

the President shall adopt, modify or reverse the initial decision, or shall direct further consideration of the matter. In the event of modification or reversal, the President's decision shall conform to the requirements of §1625.10(b).

(d) A decision by the President shall become final upon service on the recipient.

**§1625.12 Time and waiver.**

(a) *Computation of time.* In computing any period of time prescribed or allowed by this part or by order of the President or the hearing examiner, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday. All periods shall otherwise include Saturdays, Sundays, and legal holidays. A deadline for a party or the hearing examiner to submit a document is met only if the document is actually received by counsel for the other party and by the hearing examiner by the end of the relevant time period.

(b) *Enlargement of time.* The President or the hearing examiner may enlarge any period of time on agreement of the parties if, and only if, the President or the hearing examiner makes a determination in writing or on the record either that:

(1) The enlargement will not prevent completion of the hearing within 60 days from receipt of the notice by the recipient or prevent the President from reaching a final decision—with at least 7 days to consider the request for review—within 90 days from receipt of notice by the recipient; or

(2) The existence of extraordinary circumstances require the enlargement of time to prevent manifest injustice.

(c) *Reduction of time.* On agreement of the parties and the hearing examiner, any period of time may be shortened.

(d) Failure by the Corporation to meet a time requirement of this part shall not entitle a recipient to refunding of its grant or contract.

(e) Any provision of the rules in this part, excepting those in §1625.12(b), may be waived or modified:

(1) By the hearing examiner with the assent of the recipient and counsel for the Corporation; or

(2) By the President for good cause shown.

**§1625.13 Right to counsel.**

At a hearing under §1625.8, the Corporation and the recipient each shall be entitled to be represented by counsel, or by an employee.

**§1625.14 Reimbursement.**

If refunding is granted after a notice has been issued under §1625.4, a recipient shall be entitled to receive reimbursement from the Corporation for reasonable and actual expenses including attorney's fees up to the hourly equivalent of the rate of level V of the executive schedule specified in section 5316, of title 5, United States Code, that were required in connection with proceedings under this part, to the extent it has prevailed and where the hearing examiner finds the Corporation's position to have been substantially without merit.

**§1625.15 Interim funding.**

Pending a final determination under this part, the Corporation shall provide the recipient with interim funding necessary to maintain its current level of legal assistance activities for eligible clients under the Act.

**§1625.16 Termination funding.**

After a final decision to deny refunding, and without regard to whether a hearing has occurred, the Corporation may authorize temporary funding if necessary to enable a recipient to close or transfer current matters in a manner consistent with the professional responsibility of the recipient and the recipient's attorneys to their present clients.

**PART 1626—RESTRICTIONS ON LEGAL ASSISTANCE TO ALIENS**

|        |              |
|--------|--------------|
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| 1626.1 | Purpose.     |
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- 1626.4 Applicability.
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- 1626.8 Emergencies.
- 1626.9 Change in circumstances.
- 1626.10 Special eligibility questions.
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APPENDIX TO PART 1626—ALIEN ELIGIBILITY FOR REPRESENTATION BY LSC PROGRAMS

AUTHORITY: Pub. L. 104-208, 110 Stat. 1321; Pub. L. 104-134, 110 Stat. 3009.

SOURCE: 62 FR 19414, Apr. 21, 1997, unless otherwise noted.

**§ 1626.1 Purpose.**

This part is designed to ensure that recipients provide legal assistance only to citizens of the United States and eligible aliens. It is also designed to assist recipients in determining the eligibility and immigration status of persons who seek legal assistance.

**§ 1626.2 Definitions.**

(a) *Citizen* includes persons described or defined as citizens or nationals of the United States in 8 U.S.C. 1101(a)(22) and Title III of the Immigration and Nationality Act (INA), Chapter 1 (8 U.S.C. 1401 *et seq.*) (citizens by birth) and Chapter 2 (8 U.S.C. 1421 *et seq.*) (citizens by naturalization) or antecedent citizen statutes.

(b) *Eligible alien* means a person who is not a citizen but who meets the requirements of § 1626.5.

(c) *Ineligible alien* means a person who is not a citizen and who does not meet the requirements of § 1626.5.

(d) *Rejected* refers to an application for adjustment of status that has been denied by the Immigration and Naturalization Service (INS) and is not subject to further administrative appeal.

(e) To provide legal assistance *on behalf of* an ineligible alien is to render legal assistance to an eligible client which benefits an ineligible alien and does not affect a specific legal right or interest of the eligible client.

