



December 23, 2002

Ms. Mattie C. Condray
Office of Legal Affairs
Legal Services Corporation
750 First St., NE, 11th floor
Washington, DC 20002

Fax: (202) 336-8952

Dear Ms. Condray:

Mattie

Neighborhood Legal Services of Los Angeles County (NLS) welcomes the opportunity to comment on the proposed amendments to the financial eligibility and group representation sections of Part 1611 of the Legal Services Corporation's (LSC's) regulations. We believe that the revised regulations will be a tremendous improvement over the current rules. Therefore, we enthusiastically recommend their adoption by LSC. Below are our specific comments to many of the most critical components of the new regulations.

I. FINANCIAL ELIGIBILITY

A. Definitions

First, NLS welcomes the elimination of the terms "liquid" and "non-liquid" in favor of the simpler concept of whether assets are "readily convertible into cash" contained in § 1611.2(c). In many circumstances, such as divorce cases, clients often cannot obtain what might be a "liquid" asset until the proceedings are resolved and therefore those assets could not be used to hire a private attorney.

NLS also welcomes the change in the definition of income in § 1611.2(f) to refer to the income of the "household" instead of "family unit". We agree that "household" is a simpler term and agree that programs should have the flexibility to define that term in any reasonable manner. Many of our clients live in overcrowded conditions, often with other families or with adult children who completely support themselves and their own children. Having the flexibility to

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define household in terms of how clients support themselves and their families is an extremely important change that reflects how poor individuals and families actually live. 1611.2(f)

B. Asset Limitations

NLS welcomes greater flexibility in defining excludable assets. Although not included in the proposed rule, we believe that local programs should have flexibility to determine what assets are excludable. As an example, NLS believes that a computer and related equipment should be exempt. Owning a basic computer has become an important way for all families to access the courts, learn about the law, and communicate with their communities. Indeed, the current "digital divide" has made it even more difficult for legal services clients to participate in daily community life. Families should not risk being denied legal services because they have chosen to use their limited resources to purchase a computer and related items, such as printers and modems, for their families.

C. Income Limitations

NLS also supports all of the proposed changes to the exceptions to the annual income limitations contained in § 1611.5. Unfortunately, the federal poverty level has little relevance to the actual cost of living in expensive urban areas like Southern California. For example, a study by the California Budget Project shows that a worker earning minimum wage has to work 99 hours per week in order to afford the fair market rent for a two-bedroom apartment. Therefore, allowing programs to examine net instead of gross wages in determining income levels is sound public policy.

Changing the exception level from 187.5% of the poverty level to 200 % of the poverty level is simpler and reflective of the fact that most low-income families include one or more working adults struggling to meet their families' needs. Moreover, clients who are working hard to maintain their above-poverty level income often need legal representation to preserve housing, maintain child care, and retain immigration benefits. The loss of any of these could jeopardize their employment and drag the family back below the poverty level.

NLS also favors the proposed changes to the fixed debts and obligations exception to section 1611.5. In Southern California, we are currently experiencing dramatic increases in rents outside of rent-controlled properties in Los Angeles County. Currently, twenty-five percent of all renters in Los Angeles County pay more than 50% of their household's income for rent and those percentages are constantly rising as housing prices rise much faster than incomes. Therefore, the fixed costs of mortgage and rent payments should both be excepted in cases where the families' income is above 125% of the poverty level but below 200% since these are necessary costs for the family to maintain shelter.

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In addition, we believe that there are three important reasons why fairness and equity require that utility payments also be included as a fixed cost or obligation. First, many tenants pay for their utilities in their rent payments. Thus, if utilities are not included as fixed debts, some tenants will benefit because their landlords have opted to include the cost in their rent, and others will not. Second, NLS believes that it is only fair that all fixed shelter costs should be included since a house or apartment without water, electricity, heat, or in the Southwest deserts, air conditioning, provides no real shelter at all. Third, elderly families on fixed incomes, who may have paid off their mortgages, still need to pay utilities to survive.

