasonable description of the grant application or proposed contract or project and request comments and recommendations.

(g) **Staff-attorney program, study.** The Corporation shall provide for comprehensive, independent study of the existing staff-attorney program under this Act and, through the use of appropriate demonstration projects, of alternative and supplemental methods of delivery of legal services to eligible clients, including judicare, vouchers, prepaid legal insurance, and contracts with law firms; and, based upon the results of such study, shall make recommendations to the President and the Congress, not later than two years after the first meeting of the Board, concerning improvements, changes, or alternative methods for the economical and effective delivery of such services.

(h) **Eligible clients' special needs assessment study.** The Corporation shall conduct a study on whether eligible clients who are—

- (1) veterans,
- (2) native Americans,
- (3) migrants or seasonal farm workers,
- (4) persons with limited English-speaking abilities, and
- (5) persons in sparsely populated areas where a harsh climate and an inadequate transportation system are significant impediments to receipt of legal services

have special difficulties of access to legal services or special legal problems which are not being met. The Corporation shall report to Congress not later than January 1, 1979, on the extent and nature of any such problems and difficulties and shall include in the report and implement appropriate recommendations.

(Aug. 20, 1964, P. L. 88-452, Title X, § 1007, as added July 25, 1974, P. L. 93-355, § 2, 88 Stat. 383; Dec. 28, 1977, P. L. 95-222, §§ 7(b), 9(a), (b)(1), (C), 10, 11, 12, 13, 91 Stat. 1620.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

References in text:

"This title", referred to in this section, is Title X of the Economic Opportunity Act of 1964, and appears as 42 USCS §§ 2996-2996f.

"This Act", referred to in this section, is the Economic Opportunity Act of 1964. For classifications of this Act, see Short title note to 42 USCS § 2701, in the parent volume.

Amendments:

1977. Act Dec. 28, 1977 (effective 12/28/77, as provided by § 17(b) of such Act), in subsec. (a), substituted para. (5) for former para. (5) which read:

"(5) insure that no funds made available to recipients by the Corporation shall be used at any time, directly or indirectly, to influence the issuance, amendment, or revocation of any executive order or similar promulgation by any Federal, State, or local agency, or to undertake to influence the passage or defeat of any legislation by the Congress of the United States, or by any State or local legislative bodies, except where—

"(A) representation by an attorney as an attorney for any eligible client is necessary to the provision of legal advice and representation with respect to such client's legal rights and responsibilities (which shall not be construed to permit a recipient or an

attorney to solicit a client for the purpose of making such representation possible, or to solicit a group with respect to matters of general concern to a broad class of persons as distinguished from acting on behalf of any particular client); or

"(B) a governmental agency, a legislative body, a committee, or a member thereof requests personnel of any recipient to make representations thereto";

substituted (2)(B)(iv) for former (2)(B)(iv) which read:

"(iv) such other factors as relate to financial inability to afford legal assistance, which shall include evidence of a prior determination, which shall be a disqualifying factor, that such individual's lack of income results from refusal or unwillingness, without good cause, to seek or accept an employment situation; and";

Substituted (2)(C) for former (2)(C) which read:

"(C) establish priorities to insure that persons least able to afford legal assistance are given preference in the furnishing of such assistance";

and, in para. (6), deleted the concluding matter which read: "and insure that staff attorneys refrain at any time during the period for which they receive compensation under this title from the activities described in clauses (B) and (C) of this paragraph and from political activities of the type prohibited by section 1502(a) of title 5, United States Code, whether partisan or nonpartisan";

substituted subsec. (b) for former subsec. (b) which read:

"(b) **Funds, limitations.** No funds made available by the Corporation under this title, either by grant or contract, may be used—

"(1) to provide legal assistance with respect to any fee-generating case (except in accordance with guidelines promulgated by the Corporation), to provide legal assistance with respect to any criminal proceeding, or to provide legal assistance in civil actions to persons who have been convicted of a criminal charge where the civil action arises out of alleged acts or failures to act and the action is brought against an officer of the court or against a law enforcement official for the purpose of challenging the validity of the criminal conviction;

"(2) for any of the political activities prohibited in paragraph (6) of subsection (a) of this section;

"(3) to make grants to or enter into contracts with any private law firm which expends 50 percent or more of its resources and time litigating issues in the broad interests of a majority of the public;

