

NATIONAL
CENTER FOR
ACCESS TO
JUSTICE
at Cardozo Law School

“Thou Shalt Not Ration Justice”
– Hon. Learned Hand

parulemaking@lsc.gov

June 25, 2013

Mark Freedman
Senior Assistant General Counsel
Legal Services Corporation
3333 K Street NW
Washington, DC 20007

Re: Comments, & Expression of Interest
in Appearing as a Panelist

Private Attorney Involvement Rulemaking
Legal Services Corporation
45 CFR part 1614 (78 FR 27339)
<https://federalregister.gov/a/2013-11071>

Dear Mr. Freedman.

I am submitting these comments in support of the recommendation which states:
“Resources spent supervising and training law students, law graduates, deferred associates, and others should be counted toward grantees' PAI obligations, especially in “incubator” initiatives.”

I. Outline of Key Points:

I support the recommendation. I request an opportunity to make the following points at the workshops hosted by the Legal Services Corporation in connection with the rulemaking:

1. Civil legal aid programs increasingly seek to involve law students in pro bono initiatives as a means of increasing access to justice for vulnerable people, but have limited resources for training and supervising the students.
2. Law students increasingly seek to volunteer in civil legal aid programs, in response to the following developments: the justice gap, the access to justice movement, the increased emphasis on skills acquisition in law school, and the new, nationally significant, 50 hour pro bono service bar admission requirement in New York.

3. To effectively train and supervise law student volunteers, it is important for civil legal aid programs to be able to use their resources in satisfaction of their PAI obligations.

II. Summary of Qualifications:

During the past two years, I have carried out research, engaged in public writing, and participated in conference sessions with justice system stakeholders, on how the justice gap, the access to justice movement, and the new 50 hour pro bono service requirement in New York are helping to reshape legal education. I have become knowledgeable about how changes in legal education and in pro bono service by law students are creating new opportunities for civil legal aid programs, while also increasing demands on those programs. This perspective should have a place in the workshops at which LSC's PAI regulation will be reconsidered. Information about my work (along with some examples) is available here:

- *Is New York's 50 Hour Pro Bono Service Rule Changing the Future of Law Student Pro Bono*, in Bloomberg Law (January 28, 2013)¹
- *Law Students for Strengthening Law School Pro Bono*, Facebook²
- *Software for Law Student Pro Bono*, NCAJ's Policy Recommendation (February 25, 2013)³
- *National Roundtable on Pro Bono and Professional Development*, NALP (moderated by LSC President, Jim Sandman) (January 31, 2013)⁴
- *List of Replicable Law Student Pro Bono Model Projects and Structures – NCAJ's Policy Recommendation* (Oct. 15, 2012)⁵
- *Report & Recommendations of the Law School Involvement Working Group of the Task Force to Expand Access to Legal Services in New York* (contributing author) (December 1, 2012)⁶
- *Bio, David Udell*.⁷

III. Checklist of topics and items to be addressed

I have attached the checklist of topics and items to be addressed.

¹ <http://ncforaj.files.wordpress.com/2013/02/tyler-udell-bloomberg-law-law-student-pro-bono.pdf>

² <https://www.facebook.com/LawStudentProBono>

³ <http://ncforaj.files.wordpress.com/2013/02/lspb-software-application-2-25-13.pdf>

⁴ <http://www.nalp.org/probonoandpdroundtable>

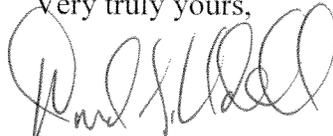
⁵ <http://ncforaj.files.wordpress.com/2012/10/final-models-memo-lspb-2p.pdf>

⁶ <http://ncforaj.files.wordpress.com/2012/12/report-recommendations-on-legal-ed-2012-tf.pdf>

⁷ <http://ncforaj.org/about-2/staff/david-udell/>

Thank you for your consideration.

Very truly yours,



David Udell

Name	David Udell, Executive Director, National Center for Access to Justice
Topic 1: LSC Pro Bono Task Force Recommendation 2(a) - Resources spent supervising and training law students, law graduates, deferred associates, and others should be counted toward grantees' PAI obligations, especially in "incubator" initiatives.	
x	How are legal service providers engaging new categories of volunteers? What are the needs of these new categories of volunteers?
x	What are the obstacles to LSC grant recipients' full use of these volunteers?
x	Should LSC implement conditions and guidelines to allow LSC recipients to claim PAI credit for the supervision and training of these volunteers?
x	How can LSC ensure against fraud, waste, or abuse related to implementing this recommendation? What caution should LSC exercise to ensure against any unintended consequences?
x	To the extent applicable, discuss how any approaches you recommend might be implemented.
x	Other issues related to Topic 1 (please specify in your submitted outline).
Topic 2: LSC Pro Bono Task Force Recommendation 2(b) - Grantees should be allowed to spend PAI resources to enhance their screening, advice, and referral programs that often attract pro bono volunteers while serving the needs of low-income clients.	
	How are recipients currently using integrated intake and referral systems?
	Do LSC's current PAI regulations inhibit full use of integrated intake and referral systems?
	Should LSC implement conditions and guidelines to allow LSC recipients to claim PAI credit for the resources used to create and staff integrated intake and referral systems?
	How can LSC ensure against fraud, waste or abuse related to implementing this recommendation? What caution should LSC exercise to ensure against any unintended consequences?
	To the extent applicable, discuss your organization's ability to execute any recommended approaches.
	Other issues related to Topic 2 (please specify in your submitted outline).
Topic 3: LSC Pro Bono Task Force Recommendation 2(c) - LSC should reexamine the rule, as currently interpreted, that mandates adherence to LSC grantee case handling requirements, including that matters be accepted as grantee cases in order for programs to count toward PAI requirements.	
	How are recipients currently using or supporting pro bono volunteers in brief service clinics?
	What are the obstacles to recipients' use of pro bono volunteers in brief service clinics?
	Should LSC implement conditions and guidelines to allow LSC recipients to claim PAI credit for the resources used to support volunteer attorneys staffing brief service clinics?
	If LSC were to allow recipients to claim PAI credit for the resources used to support volunteer attorneys staffing brief service clinics under circumstances where the users of the clinics are not screened for LSC eligibility or accepted as clients of the recipient, how could that change be implemented in a manner that ensures compliance with legal restrictions on recipients' activities and uses of LSC funds?
	How can LSC ensure against fraud, waste or abuse related to implementing this recommendation? What caution should LSC exercise to ensure against any unintended consequences?
	To the extent applicable, discuss your organization's ability to execute any recommended approaches.
	Other issues related to Topic 3 (please specify in your submitted outline).