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January 8, 2001

Mattie C. Condray  
Senior Assistant General Counsel  
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750 First Street, NE  
Washington, DC 20002-4250

Dear Ms. Condray:

This letter is in response to LSC's invitation for comments on its upcoming review of its regulations. The focus of this letter is to point out regulations which seem to create unnecessary administrative burdens on local programs. It is not my purpose for the most part to offer detailed revisions of particular regulations, although I expect to comment further once a particular revision is being considered.

**45 CFR 1611 Eligibility**

It is probably no surprise that the regulation that I think causes the most unnecessary administrative burden is 1611. First, are the much discussed requirements about documenting income and assets. Complying with 1611 could be made significantly easier, if the regulation were amended to allow a program to document income and asset eligibility by simply checking a single box (or even two boxes-one for income and one for asset eligibility).

In addition 1611 requires a program make a preliminary judgement that a client is eligible or ineligible based on basic income. It then must reconsider the client's eligibility based on various factors set forth in the regulation. The process created in convoluted and administratively burdensome. Programs should be given the discretion to develop their own simple criteria within broad parameters.

When 1611 was first adopted in 1983, many programs thought of income eligibility as a way intake was limited. I think that was LSC's view as well. For that reason 1611 sets out fairly detailed standards for deciding whether someone is eligible.

Since that time, we all have recognized that there are many too many eligible clients, and that it is priorities which really dictate which cases are taken (at least for extended service). Given that change, it would be better to allow eligibility to be roughly (and more easily determined) and then to allow priority decision to dictate which cases are taken.

Dramatically simplifying 1611 is consistent with providing services through a hotline model. The whole purpose of hotlines is to provide quick and efficient services. It does not make sense to spend a significant amount of time during a short hotline call determining eligibility, especially since the service provided is so limited in any event. I'm sure hotlines were pioneered for seniors in part because Title III does not allow income or assets to determine eligibility for services.

In addition, there is no need to require that programs review eligibility every year, beyond updating them in response to the yearly increases in the federal poverty guidelines. There is even less need to review asset guidelines every year, and no reason annual asset guidelines should be submitted to LSC at all, let alone on a yearly basis as required 1611.6(a).

Finally, I believe LSC should consider removing the provision on retainer agreements from 1611. It is understandable for LSC to mandate the use of retainer agreements as a matter of good practice. That was in fact its rationale when 1611.8 was adopted in 1983. However the existence of a retainer agreement should not be an eligibility issue. Having a retainer is not proof that a client is one who may be served under the LSC Act and regulations.

The fact that the requirement on retainer agreements is misplaced in the regulation limited eligibility is not mere form over substance. It directly leads to what I think is the incorrect idea that the failure to have a retainer agreement for cases other than brief service disqualifies those cases from being countable under the CSR system.

It is one thing for the Corporation to require retainer agreements, it is another for its rules to suggest that the failure to have a retainer agreement makes a client ineligible or makes his or her case uncountable.

#### 45 CFR 1614 Private Attorney Involvement

I would favor reconsideration of the basic requirement of 1614 that the equivalent of 12.5% of a recipient's LSC grant be spent on private attorney involvement. I recognize that consideration of such a change would be controversial, and LSC might want to give such a change extended consideration.

I would also suggest other more technical and more easily made changes. 1614.4 sets out the procedure for reporting to LSC about a recipient's PAI efforts. It is unclear whether recipients must make an annual PAI plan and submit it to LSC. When the regulation was written, recipients submitted annual refunding applications, and the regulation seems to assume that a PAI plan would be part of that annual application.

While I have continued to submit such annual plans, to my knowledge they are never reviewed by LSC; in fact, the Office of Program Operations published an official list of program reports, and a PAI plan report was not listed.

In addition, 1614.4(b) requires that a recipients PAI plan be presented to all local bar associations for their comment and that all comments be retained. I believe I have had one or two comments on our plans over the past 15 years.

To the extent that an annual PAI plan is still required by the regulation, that requirement should be eliminated, as should any requirement of review by local bars.

#### 45 CFR 1620 Priorities

Programs should not have to review and report to LSC on a yearly basis about priorities.

#### 45 CFR 1626

LSC should not require that citizens attest to their status in writing. It is a mere formality, which does nothing but create another opportunity for an innocent administrative error to result in a client being deemed ineligible and a case uncountable.

I appreciate LSC's interest in reviewing its regulations with the intent of modifying (to the extent it free to do so) those which cause unnecessary administrative burdens. I hope these comments help in that effort.

Sincerely,



Steve Gottlieb  
Executive Director