



April 2, 2010

Estela Casas, Executive Director  
Greater Bakersfield Legal Assistance, Inc.  
615 California Avenue  
Bakersfield, CA 93304

**President**  
Victor M. Fortuno

**Board of Directors**  
Frank B. Strickland  
Atlanta, GA  
*Chairman*

Michael D. McKay  
Seattle, WA  
*Vice Chairman*

Jonann C. Chiles  
Little Rock, AR

Thomas A. Fuentes  
Lake Forest, CA

Herbert S. Garten  
Baltimore, MD

David Hall  
U.S. Virgin Islands

Thomas R. Meites  
Chicago, IL

Laurie Mikva  
Evanston, IL

Bernice Phillips-Jackson  
Buffalo, NY

Hon. Sarah M. Singleton  
Santa Fe, NM

**Re: Follow-Up to CSR/CMS Visit, Recipient # 805010**

Dear Ms. Casas:

I would first like to thank you and the Greater Bakersfield Legal Assistance, Inc. (“GBLA”) staff for the courtesy and cooperation extended during the Legal Services Corporation’s (“LSC”) Office of Compliance and Enforcement (“OCE”) Follow-Up visit of March 17-18, 2010.

As you will recall, OCE participated in LSC’s “Quality Review of Casework and Systems” visit on January 8 – 12, 2007. A Final Report was issued on May 21, 2008 containing nine (9) OCE required corrective actions.

On March 17-18, 2010, OCE conducted an on-site Case Service Report/Case Management System (“CSR/CMS) Follow-Up review at GBLA. The Follow-Up visit demonstrated that GBLA has taken adequate and appropriate measures to address the required corrective actions.

**Required Corrective Actions**

1. **Provide OCE with citation(s) to the provision(s) of federal or California law exempting personal, household effects, burial plots and life insurance policies and trusts established and used exclusively for education or medical purposes from attachment.**
2. **Eliminate the “disfavoring factors” language in its financial eligibility policy.**

By letter dated February 28, 2008 and again in response to a March 15, 2010 e-mail from OCE, GBLA provided a copy of its *Advocacy Policies and Procedures Manual* (the “Manual”). OCE reviewed the Manual and determined that GBLA had eliminated the “disfavoring factors” language in its financial eligibility policy. GBLA also provided the citations to the federal or state law exempting “personal,

household effects, burial plots and life insurance policies” and “trusts established and used exclusively for education or medical purposes” from attachment.

As well, in response to inquiries by OCE prior to the Follow-Up visit, GBLA made additional conforming revisions to its financial eligibility policy. First, OCE noted that GBLA’s financial eligibility policy contained the language of the pre-2005 45 CFR § 1611.7 concerning access. GBLA was advised that in accordance with Section 509(h), Pub. L. 103-134, recipients are obliged to disclose eligibility information to LSC regardless of whether LSC is investigation allegations of financial ineligibility. GBLA responded that the Manual would be revised to more accurately reflect the requirements of Section 509(h), Pub. L. 103-134.

Second, the financial eligibility policy did not conform to the requirements of 45 CFR § 1611.3(e). GBLA responded that the provisions required by 45 CFR § 1611.3(e) are not stated in the Manual, but that the assets of an alleged perpetrator in domestic violence cases have always been excluded. GBLA also amended Section 1.3 consistent with 45 CFR § 1611.3(e).

Third, the intake procedures described in the Manual did not appear to require an inquiry into income prospects. GBLA was advised that recipients are required by LSC regulations to make a reasonable inquiry into the income prospects of each applicant for LSC funded legal assistance. *See* 45 CFR § 1611.7(a); *see also* OLA Advisory Opinion AO-2009-1006 (September 3, 2009). Accordingly, GBLA was asked whether its financial eligibility screening included such inquiry.

GBLA replied that instructions to staff and revision to its case management system have been made. GBLA also stated that language has been added to the Manual instructing staff to make reasonable inquiry into the income prospects of each applicant and record the applicant’s response in the ACMS.

Lastly, Section 3.7.4 of the Manual contains a discussion of group eligibility. The Manual appears to suggest that LSC-funded legal assistance may be provided if the group is primarily composed of financially eligible persons OR if it provides information demonstrating that it lacks the funds to retain private counsel. The Manual contained no mention of principal activity groups.

GBLA was advised that recipients may provide legal assistance to groups, corporations, associations or other entities primarily composed of individuals who would be financially eligible for LSC funded legal assistance, or those having as a principal activity the delivery of legal assistance to persons in the community who would be financially eligible for LSC funded legal assistance, provided such group provides information showing that it lacks, **and** has no practical means of obtaining, funds to retain private counsel. GBLA was advised that in determining group eligibility, LSC regulations require that recipients consider the resources available to the group. *See* 70 *Federal Register* 45545, 45556-45559 (August 8, 2005).

