LEGAL SERVICES CORPORATION

PROGRAM QUALITY REPORT

FOR

LEGAL SERVICES OF EASTERN MICHIGAN

Recipient No. 423060

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INTRODUCTION

The Legal Services Corporation (LSC) Office of Program Performance (OPP) conducted a Program Quality Visit to Legal Services of Eastern Michigan (LSEM) from May 17– 20, 2010. OPP's team consisted of a program analyst, a program counsel and two LSC consultants.

OPP seeks to ensure that all recipients of LSC funds are providing high quality, efficient, and effective legal services to eligible clients.. The overall purpose of program quality visits is to assess the quality of legal services provided to eligible clients, including a program's engagement with and service to the low-income community; the effectiveness of its legal representation and other program activities; and its leadership, management, and administration. In conducting this evaluation, OPP relied on the LSC Act and regulations, the LSC Performance Criteria, LSC Program Letters, and the ABA Standards for the Provision of Civil Legal Aid. The evaluation was organized to follow the four Performance Areas of the LSC Performance Criteria, which cover needs assessment and priority setting; engagement with the low-income community; legal work management and legal work; and program management including board governance, leadership, strategic planning, resource development, and coordination within the delivery system.

In preparation for the visit, consideration was given to LSEM's narrative submitted in response to LSC's 2008 Grants Competition; LSEM's grant renewal narratives; case and other services reports; and other reports or documents submitted by the program to LSC during the past year. The team also reviewed documents submitted in advance of the visit, including minutes of board of directors' meetings, program policies and procedures, advocate writing samples, and responses to an on-line staff survey. On site, the team visited the program's administrative and service offices in Flint, and branch offices in Saginaw, Midland and Port Huron. The team interviewed program staff from each of these offices, including the executive director, deputy director, litigation director, fiscal staff, managing attorneys, staff attorneys, pro bono coordinators, paralegals, administrative staff, and support staff. Additionally, team members interviewed board members, community representatives, judges, leaders in the state justice community, bar representatives and a few current or former clients. Due to scheduling and time constraints, some of these interviews were conducted by telephone.

OVERVIEW OF PROGRAM AND SERVICE AREA

As early as 1951, local bar associations in the service area were providing volunteer legal services to clients. In 1965, during the era of the War on Poverty, several federally funded legal services programs elected to pool resources and merged to form the Legal Services of Eastern Michigan. Since that time, LSEM has maintained a strong history of client advocacy and community involvement.

LSEM's service area (MI-14) is a network of small cities, rural areas and one large urban center. The service area covers over 8,500 square miles and includes fourteen counties in the eastern quadrant and "thumb" area of the state of Michigan.[1] The program's main office is located in Flint. Flint is well known as the birthplace of General Motors (GM) and the Flint Sit-Down Strike of 1936–37 that played a vital role in the formation of the United Auto Workers. Unfortunately, the decline of the auto industry has taken its toll on the economy and way of life in the region.

The northernmost counties of the service area, including those in the "thumb" region, are largely rural, with a lack of public transportation, a shortage of rental units, and high unemployment rates. The Flint-Saginaw region is more urban and has a larger poverty population than the rest of the service area. According to 2000 Census reports, the large poverty population,[2] includes a large population of African American, Latinos, Native American and Asians. The program reported that the largest non-English speaking population in the service area is Latino.

LSEM provides civil legal services to its fourteen county service area from a network of four service offices strategically located throughout the service area. The program owns the building which houses the Flint legal services office. The Flint office also houses the program's executive and administrative offices. The program has three other direct service offices located in Saginaw, Midland and Port Huron. Midland is well known as the home of Dow Chemical and Dow Corning. It is a rich city surrounded by a rural area. Lumbering and fishing have been important economic activities in the Port Huron region, and many resorts line the lake's shores. As part of the St. Lawrence Seaway, the lake supports heavy commercial traffic in iron ore, grain, and limestone. The average navigation season extends from early April to late December. By and large, employment opportunities in this region are seasonal.

At the time of LSC's visit, the program employed 18 attorneys, 4 paralegals, and 14 administrative and support staff. The program's current staffing composition has remained fairly consistent over the last few years.

REPORT SUMMARY

Well known in Michigan and the various communities it serves, LSEM seeks to continue its tradition of delivering quality legal services through its numerous partnerships with the community and the bar. As previously mentioned, communities in this program's service area are experiencing the severe impact of diminished economic stability, attributed mostly to the closing of automobile manufacturing plants and the loss of supportive manufacturing jobs, along with a general decline in the population of the area.

The program has a staff of well trained, capable advocates, along with management and administrative staff who reflect a commitment to the provision of quality legal services to eligible clients. It is commendable that LSEM has been successful in bringing together a group

[1] The fourteen county service area includes Arenac, Bay, Clare, Genesee, Gladwin, Gratiot, Huron, Isabella, Lapeer, Midland, Saginaw, Sanilac, St. Clair, and Tuscola counties. This new service area was created in 2002 by LSC during its state planning initiative.

[2] Based on 2000 U.S. Census figures, LSEM's service area have a total population of approximately 1,379,506 with a total poverty population of 158,986 or 11.52%.

of qualified administrative staff and immensely committed advocates who appear to focus on the program's overall mission despite a depressed economic environment. LSC noted the staff's collegiality within offices. Staff have adopted a team approach and appeared to function well in their individual offices. This collegiality is not consistently present throughout the program between offices.