(f) *Battered or subjected to extreme cruelty* includes, but is not limited to, being the victim of any act or threatened act of violence, including any forceful detention, which results or threatens to result in physical or mental injury. Psychological or sexual

abuse or exploitation, including rape, molestation, incest (if the victim is a minor), or forced prostitution shall be considered acts of violence. Other abusive actions may also be acts of violence under certain circumstances, including acts that, in and of themselves, may not initially appear violent but that are a part of an overall pattern of violence.

(g) *Legal assistance directly related to the prevention of, or obtaining relief from, the battery or cruelty* means any legal assistance that will assist victims of abuse in their escape from the abusive situation, ameliorate the current effects of the abuse, or protect against future abuse.

(h) *United States*, for purposes of this part, has the same meaning given that term in 8 U.S.C. 1101(a)(38) of the INA.

[62 FR 19414, Apr. 21, 1997, as amended at 62 FR 45757, Aug. 29, 1997]

**§ 1626.3 Prohibition.**

Except as provided in § 1626.4, recipients may not provide legal assistance for or on behalf of an ineligible alien. For purposes of this part, legal assistance does not include normal intake and referral services.

**§ 1626.4 Applicability.**

(a) Except for § 1626.12, the requirements of this part do not apply to the use of non-LSC funds by a recipient to provide legal assistance to an alien:

(1) Who has been battered or subjected to extreme cruelty in the United States by a spouse or a parent, or by a member of the spouse's or parent's family residing in the same household as the alien and the spouse or parent consented or acquiesced to such battery or cruelty; or

(2) Whose child has been battered or subjected to extreme cruelty in the United States by a spouse or parent of the alien (without the active participation of the alien in the battery or extreme cruelty), or by a member of the spouse's or parent's family residing in the same household as the alien and the spouse or parent consented or acquiesced to such battery or cruelty, and the alien did not actively participate in such battery or cruelty; provided that the legal assistance is directly related to the prevention of, or

obtaining relief from, the battery or cruelty.

(b) Recipients are not required by § 1626.12 to maintain records regarding the immigration status of clients represented pursuant to paragraph (a) of this section.

**§ 1626.5 Alien status and eligibility.**

Subject to all other eligibility requirements and restrictions of the LSC Act and regulations and other applicable law, a recipient may provide legal assistance to an alien who is present in the United States and who is within one of the following categories:

(a) An alien lawfully admitted for permanent residence as an immigrant as defined by section 1101(a)(20) of the INA (8 U.S.C. 1101(a)(20));

(b) An alien who is either married to a United States citizen or is a parent or an unmarried child under the age of 21 of such a citizen and who has filed an application for adjustment of status to permanent resident under the INA, and such application has not been rejected;

(c) An alien who is lawfully present in the United States pursuant to an admission under section 207 of the INA (8 U.S.C. 1157) (relating to refugee admissions) or who has been granted asylum by the Attorney General under section 208 of the INA (8 U.S.C. 1158).

(d) An alien who is lawfully present in the United States as a result of being granted conditional entry pursuant to section 203(a)(7) of the INA (8 U.S.C. 1153(a)(7)), as in effect on March 31, 1980) before April 1, 1980, because of persecution or fear of persecution on account of race, religion, or political opinion or because of being uprooted by catastrophic natural calamity;

(e) An alien who is lawfully present in the United States as a result of the Attorney General's withholding of deportation pursuant to section 243(h) of the INA (8 U.S.C. 1253(h)); or

(f) An alien who meets the requirements of § 1626.10 or 1626.11.

**§ 1626.6 Verification of citizenship.**

(a) A recipient shall require all applicants for legal assistance who claim to be citizens to attest in writing in a standard form provided by the Corporation that they are citizens, unless the

only service provided for a citizen is brief advice and consultation by telephone which does not include continuous representation.

(b) When a recipient has reason to doubt that an applicant is a citizen, the recipient shall require verification of citizenship. A recipient shall not consider factors such as a person's accent, limited English-speaking ability, appearance, race or national origin as a reason to doubt that the person is a citizen.

(1) If verification is required, a recipient may accept originals, certified copies, or photocopies that appear to be complete, correct and authentic of any of the following documents as evidence of citizenship:

(i) United States passport;

(ii) Birth certificate;

(iii) Naturalization certificate;

(iv) United States Citizenship Identification Card (INS Form I-197 or I-197); or

(v) Baptismal certificate showing place of birth within the United States and date of baptism within two months after birth.