(2008 Ed.), § 3.5, GBLA had already identified the files for exclusion from its CSR data submission to LSC.

**5. Ensure that all of the files included in its CSR data submission contain a financial eligibility determination that is consistent with LSC regulatory and reporting requirements.**

The Final Report cited several files that contained financial eligibility determinations that were not consistent with LSC regulatory and reporting requirements. In its February 28, 2008 letter to OCE, GBLA stated that staff would be required to attend semi-annual training on the requirements of 45 CFR Part 1611.

For each case reported to LSC, recipients are required to record the number of members in the applicant's household and the total income received by all members of the applicant's household and the total value of the household's assets. *See* CSR Handbook (2008 Ed.), §§ 5.3 and 5.4. The documentation of eligibility shall be recorded electronically in a case management system record, or in a simple form as provided by 45 C.F.R. § 1611.7(b) and shall be preserved for audit purposes for a period of five years. *See* CSR Handbook (2008 Ed.), § 5.2.

Without exception, the LSC-funded files that were reviewed during the Follow-Up visit contained the financial eligibility documentation required by LSC. Of note, however, were two (2) non-LSC funded files. The first, open non-LSC funded File No. 09E-1037113, involved an applicant whose income exceeded GBLA's annual income ceiling and lacked documentation of any of the authorized exceptions. Consistent with CSR Handbook (2008 Ed.), § 3.5, GBLA had already identified the file for exclusion from its CSR data submission to LSC.

The second was closed 2010 non-LSC funded File No. 07E-1031062. This file also involved an applicant whose income exceeded GBLA's annual income ceiling, but was not identified for exclusion from GBLA's CSR data submission. When asked which of the authorized exceptions was considered, GBLA indicated that it regarded the client's inability to afford private counsel as an "other significant" factor. *See* 45 CFR § 1611.5(a)(4)(vii).

It appears that GBLA continues to determine the financial eligibility of an applicant with gross income above its annual income ceiling, but less than 200% of the poverty level, only if the authorized exceptions reduce the applicant's net income to at or below its annual income ceiling. GBLA is advised that LSC regulations do not require such a "spend down". *See* OLA External Opinion EX-2001-1014 (September 21, 2001). Additionally, GBLA is advised that 45 CFR § 1611.5(a)(4)(vii) was not intended to be used routinely. Rather, this exception should perhaps be reserved for unusual circumstances. *See* 70 *Federal Register* 45545, 45555 (August 8, 2005).<sup>1</sup>

---

<sup>1</sup> The file did, however, contain information concerning the applicant's rent obligation, which is considered a fixed debt and obligation.

**6. Ensure compliance with 45 CFR Part 1626 and LSC Program Letter 06-2 (February 21, 2006).**

The Final Report cited several files that lacked the citizenship/alien eligibility documentation required by 45 CFR Part 1626. GBLA's February 28, 2008 letter advised OCE that it would continue to comply with LSC regulatory requirements, but disagreed that there were files involving victims of domestic violence that lacked the documentation required by 45 CFR § 1626.6.

The level of documentation necessary to evidence citizenship or alien eligibility depends, in part, on the nature of the services provided. With the exception of brief advice or consultation by telephone, which does not involve continuous representation, LSC regulations require that all applicants for legal assistance who claim to be citizens execute a written attestation. *See* 45 CFR § 1626.6. Aliens seeking representation are required to submit documentation verifying their eligibility. *See* 45 CFR § 1626.7. In those instances involving brief advice and consultation by telephone, which does not involve continuous representation, LSC has instructed recipients that the documentation of citizenship/alien eligibility must include a written notation or computer entry that reflects the applicant's oral response to the recipient's inquiry regarding citizenship/alien eligibility. *See* CSR Handbook (2001 Ed.), ¶ 5.5 and CSR Handbook (2008 Ed.), § 5.5; *See also*, LSC Program Letter 99-3 (July 14, 1999). In the absence of the foregoing documentation, assistance rendered may not be reported to LSC. *See* CSR Handbook (2001 Ed.), ¶ 5.5 and CSR Handbook (2008 Ed.), § 5.5.

In 2006, in accordance with the "Violence Against Women Act 2006 Amendment", LSC instructed recipients that they may use LSC funds to provide legal assistance to ineligible aliens, or their children, who have been battered, subjected to extreme cruelty, is the victims of sexual assault or trafficking, or who qualify for a "U" visa. LSC recipients are now allowed to include these cases in their CSR data submission. *See* LSC Program Letter 06-2 (February 21, 2006).