The program is led by an executive team consisting of the executive director, deputy director, director of litigation and training and director of development. The director of litigation and training and directing attorneys spend time in providing sound orientation, training and direction to advocacy staff. LSEM's advocates appear to be well respected and their work was highly complimented by the judiciary, bar and the court system. Clients and community organizations also commented on the program's stalwart commitment to providing quality services despite funding challenges.

The program derives the majority of its funding from LSC, and has worked diligently and deliberately to create and maintain a diverse pool of funding to support the program's current and future expansion and development. To its credit, LSEM has used a creative approach, incorporating some elements of economic development in its program development. This type of thoughtful planning assures a strong and productive future for the program.

There are many areas where LSEM has excelled that are not enumerated here. There are also areas that need improvement. LSC believes that this program would benefit greatly from:

- A comprehensive study of the civil legal needs of the clients in the service area led by the program's board of directors that is inclusive of input and comment from clients, staff, the bar, the judiciary and other community stakeholders;
- A comprehensive strategic planning process that considers the needs of the service area, and sets a proactive and positive course for the program's future;
- The hiring of additional advocacy and intake staff with bilingual ability in Spanish;
- A comprehensive evaluation of the effectiveness of the program's intake system;
- The allocation of resources so that offices are physically structured so as to ensure client confidentiality;
- The review and reorganization of the program's current legal work management manual;
- The appointment of a directing attorney for each individual office so that the executive director and the director of litigation and training can give attention to the critical work they perform for the program;
- Further development and improvement of its PAI program to provide additional and varied options for participation;
- The increased and focused engagement of the board of directors in the governance of the organization;
- An audit of LSEM's articles of incorporation and other governance documents to ensure that they reflect appropriate structure and a clear, accurate description of non-profit governance;
- The development of a program-wide leadership development initiative to ensure continuity of vision for the program and to enhance staff morale;

- More effective program-wide communications and engagement;
- A continued commitment to creative resource development tied to the program's mission and the organization's shared vision; and
- The critical evaluation and expansion of the use of technology in a way that enhances the program's ability to expand client access to services, and broaden the program's impact in the community.

Changes and improvements in these areas will be critical in propelling LSEM forward in its quest to become a premier law firm.

FINDINGS AND RECOMMENDATIONS

PERFORMANCE AREA ONE. ***Effectiveness in identifying the most pressing civil legal needs of low-income people in the service area and targeting resources to address those needs.***

Criterion 1. Periodic comprehensive assessment and ongoing consideration of legal needs.
Criterion 2. Setting goals and objectives, developing strategies and allocating resources.

Finding 1: The program is planning a comprehensive assessment of the critical legal needs of the low income population in the service area.

The last comprehensive legal needs assessment and adoption of priorities was conducted by the program in 2004. Since then, LSEM's priorities have been reviewed and approved annually by its board of directors. The program reports that a new comprehensive assessment process will begin shortly. As was the case the 2004 process, the program has contracted with two professors from the University of Michigan to conduct the current assessment. The program anticipates that the current assessment will be completed by September 2011. In describing its previous legal needs assessment, the program indicated that various constituencies were surveyed and that focus groups, consisting of low income persons within the service area, were consulted. Other than the survey process, the program did not indicate any other processes that provided staff, community organizations, the bar or judiciary with further input in the legal needs assessment.

Finding 2: The program's priorities are broad in scope.

LSEM reports that its program's priorities are deliberately broad in scope in order to provide flexibility in making case acceptance decisions. The program has no formal written case acceptance policies. It was also apparent to the visit team that the program's current priorities were closely tied to the specific goals and requirements of its current funding sources. LSEM has been creative in attempting to use diverse economic development and other funding opportunities to address client need where possible.

Finding 3: LSEM has not engaged in thoughtful strategic planning.

In response to LSC's request for a copy of its strategic plan, the program submitted a statement espousing a theory regarding strategic planning. The records provided and discussions held with program management indicated that the program does not engage in a thoughtful process with its board, program management and staff to do strategic planning. LSEM contends that it is guided by the conception that a strategic plan is a living document. Under this view of a strategic plan, LSEM concludes that the legal needs of its service cannot be prioritized in any meaningful way because the "need for legal services to poor people is almost limitless." It is exactly because the need for legal services is almost limitless that real strategic planning is needed. While the program does set goals regarding the number and types of services it will provide from year to year as required by LSC's grants competition, there is no overall thoughtful strategic planning for the future of the program.

Recommendations:

I.1.1[3]. ***LSEM should conduct a thoughtful comprehensive legal needs assessment as outlined and directed by LSC regulations. The program must be careful to include direct input from its board of directors, its staff, its clients, the judiciary, the bar, community organizations, and other community stakeholders.***

I.1.2. ***LSC recommends that at the conclusion of the needs assessment process, and the identification of the most pressing needs, the program should develop within each broad problem area a set of priorities with specific goals and objectives to meet the identified needs.***

I.2.1. ***LSC recommends that LSEM shape and follow a more definitive set of case acceptance policies in order to guard its practice from mission drift.***

I.3.1. ***LSC recommends that the program's board engage in, and lead a formal strategic planning process that is inclusive of input from board members, program management, program staff, clients, the judiciary, the bar, community agencies and other strategic stakeholders in the service area and state. The LSEM board and leadership should obtain pre-planning training and knowledge that will assist them in carrying out the work of formal strategic planning to map out the direction of the program.***

Criterion 3. Implementation.
Criterion 4. Evaluation and adjustment.

Finding 4: The program has a system for ongoing evaluation of the effectiveness of its delivery strategies but it is not used as well as it could be.