"(4) to provide legal assistance under this title to any unemancipated person of less than eighteen years of age, except (A) with the written request of one of such person's parents or guardians, (B) upon the request of a court of competent jurisdiction, (C) in child abuse cases, custody proceedings, persons in need of supervision (PINS) proceedings, or cases involving the initiation, continuation, or conditions of institutionalization, or (D) where necessary for the protection of such person for the purpose of securing, or preventing the loss of, benefits, or securing, or preventing the loss or imposition of, services under law in cases not involving the child's parent or guardian as a defendant or respondent;

"(5) to support or conduct training programs for the purpose of advocating particular public policies or encouraging political activities, labor or antilabor activities, boycotts, picketing, strikes, and demonstrations, as distinguished from the dissemination of information about such policies or activities, except that this provision shall not be construed to prohibit the training of attorneys or paralegal personnel necessary to prepare them to provide adequate legal assistance to eligible clients;

"(6) to organize, to assist to organize, or to encourage to organize, or to plan for the creation or formation of, or the structuring of, any organization, association, coalition, alliance, federation, confederation, or any similar entity, except for the provision of legal assistance to eligible clients in accordance with guidelines promulgated by the Corporation;

"(7) to provide legal assistance with respect to any proceeding or litigation relating to the desegregation of any elementary or secondary school or school system;

"(8) to provide legal assistance with respect to any proceeding or litigation which seeks to procure a nontherapeutic abortion or to compel any individual or institution to perform an abortion, or assist in the performance of an abortion, or provide facilities for the performance of an abortion, contrary to the religious beliefs or moral convictions of such individual or institution; or

"(9) to provide legal assistance with respect to any proceeding or litigation arising out of a violation of the Military Selective Service Act or of desertion from the Armed Forces of the United States.";

In subsec. (c) (effective six months after the first day of the first calendar month following 12/28/77, as provided by 17(a)(1) of such Act Dec. 28, 1977) substituted "and at least one-third of which consists of persons who are, when selected, eligible clients who may also be representatives of associations or organizations of eligible clients." for "and which includes at least one individual eligible to receive legal assistance under this title.";

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ECONOMIC OPPORTUNITY

of making such representation possible, or of general concern to a broad class of (half of any particular client); or body, a committee, or a member thereof representations thereto;";

financial inability to afford legal assistance, determination, which shall be a disqualification of income results from refusal or seek or accept an employment situation;

least able to afford legal assistance are

which read: "and insure that staff attorneys receive compensation under this title (C) of this paragraph and from political of title 5, United States Code, whether

read:

by the Corporation under this title, either

to any fee-generating case (except in Corporation), to provide legal assistance provide legal assistance in civil actions to charge where the civil action arises out is brought against an officer of the court purpose of challenging the validity of the

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le to any unemancipated person of less e written request of one of such person's a court of competent jurisdiction, (C) in in need of supervision (PINS) proceed- tion, or conditions of institutionalization, ch person for the purpose of securing, or or preventing the loss or imposition of, child's parent or guardian as a defendant

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o any proceeding or litigation arising out ce Act or of desertion from the Armed

day of the first calendar month following Dec. 28, 1977) substituted "and at least en selected, eligible clients who may also ns of eligible clients." for "and which legal assistance under this title.";

EVALUATION OF PROGRAMS

in subsec. (f), substituted ", the State bar association of any State, and the principal local bar associations (if there be any) of any community, where legal assistance will thereby be initiated, of such grant, contract, or project. Notification shall include a reasonable description of the grant application or proposed contract or project and request comments and recommendations." for "and the State bar association of any State where legal assistance will thereby be initiated, of such grant, contract, or project. Notification shall include a reasonable description of the grant application or proposed contract or project and request comments and recommendations.";

and added subsec. (h).

CODE OF FEDERAL REGULATIONS

Add:

45 CFR Parts 1604, 1605, 1606, 1607, 1608, 1609, 1612-1618, 1621.

INTERPRETIVE NOTES AND DECISIONS

Provision of 42 USCS § 2996f(b)(1) providing that no federal Legal Services Corporation funds may be used to provide legal assistance with respect to any fee generating case is intended to preclude handling of cases where fee is likely to be paid by particular client, contingent fee cases, or other cases in which fee provided by statute or administrative rule is sufficient to retain attorney, test being whether client can obtain representation, and section does not preclude awarding of attorneys' fees directly to legal services organization for services rendered. *Townsend v Edelman* (1975, CA7 Ill) 518 F2d 116.