(2) A recipient may also accept any other authoritative document such as a document issued by INS, by a court or by another governmental agency, that provides evidence of citizenship.

(3) If a person is unable to produce any of the above documents, the person may submit a notarized statement signed by a third party, who shall not be an employee of the recipient and who can produce proof of that party's own United States citizenship, that the person seeking legal assistance is a United States citizen.

**§ 1626.7 Verification of eligible alien status.**

(a) An alien seeking representation shall submit appropriate documents to verify eligibility, unless the only service provided for an eligible alien is brief advice and consultation by telephone which does not include continuous representation of a client.

(1) As proof of eligibility, a recipient may accept originals, certified copies, or photocopies that appear to be complete, correct and authentic, of any of the documents found in the appendix to this part.

(2) A recipient may also accept any other authoritative document issued by the INS, by a court or by another governmental agency, that provides evidence of alien status.

(b) A recipient shall upon request furnish each person seeking legal assistance with a list of the documents in the appendix to this part.

**§ 1626.8 Emergencies.**

In an emergency, legal services may be provided prior to compliance with §§ 1626.6 and § 1626.7 if:

(a) An applicant cannot feasibly come to the recipient's office or otherwise transmit written documentation to the recipient before commencement of the representation required by the emergency, and the applicant provides oral information to establish eligibility which the recipient records, and the applicant submits the necessary documentation as soon as possible; or

(b) An applicant is able to come to the recipient's office but cannot produce the required documentation before commencement of the representation, and the applicant signs a statement of eligibility and submits the necessary documentation as soon as possible; and

(c) The recipient informs clients accepted under paragraph (a) or (b) of this section that only limited emergency legal assistance may be provided without satisfactory documentation and that, if the client fails to produce timely and satisfactory written documentation, the recipient will be required to discontinue representation consistent with the recipient's professional responsibilities.

**§ 1626.9 Change in circumstances.**

If, to the knowledge of the recipient, a client who was an eligible alien becomes ineligible through a change in circumstances, continued representation is prohibited by this part and a recipient must discontinue representation consistent with applicable rules of professional responsibility.

**§ 1626.10 Special eligibility questions.**

(a) This part is not applicable to recipients providing services in the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Fed-

erated States of Micronesia, or the Republic of the Marshall Islands.

(b) All Canadian-born American Indians at least 50% Indian by blood are eligible to receive legal assistance provided they are otherwise eligible under the Act.

(c) Members of the Texas Band of Kickapoo are eligible to receive legal assistance provided they are otherwise eligible under the Act.

(d) An alien who qualified as a special agricultural worker and whose status is adjusted to that of temporary resident alien under the provisions of the Immigration Reform and Control Act ('IRCA') is considered a permanent resident alien for all purposes except immigration under the provisions of section 302 of 100 Stat. 3422, 8 U.S.C. 1160(g). Since the status of these aliens is that of permanent resident alien under section 1101(a)(20) of Title 8, these workers may be provided legal assistance. These workers are ineligible for legal assistance in order to obtain the adjustment of status of temporary resident under IRCA, but are eligible for legal assistance after the application for adjustment of status to that of temporary resident has been filed, and the application has not been rejected.

(e) A recipient may provide legal assistance to indigent foreign nationals who seek assistance pursuant to the Hague Convention on the Civil Aspects of International Child abduction and the Federal implementing statute, the International Child Abduction Remedies Act, 42 U.S.C. 11607(b), provided that they are otherwise financially eligible.

[62 FR 19414, Apr. 21, 1997; 62 FR 22895, Apr. 28, 1997]

**§ 1626.11 H-2 agricultural workers.**

(a) Nonimmigrant agricultural workers admitted under the provisions of 8 U.S.C. 1101(a)(15)(h)(ii), commonly called H-2 workers, may be provided legal assistance regarding the matters specified in paragraph (b) of this section.

(b) The following matters which arise under the provisions of the worker's specific employment contract may be the subject of legal assistance by an LSC-funded program:

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- (1) Wages;
- (2) Housing;
- (3) Transportation; and
- (4) Other employment rights as provided in the worker's specific contract under which the nonimmigrant worker was admitted.

**§ 1626.12 Recipient policies, procedures and recordkeeping.**

Each recipient shall adopt written policies and procedures to guide its staff in complying with this part and shall maintain records sufficient to document the recipient's compliance with this part.