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[3] Recommendations are numbered as follows: The Roman Numeral references the Performance Area followed by the finding number and lastly by the recommendation number that pertains to the finding.

In preparation for the on-site visit, LSEM submitted to LSC a document which provides an overview of its position with regard to ongoing evaluation of the effectiveness of the program. The document, called "Legal Services of Eastern Michigan Evaluation and Effectiveness," describes the processes used by the program to perform internal evaluations. Some of these, as noted in the document, are driven by the requirements of various funders in several areas of the program's practice. Generally, the program uses data from its case management system which tracks not only the types and disposition of cases, but also tracks the clients' benefits derived from the program's representation. Additionally, the program uses pre and post tests during community legal education events which are used to evaluate the knowledge gained by participants. Program advocates also provide feedback and information to the program about emerging issues and reactions from clients about program services. Despite these written procedures, it was unclear how the data gathered during the program's various informal evaluation processes is analyzed. Moreover, there was no formal process described for reporting the evaluation findings to the board, staff or community. Additionally, some community organizations noted that they would appreciate the opportunity to provide the program with input regarding the effectiveness of its delivery system.

PERFORMANCE AREA TWO. ***Effectiveness in engaging and serving the low-income population throughout the service area.***

Criterion 1. Dignity and sensitivity.

Finding 5: LSEM program offices were professional in appearance.

The LSC team visited all four LSEM offices. Each office was clean and professional in appearance, with well-kept public reception areas. Each reception area provided pamphlets and general information for clients and visitors. All program offices were handicapped accessible; however the Saginaw office's women's bathroom was not. Additionally, some offices did not provide the degree of confidentiality commensurate with a law office environment. The team observed a general lack of privacy for intake applicants, particularly in the Flint office. There applicants must speak with the receptionist at the counter/desk in the lobby of the office. The area is open, which is not conducive to protecting the privacy of clients, each of whom must answer personal questions to qualify for program services. Additionally, clients are forced to describe their legal issues in the openness of the lobby, sometimes within earshot of other clients and visitors. A similar lack of client privacy also exists in the Saginaw and Port Huron offices.

Recommendations:

II.5.1. ***LSEM should immediately address the issues regarding the lack of confidential interview areas that plague its reception and intake procedures. LSEM should ensure that each of its offices provides a private and confidential area for applicants or clients to discuss their intake/cases with the designated LSEM staff.***

II.5.2. ***LSEM should ensure that its facilities, including bathrooms, are totally accessible to clients.***

Criterion 2. Engagement with the low-income population.

Finding 6: Generally, LSEM is regarded highly by the client community it serves.

Against the backdrop of a battered economy, high unemployment rates and other related problems affecting clients in the service area, the program's staff has attempted, with some degree of success, to represent eligible clients and generally connect with the client community. Given the economic challenges in the area, including the financial challenges of county and city governments, the high rate of layoffs in the private and public sector, there is a growing population of new poor in the service area. Clients and the staff of community organizations clearly applauded the effort and commitment of LSEM advocates. During interviews with community representatives, it was noted that the program is generally responsive to the client community despite its funding constraints. Additionally, LSEM regularly gauges client satisfaction with PAI cases using client satisfaction surveys. These are reviewed and monitored, and the results are compiled and studied by the program to ensure that clients are satisfied with the services received. However, the program does not survey client satisfaction in cases closed or services provided by staff.

Recommendation:

II.6.1. LSEM should ensure that the program measures client satisfaction with services provided by program advocates.

Finding 7: LSEM staff places a high value on its engagement and relationship with the client community.

It is clear that LSEM's staff is committed to the communities it serves. This is demonstrated by its innovative and client-centered approach to advocacy, along with its outreach efforts in the community. The program conducts outreach in its service area through community legal education sessions at senior centers, outreach events, and presentations made to client based organizations. Moreover, many of LSEM's employees are engaged individually with statewide and local community work. For example, one attorney serves on the board of several local and regional domestic violence organizations. Another is actively engaged with local groups addressing issues of aging and physically challenged adults, including elder abuse. Other community involvement and advocacy activities include staff's engagement with Habitat for Humanity; youth organizations; civic and community advocacy groups; and, programs addressing homelessness, domestic violence, transitional housing, environmental issues. Based on interviews conducted with members of community and client-based organizations, the visit team concluded that program is well known and respected among the low income population and by its major partners throughout the service area.

Finding 8: There was little evidence of extensive outreach to persons with limited English.

The visit team did not see evidence of ongoing proactive outreach to or partnerships with community groups representing clients with limited English proficiency. While LSEM provides services to eligible clients in its priority areas, we saw no evidence of the program exploring issues facing clients with limited English proficiency, nor did we review any formal or strategic plans for outreach to these segments of the client population with goals and objectives that address the elimination of any perceived or real access barriers. The visit team believes that this is a missing, critical component of the program's work in the area of outreach.

Further, there is a growing Latino population in various parts of the service area. The program only employs two bilingual staff, an attorney fluent in Japanese and a secretary, located in the program's Saginaw office, fluent in Spanish. The program does have a subscription to *Language Line*; however, interviews revealed that it is seldom used because staff does not have much interaction with clients with limited English proficiency.

Recommendation:

II.8.1. LSC recommends that either separate from or as a part of its civil legal needs assessment process and/or its strategic planning initiative, LSEM should:

- ***specifically explore and assess the legal needs of the population with limited English proficiency in its service area;***
- ***partner with organizations and agencies serving these populations to address the needs that fall within the program's scope of priorities; and***
- ***give priority to hiring more staff with bilingual or multilingual capability as funding permits.***

Criterion 3. Access and utilization by the low-income population.