Court will not rule that 42 USCS § 2996f(f)(1) absolutely bars awards of fees to legal aid offices, since this would restrict legal services from participation in many matters, such as civil rights suits, in which Congress must have contemplated active role for legal services organizations; court will not establish presumption that legal services corporation violated 45 CFR § 1609.4, which permits such organizations to accept fee-generating cases where private representation is unavailable, where organization's routine procedures apparently complied with such regulation. *Rodriguez v Taylor* (1977, CA3 Pa) 569 F2d 1231, cert den 436 US 913, 56 L Ed 2d 414, 98 S Ct 2254 and (disagreed with *Marshall v Westinghouse Electric Corp.* (CA5 Fla) 582 F2d 966).

Decision of Legal Services Corporation in selecting delivery system, which allegedly does not result in economical and effective delivery of legal assistance in violation of 42 USCS § 2996f, should be accepted by reviewing court if there is rational basis for decision and it is supported by some evidence. *Spokane County Legal Services, Inc. v Legal Services Corp.* (1980, CA9 Wash) 614 F2d 662.

No special circumstances existed which would render award of attorney's fees in school desegre-

gation case unjust within meaning of 20 USCS § 1617 where, notwithstanding prohibition contained in 42 USCS § 2996f(b)(7) regarding use of Legal Services Corporation funds for legal assistance in cases relating to desegregation of school systems, it was clear that initial 1971 involvement of Legal Services in instant case was permissible, that Legal Services continued representation of plaintiff was permissible based upon relevant provisions of American Bar Association's Code of Professional Responsibility and Canons of Judicial Ethics, and where resolution of Board of Directors of Legal Services Corporation had permitted collection of attorneys fees where allowed by law. *Tasby v Estes* (1976, DC Tex) 416 F Supp 644.

Provisions of 42 USCS § 2996f(a)(6), preventing staff attorneys of Legal Services Corporation from seeking election to partisan or nonpartisan legal offices during period for which they received compensation from Corporation, are not violative of staff attorneys' First Amendment right to free expression or their right to equal protection of law as guaranteed by Fifth Amendment. *Smith v Ehrlich* (1976, DC Dist Col) 430 F Supp 818.

Notice republished by Legal Services Corporation, notifying public of funding decision involved in hearings before Corporation, was adequate and complied with requirements of 42 USCS § 2996f(f); Legal Services Corporation is private corporation and is not agency of U.S. Government, and its president is not officer or employee of United States. *Spokane County Legal Services, Inc. v Legal Services Corp.* (1977, DC Wash) 433 F Supp 278.

Federal Legal Services Corporation did not violate 42 USCS § 2996f where it did not act arbitrarily or capriciously in failing to select plaintiff local legal services corporation as recipient of grants. *Legal Services Corp. v Ehrlich* (1978, DC Md) 457 F Supp 1058.

§ 2996g. Records and reports

(a) The Corporation is authorized to require such reports as it deems necessary from any grantee, contractor, or person or entity receiving financial assistance under this title regarding activities carried out pursuant to this title.

(b) The Corporation is authorized to prescribe the keeping of records with respect to funds provided by grant or contract and shall have access to such records at all reasonable times for the purpose of insuring compliance with the grant or contract or the terms and conditions upon which financial assistance was provided.

(c) The Corporation shall publish an annual report which shall be filed by the Corporation with the President and the Congress. Such report shall include a description of services provided pursuant to section 1007(a)(2)(C) (i) and (ii) [42 USCS § 2996f(a)(2)(C) (i) and (ii)].

(d) Copies of all reports pertinent to the evaluation, inspection, or monitoring of any grantee, contractor, or person or entity receiving financial assistance under this title shall be submitted

on a timely basis to such grantee, contractor, or person or entity, and shall be maintained in the principal office of the Corporation for a period of at least five years subsequent to such evaluation, inspection, or monitoring. Such reports shall be available for public inspection during regular business hours, and copies shall be furnished, upon request, to interested parties upon payment of such reasonable fees as the Corporation may establish.