We strongly agree with the proposed change to allow LSC recipients to represent clients who have been receiving government benefits and seek legal assistance to maintain those benefits. One important example is SSI recipients who are working at a level that makes them ineligible for SSI but may allow them to continue to receive Medicaid benefits. However, legal issues often arise concerning the continued receipt of medical assistance. Moreover, there are very few private attorneys available for these cases even when a client can afford it. For many of the same reasons, NLS supports the exception to allow LSC programs to represent individuals with incomes of up to 200% of the poverty level who are seeking to maintain government benefits for persons with mental or physical disabilities.

Finally, NLS welcomes the clarification on referrals set forth in § 1611.6. As the LSC analysis points out, it is currently common practice for programs to rely upon the financial eligibility analysis of a referring legal services program. However, clearly stating this procedure in the regulations can only assist programs in the smooth referrals of low-income families and individuals.

II. GROUP REPRESENTATION

We strongly support the provisions that revise the restrictions on recipients' representation of group clients and are pleased that LSC staff and Board members have decided to review and improve these regulations. One of the hallmarks and strengths of NLS is our connection to and collaboration with local community based organizations.

Given our limited staff resources and the overwhelming demand for our services, our work with organizations that deliver services to our client community allows us to leverage our resources and maximize the number of eligible clients that we are able to assist. The proposed regulation changes will increase the number of organizations that we are able to help, thereby increasing the number of clients that we are able to reach. At the same time, the regulations properly focus and limit assistance to those organizations that are actively providing services to eligible clients or that are working to further their interests. The proposed changes thus expand the scope of our client services, while remaining squarely within LSC's stated mission to "give preference to the legal needs of those least able to obtain legal assistance." §1611.1.

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While we actively encourage client organizations to include low-income people in their decision-making body in order to satisfy the current regulations, this is not always feasible for every organization, depending on its size, structure, and mission. The flexibility afforded by the proposed regulation changes would shift the eligibility focus from the membership of an organization to an examination of its intended beneficiaries. This shift would enable us to assist a greater diversity of organizations, while preserving the goal of maximizing the number of clients we serve as the lodestar for the determination of group client eligibility.

Representation of group clients is a particularly important part of our community and economic development ("CED") practice. Southern California has a well-established network of non-profit corporations that actively nurture and support the development of nascent non-profits. However, there exists a serious lack in our service area of legal support for these fledgling groups, especially in geographical areas where they are working in relative isolation. Our CED advocates have worked with well over a hundred group clients over the past seven years in an attempt to fill this void. We provide technical legal assistance to organizations from their inception all the way through incorporation and into their organizational maturity. We help such groups not only with the incorporation process, but serve as consultants on the complex employment and tax matters that arise once an organization is fully functioning.

It is important to note that none of these groups could otherwise afford counsel, and it is likely that many of them would not have been able to build the organizational capacity that they currently enjoy without the legal counsel and advice that we have provided. Moreover, these groups have, in turn, assisted countless hundreds of eligible clients in an array of matters ranging from obtaining a bank account to locating affordable housing to leaving an abusive spouse. Our work with groups enables us to maximize the number of people that we assist and ensures that we provide the most diverse array of services possible to our client community. This is vital because our clients inevitably need assistance in more areas than the single legal problem that would bring them to our office. Thus, our representation of groups is key to our overall mission of helping low-income people work their way out of poverty.

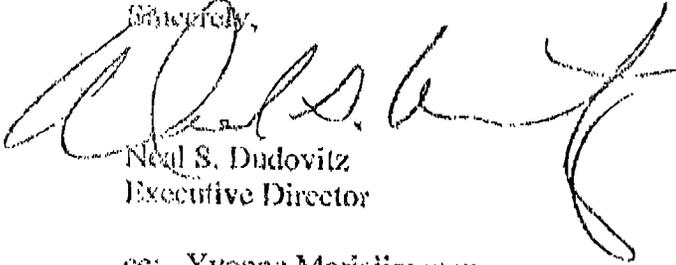
CONCLUSION

We appreciate all of the time and effort that went into formulating these recommendations and enthusiastically support the work of those we have outlined above.

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We would also like to thank the Corporation for the opportunity to submit our comments to the proposed regulatory changes and for your thoughtful consideration of these comments. If you have any questions, or would like any further clarification, please contact Bob Graziano of our office at (818) 834-7584.

Sincerely,

A handwritten signature in black ink, appearing to read "Neal S. Dudovitz", written over a horizontal line.

Neal S. Dudovitz
Executive Director

cc: Yvonne Mariajimenez