Finding 9: The program's intake system provides adequate access to program services.

The program provides access to telephone intake services via a "single point of entry" toll free number which identifies the county where the call originates, and routes it to the LSEM office assigned to provide services in that county. Clients may also access intake services by visiting the LSEM office nearest them. Intake services are available to applicants Monday through Friday from 9:00 a.m. to 5:00 p.m., with extended hours on Mondays until 7:00 p.m. in order to accommodate the needs of applicants who may be employed.[4]

In each office, a secretary, who has other duties, is responsible for the initial screening and handling of all intake calls. The level of intake traffic varies from office to office. While most of the program's intake is handled by phone, the Flint office experiences a higher volume of walk in traffic. The team noted that this practice presents a problem for the Flint office. Intake in the Flint office is primarily handled by the receptionist who must greet visitors, answer the phones and perform intake responsibilities, supported by one legal secretary. One visit team member observed that these competing tasks assigned to the Flint receptionist produced several other critical issues which the program needs to address very quickly. The first is the lack of privacy for intake applicants which are discussed above. Secondly, the team was struck by the competing tasks assigned to the Flint receptionist who, along with the responsibility of telephone

[4] The Flint office was the only LSEM office with extended hours. Staff reported approximately two to three calls received on average during these hours, and no walk-ins.

and walk-in intake traffic, is also required to answer the program's main telephone line to the Flint office (this includes telephone calls for the program's administrative offices) and meet and greet other walk-in clients and program visitors. These are competing tasks which can negatively impact the receptionist's ability to perform them professionally and with timeliness required. The visit team also noted that there were some offices where the volume of intake was such that legal secretaries were having difficulty balancing their other duties. In offices with an intake secretary and a legal secretary, a schedule is used to provide intake coverage at all times. In some offices when the volume of telephone intake and walk-in intake is heavy, it has been necessary to have the support of both of the secretarial staff persons, and in some cases, paralegals and other staff members have assisted. While each office addresses the competing needs of legal secretarial support and intake services differently, the continuing strain of competing priorities is having a direct impact on staff morale.

LSEM uses a computerized case management system, *PIKA*, to compile and manage its client and case data. Additionally, the program has an extensive manual that guides its intake process. It appears that intake procedures are consistently applied throughout the program. LSEM intake staff has no regular meetings across office lines to share best practices or to develop or refine strategies or procedures for improving intake and client access to services.

Recommendation:

II.9.1. LSC recommends that LSEM conduct a comprehensive assessment of the effectiveness of its intake system. Such an assessment should be conducted by a committee of management and staff members who conduct intake, client board and community representatives. Based on the findings of its evaluation, the program should consider:

- ***The establishment of coordinated intake across office lines through the expanded use of its technology;***
- ***The designation of a discrete intake team, staffed by persons specifically assigned to manage and maintain the program's intake services under the supervision of a program-wide managing attorney;***
- ***The continued practice of extended intake hours; and***
- ***The employment of Spanish speaking intake staff in the near future.***

PERFORMANCE AREA THREE. Effectiveness of legal representation and other program activities intended to benefit the low income population in the service area.

Criterion 1. Legal representation

Finding 10: LSEM has the capacity to provide quality legal services to clients in its service area.

LSEM has assembled a staff of strong advocates who are committed to the delivery of quality legal services to eligible clients. Twelve of the program's eighteen attorneys have ten or more years of practice experience, and eight of the twelve have more than twenty. Staff attorneys' total practice experience averages approximately sixteen years. The program also employs a strong corps of administrative and support staff, most of who have been with the program for more than five years. As mentioned previously, some community advocates expressed concern that the program employs no attorneys bilingual in Spanish.

Overall, the program's legal work is good. A review of writing samples submitted in advance to the visit team reflected a wide range of substantive legal areas, and revealed varying levels of written legal advocacy. Judges and several community advocates were highly complimentary of the legal expertise demonstrated by the advocacy staff.

LSEM has a written legal work manual which was last updated in February 2003. The manual is divided into four major sections: client intake, case handling, minimum practice standards, and advocate skills. Among other things, LSEM's legal work management manual provides a brief checklist for the initial substantive interview; establishes mandatory group case acceptance standards; contains instructions for case opening, standards for case file maintenance, ongoing client contact and communication; and provides policies on co-counseling arrangements and caseload levels. Although most advocate caseloads were within the scope of the guidelines provided by the manual, there were a number of exceptions that need to be addressed by the appropriate supervisors.

The minimum practice standard section of the manual is a misnomer. It addresses two broad areas—general office conduct and the program's personnel policies. It does not address the full range of generally recognized legal practice standards, which include, among other things, case planning and strategies, legal memorandum and brief writing, formal and informal discovery, motions practice, trial and administrative hearing preparation and presentation, preservation of trial and administration records for appeal or appellate practice. Additionally the legal work manual describes a legal practice that is organized into substantive law units. The team found that while this organization was described in the manual, it was not in practice in the program.

The program's legal work manual states that the group case acceptance process "will encourage the use of rational, uniform standards for case acceptance and minimize arbitrary decisions regarding case acceptance." However, the manual does not describe any standards for accepting a group case. Further, the program lacks written case acceptance standards for accepting individual cases. This lack of written case acceptance standards for both group and individual clients has resulted in inconsistent case acceptance decisions. Staff's reliance on their memory of prior practices can sometimes be faulty and lead to inconsistent decisions. Further, cases are often accepted based upon the opinions of the directing attorney or the executive director.