(e) The Corporation shall afford notice and reasonable opportunity for comment to interested parties prior to issuing rules, regulations, and guidelines, and it shall publish in the Federal Register at least 30 days prior to their effective date all its rules, regulations, guidelines, and instructions.

(Aug. 20, 1964, P. L. 88-452, Title X, § 1008, as added July 25, 1974, P. L. 93-355, § 2, 88 Stat. 386; Dec. 28, 1977, P. L. 95-222, § 9(b)(2), 91 Stat. 1621.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

References in text:

"This title", referred to in this section, is Title X of the Economic Opportunity Act of 1964, and appears as 42 USCS §§ 2996-2996l.

Amendments:

1977. Act Dec. 28, 1977, in subsec. (C), added "Such report shall include a description of services provided pursuant to section 1007(a)(2)(C) (i) and (ii)."

CODE OF FEDERAL REGULATIONS

Add:

45 CFR Parts 1600, 1601, 1604, 1605, 1606, 1612, 1617-1619.

INTERPRETIVE NOTES AND DECISIONS

With respect to criteria for funding, no rule-making requirement should be read into 42 USCS § 2996g(e) that is more rigorous than rule-making provisions of Administrative Procedure Act (5

USCS §§ 551 et seq.). *Neighborhood Legal Services, Inc. v Legal Services Corp.* (1979, DC Conn) 466 F Supp 1148.

§ 2996h. Audits

- (a) **Annual audits; filing with General Accounting Office.** (1) The accounts of the Corporation shall be audited annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants who are certified by a regulatory authority of the jurisdiction in which the audit is undertaken.
- (2) The audits shall be conducted at the place or places where the accounts of the Corporation are normally kept. All books, accounts, financial records, reports, files, and other papers or property belonging to or in use by the Corporation and necessary to facilitate the audits shall be made available to the person or persons conducting the audits; and full facilities for verifying transactions with the balances and securities held by depositories, fiscal agents, and custodians shall be afforded to any such person.
- (3) The report of the annual audit shall be filed with the General Accounting Office and shall be available for public inspection during business hours at the principal office of the Corporation.
- (b) **Audit by General Accounting Office; report to Congress and the President.** (1) In addition to the annual audit, the financial transactions of the Corporation for any fiscal year during which Federal funds are available to finance any portion of its operations may be audited by the General Accounting Office in accordance with such rules and regulations as may be prescribed by the Comptroller General of the United States.
- (2) Any such audit shall be conducted at the place or places where accounts of the Corporation are normally kept. The representatives of the General Accounting Office shall have access to all books, accounts, financial records, reports, files, and other papers or property belonging to or in use by the Corporation and necessary to facilitate the audit; and full facilities for verifying transactions with the balances and securities held by depositories, fiscal agents, and custodians shall be afforded to such representatives. All such books, accounts, financial records, reports, files, and other papers or property of the Corporation shall remain in the possession and custody of the Corporation throughout the period beginning on the date such possession or custody commences and ending three years after such date, but the General Accounting Office may require the retention of such books, accounts, financial records, reports, files, papers, or property for a longer period under section 117(b) of the Accounting and Auditing Act of 1950 (31 U.S.C. 67(b)) [31 USCS § 67(b)].
- (3) A report of such audit shall be made by the Comptroller General to the Congress and

or person or entity, and shall be maintained in period of at least five years subsequent to such reports shall be available for public inspection shall be furnished, upon request, to interested persons the Corporation may establish.

reasonable opportunity for comment to interested persons, and it shall publish in the Federal Register all its rules, regulations, guidelines, and

as added July 25, 1974, P. L. 93-355, § 2, 88 Stat. 1621.)

LAWS AND DIRECTIVES

Title X of the Economic Opportunity Act of

"Such report shall include a description of (C) (i) and (ii)."

