



OFFICE OF LEGAL AFFAIRS
EXTERNAL OPINION

External Opinion # EX-2000-1021

To: Joseph R. Bartylak
Executive Director
Land of Lincoln Legal Assistance Foundation, Inc.
Office of the Executive Director
2420 Bloomer Drive
Alton, IL 62002

Date: December 7, 2000

Subject: 45 C.F.R. § 1624.4: Requirement of Legal Service Providers to Provide Auxiliary Aids for Persons with Impaired Sensory, Manual or Speaking Skills

ISSUE:

This letter serves to answer your inquiry of November 9, 2000, as to whether 45 C.F.R. §1624.4(d) requires a legal services program that receives LSC funding to maintain and utilize a TDD system or whether it may substitute the Relay Center system for the TDD system.¹ You also indicated that you had researched both systems and concluded that the Relay System is superior to the TDD system in both accessibility and quality of communications.²

CONCLUSION:

Briefly, LSC regulations require only that communication aids be available and do not require a legal services provider to maintain and utilize a TDD system. Based on your assessment of the superiority of the Relay Center system with respect to both accessibility and quality of communications, the Land of Lincoln Legal Assistance Foundation, Inc. may utilize the optional Relay Center system without offending LSC regulations.

¹ A TDD (a telephonic device for the deaf) is a device that enables individuals to communicate over telephone lines with keyboards and visual displays. A TDD is sometimes referred to as a TTY (a teletypewriter).

² Although not an LSC regulatory issue, the use of the Relay System may raise issues of privilege and confidentiality that may be governed by local ethics rules.

DISCUSSION:

The pertinent LSC regulation, 45 C.F.R. § 1624.4(d)(1), provides:

A legal services program that employs a total of fifteen or more persons, regardless of whether such persons are employed at one or more locations, shall provide, when necessary, appropriate auxiliary aids to persons with impaired sensory, manual or speaking skills, in order to afford such persons an equal opportunity to benefit from the legal services program's services. A legal services program is not required to maintain such aids at all times, provided they can be obtained on reasonable notice.

The regulation does not require a legal services provider to utilize any specific system for communicating with an impaired client. For example, a December 10, 1980, opinion, enclosed, from this Office concluded that the regulation did not require a recipient to install a TTY system, provided that the recipient provided an alternative means of communication. As long as the client can effectively communicate, upon reasonable notice, via the Relay Center System (or some other "auxiliary aid"), the regulation is not violated.

You should also be aware that Department of Justice ("DOJ") regulations promulgated under the Americans with Disabilities Act ("ADA"), mandate that law offices, as places of public accommodation, must "furnish appropriate auxiliary aids and services" to "ensure effective communication with persons with disabilities." 28 C.F.R. §36.303 (c). We understand that the DOJ prefers the TDD system over the Relay Center system, but there is nothing in the DOJ's regulations promulgated under the ADA that prohibit the use of the Relay Center system.

I hope this information is helpful. If you have any further questions, please do not hesitate to call me at 202-336-8814.

Very truly yours,

Lynn A. Bulan
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