Along with its basic poverty law practice, LSEM operates a Fair Housing Program funded by a grant the U. S. Department of Housing and Urban Development. The program also operates a Violence Against Women Act (VAWA) program funded primarily by a grant from the U. S. Department of Justice.

At LSEM, legal work management and supervision are ultimately the responsibility of the program's executive director and director of litigation and training. The program-wide director of litigation and training is located in the Flint office, with the day to day functions of legal work management being delegated to each office's directing attorney. In the Flint office, however, the director of litigation and training, an extremely capable and well respected attorney, fulfills the role of local office directing attorney. This seriously limits her time and ability to function at full capacity in her program-wide litigation director responsibilities. Although the Saginaw office is staffed with a highly experienced attorney, it is supervised by the directing attorney from the Midland office. Additionally, LSEM's executive director also serves as the directing attorney for the Port Huron office. While this system may address the program's economic constraints, it does not meet the competing challenges of comprehensively supervising and mentoring advocates, while planning, developing and directing the program's litigation in a way that is strategic. Additionally, while it is important to stay connected to the program's legal practice, the executive director's time would more appropriately be spent in strategically planning and executing solutions to the program's current funding challenges.

In each office, along with other managerial tasks, the directing attorney is responsible for ensuring that cases are assigned to advocates based on a number of variables, including the expertise of the advocate, the complexity of the case, and the advocate's case load. The team learned that even though case file reviews, as outlined in the legal work management manual are not being regularly performed, legal work supervisors generally provide good informal guidance and feedback on issues of legal representation.

Recommendations:

III.10.1. ***LSC recommends that at its earliest opportunity, LSEM should hire an attorney bilingual in Spanish.***

III.10.2. ***LSEM should review and update its legal work management manual to reflect current legal work management functions and clearly defines the program's standards of legal practice.***

III.10.3. ***LSEM should designate a legal work supervisor housed in each office, and ensure that the director of litigation is provided sufficient time to coordinate and assist in the development of substantive litigation, special projects and in inter-program and intra-unit collaborations.***

III.10.4. ***LSC recommends that supervisors provide a periodic thorough review of open case files of each advocate. This should be done at least twice a year for experienced advocates, and more frequently for newer advocates.***

III.10.5. ***LSC recommends that supervisors ensure that case loads are within acceptable limits as outlined by LSEM's legal work management manual.***

Finding 11: LSEM demonstrates a commitment to training new attorneys.

The program has recruited a number of newer attorneys, all of whom are provided thorough orientation and appropriate mentoring and supervision upon joining the staff. Generally, the litigation director manages LSEM's training. All new attorneys are required to attend the state's Basic Legal Advocacy Substantive Training program, and most advocates attend the Michigan statewide "Road Show" sponsored by the Michigan Poverty Law Program (MPLP). Each staff member receives a $350.00 professional development allowance which can be used for training or bar dues. General decisions regarding training are made based on the availability of resources; the particular needs and experience level of the staff member; and grant or contract requirements. Some of the program's advocates are engaged as trainers for MPLP, and are often called upon to train other community organizations in the service area.

Finding 12: The program's case closing statistics have remained fairly consistent over the years, are above the national medians, and reflect the program's commitment to its priorities.

The program's closed case statistics have remained fairly consistent over the last four years and have been consistently higher than the national medians. In 2009 the program closed a total of 5,891 cases as compared to 5,536 in 2008. The number of cases closed in 2009 per 10,000 poverty population was 397.7 compared to a national median of 265. Of the total cases closed in 2009, 14.7% were extended service cases, lower than the national median of 21.1%. However, the program's number of cases closed per 10,000 poor persons (58.6) was close to the national median of extended cases closed per 10,000 poor people (57).

A number of LSEM's advocates expressed the desire to do more contested litigation. Limited service cases were 85.3% of the total cases closed, slightly higher than the national median which was 78.9%. In 2009, LSEM provided services in each of its priorities with the highest percentages of closed cases in the areas of family cases (35.5%); housing cases (31.6%); consumer cases (11.4%), and income maintenance issues (9.3%).

<u>Criterion 2. Private attorney involvement (PAI).</u>

Finding 13: The program attempts to involve private attorneys in the program's delivery of legal services.

LSEM endeavors to create opportunities for the involvement of private attorneys in the delivery of legal services to eligible clients throughout most of its service area. The program employs two pro bono coordinators[5] who work together to provide coordination throughout the fourteen-county service area. The program has and follows consistent procedures for placing and monitoring the referral of pro bono cases. The program conducts recruitment activities at bar association meetings. However, there appears to be a need to strengthen recruitment efforts in the Port Huron office as PAI activities are limited in that office's service area. Volunteer attorneys have opted to accept individual cases, co-counsel with staff attorneys, volunteer for the "attorney of the day" program, or participate by presenting legal education at pro se clinics on

[5] One pro bono coordinator is based in the Flint office and is assigned responsibility for Genesee, Lapeer, St. Clair, Tuscola, and Sanilac Counties. The other coordinator, who works in the Saginaw office, has responsibility for Saginaw, Midland, Arenac, Bay, Clare, Gladwin, Gratiot, Isabella, and Huron Counties. Each is supervised by the directing attorney of their respective office.

various subjects. LSEM does not provide pro bono recognitions. Recognition of pro bono volunteers is done by various bar associations throughout the service area.