REGULATIONS

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US AND DECISIONS

USCS §§ 551 et seq.). *Neighborhood Legal Services, Inc. v Legal Services Corp.* (1979, DC Conn) 466 F Supp 1148.

g Office. (1) The accounts of the Corporation be conducted in accordance with generally certified public accountants who are certified in which the audit is undertaken.

place or places where the accounts of the accounts, financial records, reports, files, and use by the Corporation and necessary to the person or persons conducting the audits; with the balances and securities held by be afforded to any such person.

led with the General Accounting Office and business hours at the principal office of the

rt to Congress and the President. (1) In transactions of the Corporation for any fiscal to finance any portion of its operations may in accordance with such rules and regulations General of the United States.

the place or places where accounts of the tives of the General Accounting Office shall records, reports, files, and other papers or oration and necessary to facilitate the audit; with the balances and securities held by all be afforded to such representatives. All ts, files, and other papers or property of the l custody of the Corporation throughout the n or custody commences and ending three ting Office may require the retention of such es, papers, or property for a longer period Auditing Act of 1950 (31 U.S.C. 67(b)) [31

the Comptroller General to the Congress and

to the President, together with such recommendations with respect thereto as he shall deem advisable.

(c) **Audit of grantees, contractors, and those receiving assistance; filing with Comptroller General; public inspection.** (1) The Corporation shall conduct, or require each grantee, contractor, or person or entity receiving financial assistance under this title to provide for, an annual financial audit. The report of each such audit shall be maintained for a period of at least five years at the principal office of the Corporation.

(2) The Corporation shall submit to the Comptroller General of the United States copies of such reports, and the Comptroller General may, in addition, inspect the books, accounts, financial records, files, and other papers or property belonging to or in use by such grantee, contractor, or person or entity, which relate to the disposition or use of funds received from the Corporation. Such audit reports shall be available for public inspection, during regular business hours, at the principal office of the Corporation.

(d) **Attorney-client privilege.** Notwithstanding the provisions of this section or section 1008 [42 USCS § 2996g], neither the Corporation nor the Comptroller General shall have access to any reports or records subject to the attorney-client privilege.

(Aug. 20, 1964, P. L. 88-452, Title X, § 1009, as added July 25, 1974, P. L. 93-355, § 2, 88 Stat. 387; Dec. 28, 1977, P. L. 95-222, § 14, 91 Stat. 1623.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

References in text:

"This title", referred to in this section, is Title X of the Economic Opportunity Act of 1964, and appears as 42 USCS §§ 2996-2996l.

Amendments:

1977, Act Dec. 28, 1977, in subsec. (b)(2), added "throughout the period beginning on the date such possession or custody commences and ending three years after such date, but the General Accounting Office may require the retention of such books, accounts, financial records, reports, files, papers, or property for a longer period under section 117(b) of the Accounting and Auditing Act of 1950 (31 U.S.C. 67(b))".

RESEARCH GUIDE

Federal Procedure L Ed:

Fed Proc, L Ed § 33:215.

§ 2996i. Financing

(a) There are authorized to be appropriated for the purpose of carrying out the activities of the Corporation, \$90,000,000 for fiscal year 1975, \$100,000,000 for fiscal year 1976, and such sums as may be necessary for fiscal year 1977. There are authorized to be appropriated for the purpose of carrying out the activities of the Corporation \$205,000,000 for the fiscal year 1978, and such sums as may be necessary for each of the two succeeding fiscal years. The first appropriation may be made available to the Corporation at any time after six or more members of the Board have been appointed and qualified. Appropriations for that purpose shall be made for not more than two fiscal years, and shall be paid to the Corporation in annual installments at the beginning of each fiscal year in such amounts as may be specified in Acts of Congress making appropriations.

(b) Funds appropriated pursuant to this section shall remain available until expended.

(c) Non-Federal funds received by the Corporation, and funds received by any recipient from a source other than the Corporation, shall be accounted for and reported as receipts and disbursements separate and distinct from Federal funds; but any funds so received for the provision of legal assistance shall not be expended by recipients for any purpose prohibited by this title [42 USCS §§ 2996-2996l], except that this provision shall not be construed to prevent recipients from receiving other public funds or tribal funds (including foundation funds benefiting Indians or Indian tribes) and expending them in accordance with the purposes for which they are provided, or to prevent contracting or making other arrangements with private attorneys, private law firms, or other State or local entities of attorneys, or with legal aid societies having separate public defender programs, for the provision of legal assistance to eligible clients under this title [42 USCS §§ 2996-2996l].

(d) Not more than 10 percent of the amounts appropriated pursuant to subsection (a) of this section for any fiscal year shall be available for grants or contracts under section 1006(a)(3) [42 USCS § 2996e(a)(3)] in any such year.