Since the time that the Final Report was issued, LSC has determined that the documentation requirements of 45 CFR Part 1626 is inapplicable to persons – citizens or aliens – covered by the Violence Against Women Act 2006 Amendment. *See* OLA Advisory Opinion AO-2009-1008 (December 4, 2009).

Without exception, the files that were reviewed during the Follow-Up visit contained the necessary citizenship/alien eligibility documentation.

**7. Ensure that cases are closed at the highest level of service provided.**

The Final Report cited one file in which GBLA's application of the CSE case closure categories was inconsistent with Section VII, CSR Handbook (2001 Ed.). GBLA, in its February 28 letter,

advised LSC that all its case handlers had received training on the new CSR case closure categories.

The CSR Handbook defines the categories of case service and provides guidance to recipients on the use of the closing codes in particular situations. Recipients are instructed to report each case according to the type of case service that best reflects the level of legal assistance provided. *See* CSR Handbook (2001 Ed.), ¶ 6.1 and CSR Handbook (2008 Ed.), § 6.1.

With two (2) exceptions, the files that were reviewed during the Follow-Up visit demonstrated that GBLA's application of the CSR case closing categories is consistent with Chapter VIII, CSR Handbook (2008 Ed.). The first exception was closed 2010 LSC-funded File No. 09E-1038301. Although GBLA provided no legal assistance, the file was closed as "other".

GBLA is advised that the purpose of the CSR case closure categories is to delineate the level of service provided to the client. If no service has been provided, it is inappropriate to assign any of the CSR case closure categories.

The second exception was closed 2010 LSC-funded File No. 09E-1037392. The file was closed as "extensive service", but the information in the file was more consistent with "agency decision".

Among the closed 2008 and 2009 files, two (2) of the files that were reviewed during the Follow-Up visit lacked sufficient information in the files or ACMS to support the selected closing code as required by Chapter VIII, CSR Handbook (2008 Ed.). The two files were closed 2008 LSC-funded PAI File No. 08E-1032367 (closed as "negotiated settlement with litigation", but the file lacked documentation of the settlement) and closed 2009 non-LSC funded File No. 09E-1036918 (closed as "extensive service", but file indicated a level of assistance more consistent with "negotiated settlement without litigation").

**8. Ensure the consistency of the information in the ACMS and the information in the files.**

The Final Report cited several instances in which the information in the files was different from that provided by the Automated Case Management System ("ACMS"). GBLA's February 28, 2008 letter advised OCE that it upgraded its ACMS to the newest version of Prime and that in December 2007, a team of two attorneys and two support staff, including GBLA's Compliance Officer, attended an extensive five day training conducted by John Kemp, which included training and the effective use of error reporting to decrease missing and/or inconsistent information in the database. GBLA further advised OCE that in early 2008, all case handlers received training on LSC's CSR changes and the new, upgraded ACMS.

Recipients are required to utilize ACMS and procedures which will ensure that information necessary for the effective management of cases is accurately and timely recorded in a case

Estela Casas, Executive Director  
Greater Bakersfield Legal Assistance, Inc.  
April 1, 2010  
Page 7 of 7

management system. At a minimum, such systems and procedures must ensure that management has timely access to accurate information on cases and the capacity to meet funding source reporting requirements. See CSR Handbook (2001 Ed.), ¶ 3.1 and CSR Handbook (2008 Ed.), § 3.1.

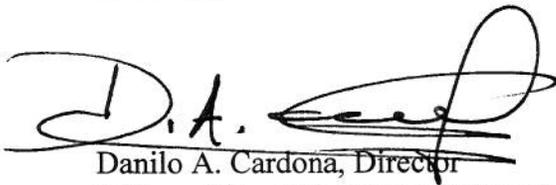
Based on a comparison of the information yielded by the ACMS to information contained in the files that were reviewed during the visit, with two (2) exceptions GBLA's ACMS is sufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded.

The first exception was closed 2010 non-LSC funded File No. 09E-1038867. The file was identified for exclusion from GBLA's CSR data submission, but review of the file revealed no reason to exclude it. In the second exception, the closing date in the file was inconsistent with the date yielded by the ACMS. See closed 2009 File No. 09E-1035872.

In summary, the Follow-Up visit demonstrated that GBLA has taken effective corrective measures to ensure that cases included in its CSR data submission conform to LSC regulatory and reporting requirements. Accordingly, by this letter OCE considers the corrective actions required by the May 21, 2008 Final Report closed.

Thank you once again for your courtesy, your patience, and your cooperation. Please do not hesitate contacting myself at (202) 295-1520 or Bertrand S. Thomas at (202) 295-1528 if you have any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read 'D.A. Cardona', with a large, stylized flourish extending to the right.

Danilo A. Cardona, Director  
Office of Compliance and Enforcement