Recommendation:

III.13.1. LSC recommends that LSEM's pro bono initiative be expanded and diversified to include more varied opportunities for attorney recruitment, participation and recognition, taking special care to include the entire service area.

PERFORMANCE AREA FOUR. Effectiveness of governance, leadership and administration.

Criterion 1. Board governance.

Finding 14: LSEM's board of directors is not sufficiently engaged to provide effective oversight and program governance.

LSEM is governed by a fifteen member board of directors. The bylaws of the organization are cursory and do not provide for the position of the executive director or second vice president. They do provide for regular bi-monthly board meetings scheduled for the months of January, March, May, July, September, and November of each year.

In preparation for this visit, LSC requested copies of minutes of the meetings of LSEM's board of directors and all its committees for the period of January 2008 through March 2010. These minutes of the board meetings showed that the board discusses and reviews financial statements; staff and funding updates; receives the president's report; the executive director's report, a substantive or litigation report and entertains discussion of any previous or new agenda items. However, the LSEM board and committee minutes are cursory and are unlikely to stand the test of time. The minutes do not sufficiently convey what care and considerations went into the board's decisions to act. The visit team found the minutes difficult to use as a means to provide the historical perspective of the program. Further examination of the minutes revealed that attendance and participation in board meetings is sporadic at best, and has led to the cancellation of meetings, despite the availability of participation by teleconferencing.

The board usually reviews financial reports approximately two months after the close of the reporting period. For example, financial statements for October and November, 2007 were reviewed in the January, 2008 board meeting. No other review of these particular statements was noted in the minutes of an executive or finance committee meeting. In one instance, at a meeting of the executive committee on September 18, 2008, the committee reviewed financial reports for February, March, April, May, June, July and August, 2008. While the board has appointed an audit/finance committee, the visit team learned that the committee does not meet on a regular basis, nor do the bylaws provide a clear job description outlining the committee's duties or meeting requirement.[6] We were informed that the audit/finance committee only meets to deal

[6] During board member interviews, the visit team inquired and learned that the audit/finance committee usually meets only when required by the

with the program's annual audit. The March 2008 and April 2009 board meeting minutes indicate review of the program's audit, and no mention is made of a recommendation or review by the committee. Likewise, there was no indication that the audit/finance committee reviewed management's proposed budget prior to its presentation for approval by the board.

The organization's bylaws also provide for the existence of an executive committee, comprised of the elected officers of the board. This committee is given authority to act in place of the board in managing certain types of issues relating to the business affairs of the organization between board meetings. The bylaws do not stipulate any meeting requirements for the executive committee. LSEM also provided copies of records of executive committee meetings which indicate that between January 2008 and March 2010, the committee met only four times: September 17, 2008, January 21, 2009, September 16, 2009 and March 17, 2010. While LSEM has a relatively small board, the inconsistency of its governance practices appears to undermine its accountability as a board. Many small non-profit boards choose to operate with a minimum number of committees. When a board has few active committees, the entire board must be fully engaged and take an active role in all policy decisions to ensure appropriate oversight of the organization. Without this level of scrutiny, a board is not fulfilling its fiduciary responsibilities to the organization. If, however, LSEM chooses to use a committee system to fulfill its oversight responsibilities, then those committees should be active, consistent and accountable to the full board.

The visit team inquired about the board's process for evaluating the executive director. The chair for that committee noted that it was an informal process that included the completion of forms by the committee and discussion with the full board. It did not include the participation of program staff, the judiciary, the bar, legal services peer leadership or other community stakeholders. The process did not involve input from other board members except during the open board discussion on the contents of its report.

Recommendations:

IV.14.1. ***LSEM's board should undertake a thorough review of the organization's current bylaws to adjust and amend them so as to fully provide for an appropriate non-profit management structure, that includes all relevant officers; and clear committee structure and responsibilities.***

IV.14.2. ***LSC recommends that LSEM's board take a more active and affirmative leadership role in the oversight and governance of the program.***

IV.14.3. ***The program should plan and complete a comprehensive evaluation of the executive director that includes confidential input from LSEM's board, management team, staff,, the judiciary, the bar and community stakeholders.***

board. Prior to the visit, LSC requested copies of minutes of the finance committee meetings from LSEM. The program did not submit any finance committee minutes prior to the visit nor while the team was on site.

Finding 15: LSEM board members receive comprehensive board orientation.

LSEM's new board members receive comprehensive board orientation. Among other things, the orientation includes a review of the organization's Articles of Incorporation, bylaws, LSEM board structure and committees, LSC regulations, LSC Performance Criteria, and the ABA Standards for the Provision of Civil Legal Aid on their role and responsibilities as board members. Board members do not regularly attend trainings sponsored by national organizations, but do participate in program-wide meetings, and state sponsored trainings.

Finding 16: LSEM's management and board failed to comply with critical LSC grant requirements on several occasions.

Throughout the visit the team attempted to determine the level of the board's engagement in critical areas of overall program oversight. In particular, the team inquired concerning the extent to which board members had knowledge of a 2006 defamation claim against the program and the executive director by a defendant in one of the program's fair housing cases filed by the executive director in which the program was the fair housing plaintiff. The claim was settled on or about March 2007. LSEM voluntarily dismissed the fair housing suit and paid the defendant a settlement of approximately $5,000. During his interview, the board president could not immediately recall any of the details of the claim. Other board members could not recall the claim at all.