(Aug. 20, 1964, P. L. 88-452, Title X, § 1010, as added July 25, 1974, P. L. 93-355, § 2, 88 Stat. 388; Dec. 28, 1977, P. L. 95-222, §§ 5(c), 15, 91 Stat. 1619.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

Amendments:

1977. Act Dec. 28, 1977, in subsec. (a) (effective with respect to fiscal years beginning after September 30, 1977 as provided by section 17(a)(2) of Act Dec. 28, 1977), added "There are authorized to be appropriated for the purpose of carrying out the activities of the Corporation \$205,000,000 for the fiscal year 1978, and such sums as may be necessary for each of the two succeeding fiscal years." and substituted "Appropriations for that purpose shall be made for not more than two fiscal years, and shall be paid to the Corporation in annual installments at the beginning of each fiscal year in such amounts as may be specified in Acts of Congress making appropriations." for "Appropriations shall be for not more than two fiscal years, and, if for more than one year, shall be paid to the Corporation in annual installments at the beginning of each fiscal year in such amounts as may be specified in appropriation Acts."; and added subsec. (d).

CODE OF FEDERAL REGULATIONS

Add:
45 CFR Part 1610.

§ 2996j. Special limitations

The Corporation shall prescribe procedures to insure that—

(1) financial assistance under this title [42 USCS §§ 2996-2996j] shall not be suspended unless the grantee, contractor, or person or entity receiving financial assistance under this title has been given reasonable notice and opportunity to show cause why such action should not be taken; and

(2) financial assistance under this title [42 USCS §§ 2996-2996j] shall not be terminated, an application for refunding shall not be denied, and a suspension of financial assistance shall not be continued for longer than thirty days, unless the grantee, contractor, or person or entity receiving financial assistance under this title [42 USCS §§ 2996-2996j] has been afforded reasonable notice and opportunity for a timely, full, and fair hearing, and, when requested, such hearing shall be conducted by an independent hearing examiner. Such hearing shall be held prior to any final decision by the Corporation to terminate financial assistance or suspend or deny funding. Hearing examiners shall be appointed by the Corporation in accordance with procedures established in regulations promulgated by the Corporation.

(Aug. 20, 1964, P. L. 88-452, Title X, § 1011, as added July 25, 1974, P. L. 93-355, § 2, 88 Stat. 388; Dec. 28, 1977, P. L. 95-222, § 16, 91 Stat. 1624.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

Amendments:

1977. Act Dec. 28, 1977, in para (2), inserted ", and, when requested, such hearing shall be conducted by an independent hearing examiner. Such hearing shall be held prior to any final decision by the Corporation to terminate financial assistance or suspend or deny funding. Hearing examiners shall be appointed by the Corporation in accordance with procedures established in regulations promulgated by the Corporation".

CODE OF FEDERAL REGULATIONS

Add:
45 CFR Parts 1600, 1606, 1612, 1623.

INTERPRETIVE NOTES AND DECISIONS

42 USCS § 2996j is silent as to recourse to courts but statutory silence alone does not indicate legislative intent to preclude judicial review since there is no presumption against judicial review and in favor of administrative absolutism unless such intent is fairly discernible in statutory scheme; nothing in statutory or legislative history of § 2996; even remotely suggests that judicial review of hearing held pursuant to § 2996j is precluded and under either pre-1977 statute or new amendments, judicial review is to be assumed. San Juan

Legal Services, Inc. v Legal Services Corp. (1981, CA1 Puerto Rico) 655 F2d 434.

Decision of Legal Services Corporation to deny refunding to farmworker division of legal services agency was not nullity where decision was rendered after 20-day period provided by regulation, but satisfied more general statutory requirement of "timely" consideration as provided in 42 USCS § 2996j (2). Neighborhood Legal Services, Inc. v Legal Services Corp. (1979, DC Conn) 466 F Supp 1148.

§ 2996k. Coordination

The President may direct that appropriate support functions of the Federal Government may

ECONOMIC OPPORTUNITY

LAWS AND DIRECTIVES

with respect to fiscal years beginning after a)(2) of Act Dec. 28, 1977), added "There purpose of carrying out the activities of the 78, and such sums as may be necessary for substituted "Appropriations for that purpose rs, and shall be paid to the Corporation in fiscal year in such amounts as may be tions." for "Appropriations shall be for not n one year, shall be paid to the Corporation h fiscal year in such amounts as may be sec. (d).