[62 FR 19414, Apr. 21, 1997; 62 FR 22895, Apr. 28, 1997]

APPENDIX TO PART 1626

ALIEN ELIGIBILITY FOR REPRESENTATION BY LSC PROGRAMS

| Alien category             | Immigration Act (INA)                  | LSC Regs 45 CFR § 1626 | Examples of acceptable documents  |
|----------------------------|--|------------------------|---|
| LAWFUL PERMANENT RESIDENT. | INA § 101(a)(20) 8 USC, § 1101(a)(20). | § 1626.5(a)            | I-551 or I-151 or I-181 (Memorandum of Creation of Record of Lawful Permanent Residence), with approval stamp; or passport bearing immigrant visa or stamp indicating admission for lawful permanent residence or order granting residency or suspension or adjustment of status or I-327 Reentry Permit or I-94, with stamp indicating admission for lawful permanent residence or any computerized verification from INS or other authoritative document. |

ALIEN ELIGIBILITY FOR REPRESENTATION BY LSC PROGRAMS—Continued

| Alien category  | Immigration Act (INA)   | LSC Regs 45 CFR § 1626 | Examples of acceptable documents  |
|---|---|------------------------|---|
| <p>ALIEN WHO IS<br/>—married to U.S. citizen,<br/>—parent of U.S. citizen, or<br/>—unmarried child under 21 of U.S. citizen<br/><i>and</i><br/>—has filed an application for adjustment of status to permanent residency.</p> | <p>INA §§ 209, 210, 244, (replaced by INA § 240A(b) for aliens in proceedings initiated after 4/1/97), 245, 245A, 249 8 USC §§ 1159, 1160, 1259, 1254, 1255, 1255a, 1259.</p> | <p>§ 1626.5(b)</p>     | <p>Proof of relationship to U.S. citizen*<br/>and<br/>I–485 (application for adjustment of status on the basis of a family-based visa, registry, Cuban Adjustment, Cuban-Haitian Adjustment, or spouses and children eligible for Violence Against Women Act relief) and proof of filing**<br/>or I–256A or EOIR–40 (application for suspension of deportation)*** and proof of filing**<br/>or EOIR–42 (application for cancellation of removal) and proof of filing**<br/>or OF–230 (application at consulate for visa) and proof of filing with consulate**<br/>or I–360 (application to qualify as abused spouse or child under the Violence Against Women Act)<br/>or I–688B or I–766 (employment authorization document) coded 8 CFR § 274a.12(c)(9) (applicant for adjustment) or (c)(16)(registry applicant) or (c)(10)(suspension applicant)<br/>or letter or Form I–797 from INS acknowledging receipt of I–485;<br/>or I–94, with stamp indicated entry pursuant to advance parole (INA§ 212(d)(5)) for pending § 245;<br/>or I–512 (advance parole), indicating entry to pursue pending § 245 application<br/>or passport, with stamp or writing by INS officer, indicating pending § 245 application<br/>or I–130 (visa petition) and proof of filing**<br/>or any computerized verification from INS or other authoritative document<br/>*Proof of relationship may include a copy of the alien’s marriage certificate accompanied by proof of the spouse’s U.S. citizenship; a copy of the birth certificate, baptismal certificate, adoption decree or other documents demonstrating that the alien is the parent of a U.S. citizen under the age of 21; a copy of the alien’s birth certificate, baptismal certificate, adoption decree, or other documents demonstrating that the alien is a child under the age of 21, accompanied by proof that the alien’s parent is a U.S. citizen; or in lieu of the above, a copy of INS Form I–130 (visa petition) containing information that demonstrates that the alien is related to such a U.S. citizen, accompanied by proof of filing.<br/>**Proof of filing may include a fee receipt showing that the application was filed with the INS or the immigration court; a filing stamp showing that the application was filed; or a copy of the application accompanied by a notarized statement signed by the alien that such form was filed.<br/>***Note: “cancellation of removal and adjustment of status” replaces “suspension of deportation” for aliens in proceedings initiated on or after April 1, 1997.</p> |
| <p>REFUGEE .....</p>  | <p>INA § 207, 8 USC § 1157.</p>   | <p>§ 1626.5(c)</p>     | <p>I–94 or passport stamped “refugee” or “§ 207”<br/>or I–688B or I–766 coded 8 CFR § 274a.12(a)(3)(Refugee) or (a)(4)(paroled asylees)<br/>or I–571 refugee travel document,<br/>or any computerized verification from INS or other authoritative document.</p>  |
| <p>ASYLEE .....</p>   | <p>INA § 208 8 USC § 1158.</p>  | <p>§ 1626.5 (c)</p>    | <p>I–94 or passport stamped “asylee” on “§ 208”<br/>or order granting asylum from INS, immigration judge, BIA, or federal court<br/>or I–571 refugee travel document<br/>or I–688B or I–766 coded 8 CFR § 274a.12(a) (5)(asylee)<br/>or other computerized verification from INS or other authoritative document.</p>   |