In its Request for Proposals in 2008, LSC instructed all applicants in the competitive grant process to provide a "List of professional disciplinary complaints, criminal convictions, civil contempt, and malpractice lawsuits and/or claims made against the Applicant or any of its current attorneys during the past thirty-six months. If the Applicant has not had any, please state 'There have been no disciplinary complaints, criminal convictions, civil contempt, and malpractice lawsuits and/or claims made again the Applicant or any of its current attorneys during the past thirty-six months.'" Despite this instruction, LSEM failed to disclose the defamation claim and settlement in its 2008 LSC competitive grant application narrative filed in June 2007. The same request was made in the LSC Request for Proposal in 2011. The program had another opportunity to disclose this information in its 2011 grant submission, but has failed to do so.

Section 17 of the LSC Grant Assurances for calendar year 2007 funding provides that grantees "will notify LSC's Office of Compliance and Enforcement within twenty (20) calendar days of any of the following: a monetary judgment, sanction or penalty entered against the program for matters such as Rule 11 sanctions; malpractice judgments; adverse equal employment findings; IRS penalties; penalties arising out of the American with Disabilities Act, voluntary settlement of any similar action or matter; or any other matter which may have a substantial impact on its delivery of services. It will also notify LSC's Office of Compliance and Enforcement within twenty (20) calendar days of any force majeure event that has a substantial impact on its delivery of services." Following the defamation claim settlement, the LSEM management and board failed to comply with Section 17 of the 2007 LSC Grant Assurances.

As a condition for receiving LSC funds in 2010, LSEM's board chair and executive director agreed to and signed the LSC 2010 Special Grant Conditions for Governing/Policy Body Composition Certification.[7] Each Recipient must indicate on the certification form whether it is or is not in compliance with 45 C.F.R. Part 1607. Certifications three through five provide direction to all LSC recipients with regard to the process required by LSC for curing the deficiency in board membership. The certification requires that programs with board membership deficiencies take action to cure the deficiency by March 1, 2010 and report to LSC by March 15, 2010, and thereafter in sixty day increments until the composition of the governing body is in compliance. When the board vacancy remains unfilled, the program must state the reason(s) it has not yet been able to fill the vacancy, the efforts made to fill the vacancies, and the expected dates for any forthcoming appointments. LSEM has not complied with this special grant condition.

In fact, at the time of this visit, there were several board member vacancies, an issue that was discussed at the April and May 2009 board meetings. New appointing authorities for client-eligible board members were considered in the November 2009 board meeting, but nothing further is mentioned on the matter in the minutes of the next board meeting, January 2010, when board elections were required by the bylaws to be conducted.

Recommendation:

IV.16.1. The program should immediately comply with LSC special grant conditions related to board governance and board member vacancies.

<u>Criteria 2 and 3. Leadership, management and administration.</u>

Finding 17: The program's commitment to harnessing leadership development, innovation and creativity is critical to its future effectiveness.

LSEM has a rich history of innovation and creativity. The program has historically been at the forefront of leadership in addressing the needs of its clients through systemic advocacy and through creative programs of economic development. From its work with the Friend of the Court Project that assists persons owing large amounts of child support; its outreach partnerships in the community; its work with the Center for Civil Justice; to its commitment to statewide partnership and advocacy, LSEM has historically demonstrated strong leadership and commitment in the equal justice community. Quite frequently, this leadership has come from the program's executive director, a lawyer with considerable experience and influence in the state and local legal community, and from the program's middle managers.

LSEM, however, has no formal plan to re-energize and re-tool its staff for another era in legal services. The program has no formal leadership development program for its staff that ensures program continuity and viability, whether at the executive, middle management or staff level. There are informal random opportunities provided because of staff's involvement in various projects, but there is no intentional approach for the development of a new generation of

[7] This certification refers to provisions of 45 C.F.R. Part 1607, and gives each recipient direction with regard to the process for reporting governing body board vacancies to LSC.

legal services leaders within the program. Additionally, the visit team learned from the executive director that the program prefers not to have a formal leadership succession plan. The team saw evidence of a great deal of creativity, innovation, and leadership potential among the attorneys, support personnel and administrative staff, some of which is not being sufficiently harnessed for the good of the program.

LSEM could do much to build on its rich history and ensure an equally rich future by providing formal leadership training and mentoring program for its staff, one that promotes and emphasizes professional and leadership development, and preparation for management and leadership at all levels of the program's operations.

Recommendation:

IV.17.1. LSC recommends that the program explore the development and implementation of a comprehensive leadership succession plan for all levels of program and advocacy management.

Finding 18: The program is administered by a well-staffed management team.

The executive director has assembled a strong group of managers to administer the responsibility of the day to day operations of the program. He is assisted in these responsibilities by a deputy director with significant program operations experience; a director of litigation and training with considerable experience who also serves as directing attorney for the Flint office; and the director of development. This management tier is supported by a controller, a bookkeeper and an IT coordinator. The deputy director, director of litigation and training and the director of development report directly to the executive director while the other positions are supervised directly by the deputy director. The directing attorney of the Midland and Saginaw offices is also a member of LSEM's management team. This group works cohesively, and meets regularly to address the program's management agenda.

It is important to note here that the team commends LSEM's executive director for his outstanding accomplishments. His involvement in day to day program operations and the program's legal work is admirable. However, his level of involvement in case acceptance meetings can have the impact of stifling the leadership development and management acumen of middle managers, and can have a chilling effect on open discussions by staff.

Recommendation:

IV.18.1. LSC recommends that with the program's current resource challenges, the program would be better served with the executive director's increased involvement in strategic planning and resource development, leaving the day to day management of legal work to the supervisory advocacy staff.