REGULATIONS

sure that—

USCS §§ 2996–2996j] shall not be suspended ntity receiving financial assistance under this opportunity to show cause why such action

USCS §§ 2996–2996j] shall not be terminated, ied, and a suspension of financial assistance rty days, unless the grantee, contractor, or under this title [42 USCS §§ 2996–2996j] has nity for a timely, full, and fair hearing, and, ducted by an independent hearing examiner. al decision by the Corporation to terminate ng. Hearing examiners shall be appointed by res established in regulations promulgated by

as added July 25, 1974, P. L. 93-355, § 2, 88 Stat. 1624.)

LAWS AND DIRECTIVES

“, and, when requested, such hearing shall ner. Such hearing shall be held prior to any te financial assistance or suspend or deny ed by the Corporation in accordance with ted by the Corporation”.

REGULATIONS

DECISIONS AND DECISIONS

Legal Services, Inc. v Legal Services Corp. (1981, CA1 Puerto Rico) 655 F2d 434.

Decision of Legal Services Corporation to deny refunding to farmworker division of legal services agency was not nullity where decision was rendered after 20-day period provided by regulation, but satisfied more general statutory requirement of “timely” consideration as provided in 42 USCS § 2996j (2). Neighborhood Legal Services, Inc. v Legal Services Corp. (1979, DC Conn) 466 F Supp 1148.

ort functions of the Federal Government may

OBJECTIVES

be made available to the Corporation in carrying out its activities under this title [42 USCS §§ 2996–2996j], to the extent not inconsistent with other applicable law. (Aug. 20, 1964, P. L. 88-452, Title X, § 1012, as added July 25, 1974, P. L. 93-355, § 2, 88 Stat. 388.)

§ 2996j. Right to repeal, alter, or amend
The right to repeal, alter, or amend this title [42 USCS §§ 2996–2996j] at any time is expressly reserved. (Aug. 20, 1964, P. L. 88-452, Title X, § 1013, as added July 25, 1974, P. L. 93-355, § 2, 88 Stat. 388.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

Other provisions:

Legal Services Corporation—support functions. Ex. Or. No. 11874, of July 25, 1975, 40 Fed. Reg. 31737, provided:

“By virtue of the authority vested in me by Section 1012 of the Economic Opportunity Act of 1964, as amended by the Legal Services Corporation Act of 1974 (88 Stat. 388, 42 U.S.C. 2996k), and Section 301 of Title 3 of the United States Code, and as President of the United States, the Director of the Office of Management and Budget is hereby designated and empowered to exercise the authority vested in the President by said Section 1012 of the Economic Opportunity Act of 1964, as amended, to direct that appropriate support functions of the Federal Government may be made available to the Legal Services Corporation in carrying out its activities, to the extent not inconsistent with other applicable law. Such functions shall be provided under terms and conditions as may be agreed upon by the Legal Services Corporation and the Federal agencies involved.”

CHAPTER 35. PROGRAMS FOR OLDER AMERICANS ADMINISTRATION ON AGING

Section

- 3012. Functions of Commissioner
- 3013. Federal agency consultation
- 3014. [Repealed]
- 3020a. Application of other laws; costs not to be treated as income
- 3020b. Reduction of paperwork
- 3020c. Contracting and grant authority
- 3020d. Surplus property eligibility

GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING

GENERAL PROVISIONS

- 3021. Purpose; administration
- 3022. Definitions
- 3023. Authorization of appropriations; uses of funds
- 3024. Allotment; Federal share
- 3025. Organization
- 3026. Area plans
- 3027. State plans
- 3028. Planning, coordination, evaluation, and administration of State plans
- 3029. Payments
- 3030. Disaster relief reimbursements
- 3030a. Availability of surplus commodities
- 3030b. Multipurpose senior centers; recapture of payments
- 3030c. Audit

SUPPORTIVE SERVICES AND SENIOR CENTERS

- 3030d. Program authorized

NUTRITION SERVICES

Congregate Nutrition Services

- 3030e. Program authorized

Home Delivered Nutrition Services

- 3030f. Program authorized
- 3030g. Criteria