

45 CFR Part 1622**Public Access to Meetings Under the Government in the Sunshine Act****AGENCY:** Legal Services Corporation.**ACTION:** Final rule; amendment.

SUMMARY: On March 25, 1985, the Legal Services Corporation published proposed amendments to Part 1622 of its regulations for public comment. The comment period ended on April 24, 1985. No comments were received. On May 24, 1985, the Board of Directors unanimously voted to adopt the proposed amendments as final. Four amendments are made. Of these amendments only one, a revision of the section providing for emergency proceedings, makes a major, substantive change. The other three amendments are of a technical nature. The minor amendments provide for sending notice of meetings to program directors, deletion of the word "all" from the first sentence of paragraph (b) of § 1622.8, and reference to specific exemptions and a statement of reasons why specific discussions closed to public observation come within the cited exemption.

EFFECTIVE DATE: August 28, 1985.

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SUPPLEMENTARY INFORMATION: On March 25, 1985, the Legal Services Corporation published proposed amendments to Part 1622 of its regulations for public comment. (50 FR 11740). No comments were received. On May 24, 1985, the Corporation's Board of Directors unanimously voted to adopt, as final, the proposed amendments to Part 1622 of the Regulations. The specific amendments are discussed on a section-by-section basis, below.

Section 1622.3 Open Meetings.

The amendment effects paragraph (c) of § 1622.3. The words "and the program director" are to be inserted after the words "governing body" in the two places these words appear in paragraph (c). This addition reflects the Corporation's present practice and is in response to previous comments received that expressed concern that unless notice was provided to the programs,

the programs would not receive timely notice of meetings. This amendment ensures that timely notice is sent to programs.

Section 1622.6 Procedure for Closing Discussion or Withholding Information.

In paragraph (b) of § 1622.6 the word "all" has been removed after the words "A separate vote of". The deletion of the word "all" in the paragraph does not change the requirement that action closing a meeting or withholding information requires a recorded vote of a majority of all of the Directors of the Corporation. Here, the word "all" is removed to avoid a misinterpretation that a vote to close a meeting or withhold information may be defeated if one Director is unable to participate in the vote. Such an interpretation could result in an absurdity. The amendment avoids the possible absurdity. However, it does not relieve the Board of the responsibility of seeking the vote of every Director on the question.

In paragraph (e)(2) of § 1622.6, the words "together with" following the words "or series of meetings," has been replaced with the words "with reference to the specific exemption listed in § 1622.5, including a statement of reasons as to why the specific discussion comes within the cited exemption and". This change clarifies what information must be included in the full written explanation of the action closing the meeting. However, the new language does not add any additional requirement. The existing language is from the Government in the Sunshine Act. The legislative history of the Government in the Sunshine Act indicates that the written explanation requires references to specific exemptions, including a statement of reasons why the specific discussion comes within the cited exemption. Therefore, the change merely clarifies that which is already required.

Section 1622.9 Emergency Proceedings

This section has been completely revised. Previous comments received expressed the opinion the existing emergency proceedings provision violated the Government in the Sunshine Act. Many commentators stated that the disruptive members of the audience should be removed. The revised section allows the Board, by recorded vote of the majority of the Directors present, to authorize the Chairman or presiding officer of the meeting to cause disruptive members of the public to be removed from the meeting. This new provision enables the Board to conduct its meeting free from disruption, yet also follows the letter

and spirit of the Government in the Sunshine Act.

List of Subjects in 45 CFR Part 1622

Legal services, Sunshine Act.

PART 1622—[AMENDED]

For the reasons set out in the preamble, 45 CFR Part 1622 is amended as follows:

1. The authority citation for Part 1622 continues to read as follows:

Authority: Sec. 1004(g), Pub. L. 95-222, 91 Stat. 1819. (42 U.S.C. 2996c(g)).

§ 1622.4 [Amended]

2. Paragraph (c) of § 1622.4 is amended by inserting the words "and the program director" after the words "counsel and the governing body" and after the words "meeting to the governing body".

§ 1622.6 [Amended]

3. Paragraph (b) of § 1622.6 is amended by removing the word "all" after the words "A separate vote of".

4. Paragraph (e)(2) of § 1622.6 is amended by removing the words "together with" following the words "or a series of meetings," and inserting in their place the words "with reference to the specific exemptions listed in § 1622.5, including a statement of reasons as to why the specific discussion comes within the cited exemption and".

5. Section 1622.9 is revised to read as follows:

§ 1622.9 Emergency Procedures.

If, in the opinion of the Chairman, the Directors are rendered incapable of conducting a meeting by the acts or conduct of any members of the public present at the meeting, the Directors may thereupon determine by a recorded vote of the majority of the number of Directors present at the meeting that the Chairman or presiding officer of the Board shall have the authority to have such members of the public who are responsible for such acts or conduct removed from the meeting.

Dated: July 24, 1985.

Richard N. Bagenstos,

Acting Deputy General Counsel.

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