Finding 19: The program's integration and use of technology is currently under review by its management.

LSEM has an assigned IT coordinator who functions under the supervision of the deputy director and executive director. Generally, plans for expansion of the program's technology infrastructure begin with them. More particularly, the deputy director is responsible for technology planning and implementation, all software execution, including the program's case management system, *PIKA*. The IT coordinator is responsible for the program's computer hardware systems. The program's telephone systems do not provide for the integration necessary to enhance intake and other office functions. Further, there is no voice mail system available in any of the program's branch offices. During the visit, LSEM management acknowledged a need to review its current systems in order to ensure that the technology provides staff with the support it needs, and to ensure that its systems provide the integration needed for effective management of intake and other tasks. While technology planning is the direct responsibility of the deputy director, the program is recruiting a technology planning team with membership from attorney, intake and administrative staff. This team will have the responsibility to design and implement a technology plan that addresses the specific needs of the program using LSC's *Technologies That Should Be in Place in a Legal Aid Office Today*.

Recommendation:
IV.19.1. ***LSC recommends that LSEM engage its newly developed program-wide technology team in a comprehensive review of its technology needs, including its telephone systems, computer systems, copy machines and its website.***

Criterion 4. Financial administration.

Finding 20: LSEM employs experienced staff to manage the program's financial operations.

Responsibility for the program's fiscal management is delegated to its deputy director, controller and bookkeeper. The day to day finance operations are the responsibility of the controller who has a degree in accounting, has been with the program for five years, and has significant experience in non-profit accounting. Previously she worked with an accounting firm that provided auditing services to LSC recipients, and came to LSEM with a wealth of knowledge with regard to LSC regulatory compliance. The bookkeeper has been employed by LSEM since 2008. Her previous employment provided her extensive experience in accounts payable. The team noted that the program maintains an accounting manual to guide its operations, and that the manual was last updated in 2009.

LSEM's annual budget process begins with projections by the controller. The process includes review and approval of the proposed budget by the executive director before it is presented to the board of directors. There was no evidence that the proposed budget is reviewed by the board's audit/finance committee prior to its presentation to the board, nor did the audit/finance committee chair acknowledge a role in the review and selection of the program's auditor.

Recommendations:
IV.20.1. ***LSC recommends that LSEM ensure that the board's audit/finance committee***

provide appropriate review and oversight of the program's budget, regular review of the program's monthly financial statements, and participation in the selection and retention of all auditors in preparation for annual audit reviews.

IV.20.2. LSEM should ensure that its accounting manual is updated to reflect the provisions of the 2010 LSC Accounting Guide.

Criterion 6. Internal communication.

Finding 21: The program has not promoted effective communications.

LSC visit teams routinely survey program staff in preparation for their on-site reviews. The survey asks program staff to comment on the strengths and weaknesses of the program. In the case of LSEM, staff generally commented on the strength of the organization, but held that the program suffers from ineffective communications. This was confirmed by the team in its review on-site.

LSEM's staff is unionized. The visit team believes that the program has been negatively impacted by adversarial tension between labor and management impeding effective decision-making by management. The program has not yet been successful in negating the perception of an "us—them" approach to decision-making reminiscent of unionized programs that have not achieved balance with regard to management and staff relations.

The program has not taken advantage of the geographic proximity of its offices by holding regular program-wide meetings to share information and training with all staff on a regular basis. Thus, to a large degree, staff knows each other by name, but has not yet developed sound working relationships which are critical to team work.

Recommendation:

IV.21.1. LSC recommends that the program take affirmative steps to enhance internal communications with the use of electronic newsletters, program-wide and unit meetings, and any other modes of communication that will promote healthy staff morale.

Criterion 7. General resource development and maintenance.

Finding 22: The program seeks to expand and strengthen its financial resources.

The program has been successful in recruiting a director of development, who, along with the executive director, seeks to expand the program's resources and build its capacity. The majority of its funding (56%) is received from LSC. Its next largest contributor is the Center for Civil Justice (CCJ) at approximately 11%. LSEM's other general support includes federal grants from HUD and VAWA along with a group of smaller grants from regional and state entities. The program continues to explore funding opportunities and ways to leverage financial resources. The program reports that it is frugal in its spending, but despite these efforts the program is facing serious financial challenges as its funding sources diminish and client needs increase.

Criteria 8 and 9. Coherent and comprehensive delivery structure; participation in an integrated legal services delivery system.

Finding 23: The program engages in regional and statewide collaborations.

LSEM has been somewhat successful in its collaboration within its service area and in statewide initiatives. As evidenced by the comments from community partners such as CCJ, senior citizen advocates, court personnel, the judiciary and the bar, LSEM is well respected and has a reputation of extending itself to ensure that client needs are met. Repeatedly, community organizations as well as legal services providers affirmed the good work of the individual staff attorneys on whom they have come to rely for legal expertise. The members of the management team are also actively engaged in statewide collaborations related to training, technology, and fundraising.

Despite its current level of interaction with collaborators, the visit team noted that there is little interaction between LSEM's Port Huron office and the Port Huron office of Lakeshore Legal Services except when they may be on opposing sides of a case. Considering the small size of the LSEM Port Huron office, some sort of collaboration or partnership with the Lakeshore office would inure to the benefit of their shared client base. Additionally, while there was some collaboration noted, the team did not see evidence of extensive collaboration with CCJ, despite the fact that its offices are located in two of the buildings occupied by LSEM.