ALIEN ELIGIBILITY FOR REPRESENTATION BY LSC PROGRAMS—Continued

| Alien category                                  | Immigration Act (INA)   | LSC Regs 45 CFR § 1626 | Examples of acceptable documents  |
|---|---|------------------------|---|
| GRANTING WITHHOLDING OF DEPORTATION.            | INA § 243(h) 8 USC § 1253(h) (as of 4/1/97, repealed and redesignated INA § 241(b)(3), "Restriction on Removal"). | § 1626.5(e)            | I-94 stamped "§ 243(h)" or order granting withholding of deportation from INS, immigration court, BIA, or federal court<br>or I-688B or I-766 coded 8 CFR § 274a.12(a)(10)(withholding of deportation)<br>or I-571 refugee travel document;<br>or any computerized verification from INS or other authoritative document. |
| CONDITIONAL ENTRANT.                            | INA § 203(a)(7) (prior to 4/1/80), 8 USC § 1153(a)(7).  | § 1626.5(d)            | I-94 or passport stamped "conditional entrant"<br>or any computerized verification from INS or other authoritative document.  |
| AGRICULTURAL WORKER.                            | INA § 101(a)(15) (H)(II), 8 USC § 1101(a)(15) (H)(II).  | § 1626.11              | I-94 or passport stamped "H-2A"<br>or any computerized verification from INS or other authoritative document.   |
| SPECIAL AGRICULTURAL WORKER TEMPORARY RESIDENT. | INA § 210, 8 USC § 1160.  | § 1626.10(d)           | I-688, 688A, 688 or 766 indicating issuance under § 210 (or under 8 CFR § 274a.12 (a)(2), with other evidence indicating eligibility under INA § 210).<br>or any computerized verification from INS or other authoritative document.  |

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[62 FR 19414, Apr. 21, 1997; 62 FR 24159, May 2, 1997]

**PART 1627—SUBGRANTS AND MEMBERSHIP FEES OR DUES**

Sec.

- 1627.1 Purpose.
- 1627.2 Definitions.
- 1627.3 Requirements for all subgrants.
- 1627.4 Membership fees or dues.
- 1627.5 Contributions.
- 1627.6 Transfers to other recipients.
- 1627.7 Tax sheltered annuities, retirement accounts and pensions.
- 1627.8 Recipient policies, procedures and recordkeeping.

AUTHORITY: 42 U.S.C. 2996e(b)(1), 2996f(a), and 2996g(e); Pub. L. 104-208, 110 Stat 3009; Pub. L. 104-134, 110 Stat 1321.

SOURCE: 48 FR 54209, Nov. 30, 1983, unless otherwise noted.

**§ 1627.1 Purpose.**

In order to promote accountability for Corporation funds and the observance of the provisions of the Legal Services Corporation Act and the Corporation's regulations adopted pursuant thereto, it is necessary to set out the rules under which Corporation funds may be transferred by recipients to other organizations (including other recipients).

**§ 1627.2 Definitions.**

(a) *Recipient* as used in this part means any recipient as defined in section 1002(6) of the Act *and* any grantee or contractor receiving funds from the Corporation under section 1006(a)(1)(B) or 1006(a)(3) of the Act.

(b)(1) *Subrecipient* shall mean any entity that accepts Corporation funds from a recipient under a grant contract, or agreement to conduct certain activities specified by or supported by the recipient related to the recipient's programmatic activities. Such activities would normally include those that might otherwise be expected to be conducted directly by the recipient itself, such as representation of eligible clients, or which provide direct support to a recipient's legal assistance activities or such activities as client involvement, training or state support activities. Such activities would not normally include those that are covered by a fee-for-service arrangement, such as those provided by a private law firm or attorney representing a recipient's clients on a contract or *judicare* basis, except that any such arrangement involving more than \$25,000 shall be included. Subrecipient activities would normally also not include the provision of goods or services by vendors or consultants in the normal course of business if such goods or services would not