



April 9, 2001

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Harrisburg, PA

**RE: Eligibility of Low Country Legal Clinic to Apply for LSC
Funding, External Opinion Number 2001-1009**

Dear Ms. Jordan:

I am writing in response to your recent inquiry to the Legal Services Corporation ("LSC") regarding eligibility to apply for a grant from LSC. You indicated that you are the Chairwoman of the Board of Directors of Low Country Legal Clinic ("LCLC"), a privately-funded, non-profit organization which provides legal services to the poor, based on the income eligibility guidelines established by LSC. In order for LCLC's retired volunteers (all of whom are licensed to practice law in states other than South Carolina) to represent clients, LCLC must show, among other things, that it is eligible to receive LSC funding. You have therefore requested an opinion on whether LCLC is eligible to apply for a grant from LSC.

The LSC regulation that identifies qualified grant applicants, 45 C.F.R. §1634.5, states in section (a)(2) that "non-profit organizations that have as a purpose the furnishing of legal assistance to eligible clients" are eligible to submit applications for LSC grants. Based on the information with which you have provided us, you meet the requirements of 1) being a non-profit organization, and 2) having as a purpose the furnishing of legal assistance. Moreover, on the basis of your representation that LCLC determines the financial eligibility of clients based on the income

eligibility guidelines established by LSC, it appears that you also meet the requirement of furnishing legal assistance to 'eligible clients.' For the purpose of being clear and ensuring that LCLC understands LSC's definition of 'eligible clients,' however, I am providing a more detailed explanation of the meaning of this term below.

Section 1600.1 of the LSC regulations defines 'eligible client' as "any person determined to be eligible for legal assistance under the [LSC] Act, [LSC] regulations or other applicable law." 45 C.F.R. §1600.1. The LSC Act defines 'eligible client' as "any person financially unable to afford legal assistance." 42 U.S.C. § 2996a. LSC regulation 1611, a copy of which is attached hereto, enumerates the most specific requirements for financial eligibility. Part 1611 requires, at its most basic level, that a) grant recipients establish a maximum annual income level for persons eligible to receive services, and b) unless specifically authorized by LSC, the maximum annual income level must not exceed one hundred and twenty-five percent (125%) of the current official Federal Poverty Income Guidelines. 45 C.F.R. §1611.3(a)&(b). Although there are various factors to be considered in establishing maximum income levels as well as several exceptions to this rule,¹ the most fundamental criterion for financial eligibility for an LSC-funded program is that the applicant for legal services have an income below one hundred and twenty-five percent (125%) of the Federal Poverty Income Guidelines.

Based on the information with which you have provided us, LCLC is eligible to apply for an LSC grant provided that it adheres to the requirements of 45 C.F.R. 1611 in determining the financial eligibility of clients.

¹ Exceptions to this rule are enumerated in 45 C.F.R. §1611.4(a). Section 1611.4(a) provides that an applicant whose income falls between 125% and 150% of the Federal Poverty Guidelines may be eligible if 1) his or her disposable income is substantially reduced by expenses such as medical bills, child care expenses, fixed debts, etc. or 2) the applicant is seeking legal assistance to secure governmental benefits for the indigent.

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I hope that this information is helpful. If you have questions or need further assistance, please feel free to contact me at (202)336-8871.

Sincerely,

Dawn M. Browning
Assistant General Counsel

Victor M. Fortuno
General Counsel