

7050-01-P-01-P

LEGAL SERVICES CORPORATION

45 CFR Part 1621

Client Grievance Procedure

AGENCY: Legal Services Corporation

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This Notice of Proposed Rulemaking (NPRM) proposes to amend the Legal Services Corporation's regulation on client grievance procedures. These proposed changes are intended to improve the utility of

General Counsel, LSC Office of Legal Affairs; Bert Thomas, Program Counsel, LSC Office of Compliance and Enforcement; Mike Genz, Director, LSC Office of Program Performance; Mark Freedman, Assistant General Counsel, LSC Office of Legal Affairs; and Karena Dees, Staff Attorney, LSC Office of Inspector General.

- Whether and to what extent it is appropriate for the composition of a grievance

pursuant to a grantee's PAI program. The following issues and themes emerged from the discussion:

- The programs felt that a strength of the regulation is its flexibility. Programs have different delivery systems, even among hotlines, and different approaches. They cautioned against adopting specific practices in the regulation itself. Rather, they felt that programs should be free to adopt practices that best meet their delivery model and communities.
- Hotlines have different approaches to providing notice to callers. Some programs include it in their automated script. There is some concern about making the initial contact seem negative by bringing up the grievance process. There is also a concern about callers being denied service without knowing about their grievance rights. Many participants felt that the regulation should not require notice in the automated hotline script.
- The regulation could emphasize the importance of the notice but leave it to the programs to figure out the best way to provide it in different situations.
- Client and applicant dignity is very important. Most concerns are addressed when the applicant feels that they were heard and taken seriously, even if they are denied service.
- All of the programs reported that intake staff will deal with di

current organization of the regulation obscures the fact that recipients are permitted to adopt a different procedure for processing the denial of complaints of legal assistance by applicants. Accordingly, LSC believes the proposed reorganization will clarify this matter and make the regulation easier for recipients and LSC to use.

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determine exactly how and when notice of the complaint procedures are provided to applicants, while retaining the requirement that the notice be “adequate” to achieve the purpose that applicants know their rights in a timely and substantively meaningful way so as to exercise them if desired.

Finally, LSC is proposing to add a statement that the required procedure must be designed to treat complaining applicants with dignity and to foster effective communications between recipients and complaining applicants. It was clear in the Workshops that this is very important to both applicants and recipients. Indeed, it is one of the main reasons for having a complaint procedure. Accordingly, LSC believes it is important for the regulation to reflect this. Because LSC is confident that the vast majority of recipient grievance procedures are already designed to treat complaining applicants with dignity and to foster effective communications, the proposed addition to the regulation should not create any undue burden on recipients.

Section 1621.4 – Complaints by clients about manner or quality of legal assistance

As noted above, LSC is proposing to reorganize the regulation to move the current section dealing with complaints about legal assistance provided to clients after the section on complaints by applicants about denial of legal assistance. For a discussion of the reasons for this proposed change, see the discussion at section 1621.3, above.

LSC is also proposing some minor substantive changes. First, LSC is proposing to add language to the title of this section and the text of the regulation to clarify that this section refers to complaints by clients about the manner or quality of legal assistance provided. Consistent with the proposed changes in the purpose section, LSC believes these changes will help clarify that the grievance procedure is available to clients and not to third parties wishing to complain about the legal assistance provided to clients who are not themselves complaining. As with the similar proposed changes to the section of applicants, LSC notes that for clients who are underage or mentally incompetent, the client him or herself is not likely to be directly applying and LSC does not intend this change to impede the ability of the person (parent, guardian or other representative) to act on that client’s behalf. Rather, LSC intends the proposed clarification to apply to

LSC is also proposing to amend the time specified in the rule regarding when the client must be informed of the complaint procedures available

For reasons set forth above, and under the authority of 42 U.S.C. 2996g(e), LSC proposes to revise 45 CFR Part 1621 as follows:

PART 1621—CLIENT GRIEVANCE PROCEDURES

Sec.

1621.1 Purpose.

1621.2 Grievance Committee.

1621.3 Complaints by applicants about denial legal assistance.

1621.4 Complaints by clients about manner or quality of legal assistance.

AUTHORITY: Sec. 1006(b)(1), 42 U.S.C. 2996e(b)(1); sec. 1006(b)(3), 42 U.S.C. 2996e(b)(3); sec. 1007(a)(1), 42 U.S.C. 2996f(a) (1).

§ 1621.1 Purpose.

The part is intended to help ensure that recipients provide the highest quality legal assistance to clients as required by the LSC Act and are accountable to applicants for legal assistance and clients by requiring recipients to establish grievance procedures to process complaints by applicants about the denial of legal assistance and clients about the manner or quality of legal assistance provided.

§ 1621.2 Grievance Committee.

The governing body of a recipient shall establish a grievance committee or committees, composed of lawyer and client members of the governing body, in approxim

- (1) A method of providing a client, at the time the person is accepted as a client, with adequate notice as practicable of the complaint procedures and how to make a complaint;
 - (2) For prompt consideration of each complaint by the Executive Director of the recipient, or the director's designee,
 - (3) An opportunity for the complainant, if the Executive Director is unable to resolve the matter, to submit an oral and written statement to a grievance committee established by the governing body as required by section 1621.2 of this Part. The procedures must also provide that the opportunity to submit an oral statement may be accomplished in person, teleconference, or other reasonable alternative, permit a complainant to be accompanied by another person, and provide that, upon request, the recipient will transcribe a brief written statement, dictated by the complainant for inclusion in the recipient's complaint file.
- (c) Consistent with its responsibilities under 45 CFR Part 1614.3(d)(3), a recipient shall establish a procedure to review complaints by clients about the manner or quality of legal assistance that has been rendered by a private attorney to which the client was referred pursuant to the recipient's private attorney involvement program under 45 CFR Part 1614.
- (d) A file containing every complaint and a statement of its disposition shall be preserved for examination by LSC. The file shall include any written statement submitted by the complainant.

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