



FINAL REPORT
LEGAL SERVICES CORPORATION
Office of Compliance and Enforcement

South Jersey Legal Services, Inc.
Compliance Review
February 3-7, 2014

Recipient No. 331020

LSC Compliance Review Team

Joseph H. Green, Jr., LSC Program Counsel (Team Leader)
William Sulik, LSC Program Counsel
David de la Tour, LSC Program Counsel
Shay Bracey, LSC Fiscal Compliance Analyst
Kia Ashley, LSC Program Counsel
Kent Domogalla, Temporary Employee
Roscoe Starek, LSC Temporary Employee

I. EXECUTIVE SUMMARY

Finding 1: SJLS' automated case management system ("ACMS") is sufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded.

Finding 2: SJLS' intake procedures and case management system generally support compliance related requirements.

Finding 3: SJLS maintains the income eligibility documentation required by 45 CFR Part 1611, CSR Handbook (2008 Ed., as amended 2011), § 5.3, and applicable LSC instructions. However, a revision to its financial eligibility policy is warranted to demonstrate compliance with this regulation.

Finding 4: SJLS maintains asset eligibility documentation as required by 45 CFR §§ 1611.3(c) and (d) and CSR Handbook (2008 Ed., as amended 2011), § 5.4. However, a revision to its asset eligibility policy is warranted to demonstrate compliance with this regulation.

Finding 5: SJLS is in compliance with the requirements of 45 CFR Part 1626 (Restrictions on legal assistance to aliens). However, SJLS' written policy must be modified to comply with 45 CFR § 1626.12.

Finding 6: SJLS is in compliance with the retainer requirements of 45 CFR § 1611.9 (Retainer agreements).

Finding 7: Sample cases, interviews, and a review of SJLS' policies evidenced substantial compliance with the requirements of 45 CFR Part 1636 (Client identity and statement of facts). However, SJLS' written policy must be modified to comply with 45 CFR Part 1636.

Finding 8: Sampled cases indicated that SJLS is in compliance with the requirements of 45 CFR §§ 1620.3(a) and 1620.6 (Priorities in the use of resources). However, SJLS' written policy must be modified to comply with 45 CFR § 1620.4.

Finding 9: SJLS is in non-compliance with the requirements of the CSR Handbook (2008 Ed., as amended 2011), § 5.6 (Description of legal assistance provided) for the CIU cases. SJLS management took short-term corrective action to de-select those CIU cases that lacked evidence of legal assistance.

Finding 10: SJLS' application of the CSR case closure categories is generally consistent with Chapters VIII and IX of the CSR Handbook (2008 Ed., as amended 2011).

Finding 11: SJLS is in substantial compliance with the requirements of the CSR Handbook (2008 Ed., as amended 2011), § 3.3 (Timely closing and dormant cases). However, there were four (4) case files which were untimely closed.

Finding 12: SJLS is in compliance with the requirements of the CSR Handbook (2008 Ed., as amended 2011), § 3.2 regarding duplicate cases.

Finding 13: Review of the timekeeping records and interviews with full-time attorneys evidenced that SJLS is in compliance with the requirements of 45 CFR Part 1604 (Outside practice of law). However, SJLS' written policy must be modified to comply with 45 CFR § 1604.3.

Finding 14: A limited fiscal and sampled cases reviewed, as well as interviews with members of management and staff, evidenced compliance with the requirements of 45 CFR Part 1608 (Prohibited political activities).

Finding 15: Review of the recipient's sampled cases, as well as interviews with members of management and staff, evidenced compliance with the requirements of 45 CFR Part 1609 (Fee-generating cases), and no fee generating cases were noted. However, SJLS' written policy needs to be modified to comport with 45 CFR Part 1609.

Finding 16: A limited review of SJLS' accounting and financial records indicated compliance with 45 CFR Part 1610 in regard to the use of non-LSC funds, transfers of LSC funds and program integrity. SJLS is in non-compliance with 45 CFR § 1610.5 (Notification).

Finding 17: SJLS is in compliance with 45 CFR Part 1614 which is designed to ensure that recipients of LSC funds involve private attorneys in the delivery of legal assistance to eligible clients. SJLS has met their required 12.5 % PAI expenditures for the years 2011 and 2012. However, SJLS' process for accounting for PAI costs is undocumented and does not fully disclose the cost of the PAI program.

Finding 18: SJLS is in compliance with the requirements of 45 CFR Part 1627 which prohibits recipients from using LSC funds to pay membership fees or dues to any private or nonprofit organization and regulates the requirements for all subgrants. However, SJLS' written policy requires modification to fully comply with 45 CFR Part 1627.

Finding 19: Review of the recipient's policies, as well as interviews with members of management and staff, evidenced that SJLS is in compliance with 45 CFR Part 1635 (Timekeeping requirement).

Finding 20: Review of sampled cases, as well as interviews with members of management and staff, evidenced compliance with the requirements of former 45 CFR Part 1642 (Attorneys' fees).

Finding 21: Review of sampled cases, as well as interviews with members of management and staff, evidenced compliance with the requirements of 45 CFR Part 1612 (Restrictions on lobbying and certain other activities). However, SJLS' written policy requires modification to comply with 45 CFR § 1612.11.

Finding 22: Review of recipient's policies and sampled cases, as well as interviews with members of management and staff, evidenced that SJLS is in compliance with the requirements of 45 CFR Parts 1613 and 1615 (Restrictions on legal assistance with respect to criminal proceedings and actions collaterally attacking criminal convictions).

Finding 23: Review of the recipient's policies and sampled cases, as well as interviews with members of management and staff, evidenced that SJLS is in compliance with the requirements of 45 CFR Part 1617 (Class actions).

Finding 24: Review of sampled cases, as well as interviews with members of management and staff, evidenced that SJLS is in compliance with the requirements of 45 CFR Part 1632 (Redistricting).

Finding 25: Review of sampled cases, as well as interviews with members of management and staff, evidenced that SJLS is in compliance with the requirements of 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings).

Finding 26: Review of the recipient's policies and sampled cases, as well as interviews with members of management and staff, evidenced that SJLS is in compliance with the requirements of 45 CFR Part 1637 (Representation of prisoners).

Finding 27: Review of the recipient's policies and sampled cases, as well as interviews with members of management and staff, evidenced that SJLS is in compliance with the requirements of 45 CFR Part 1638 (Restriction on solicitation).

Finding 28: Review of the recipient's policies and sampled cases, as well as interviews with members of management and staff, evidenced that SJLS is in compliance with the requirements of 45 CFR Part 1643 (Restriction on assisted suicide, euthanasia, and mercy killing). However, SJLS must develop a written policy that comports with 45 CFR § 1643.5.

Finding 29: Review of sampled cases and interviews with members of management and staff, evidenced that SJLS is in compliance with the requirements of certain other LSC statutory prohibitions (42 USC 2996f § 1007 (a) (8) (Abortion), 42 USC 2996f § 1007 (a) (9) (School desegregation litigation), and 42 USC 2996f § 1007 (a) (10) (Military selective service act or desertion)).

Finding 30: Review of SJLS' policies evidenced non-compliance with the requirements of 45 CFR Part 1644. (Disclosure of case information) SJLS must develop a written policy that comports with 45 CFR Part 1644.

Finding 31: A limited review of SJLS' internal control policies and procedures evidenced general compliance with the elements as outlined in Chapter 3 - Internal Control/Fundamental Criteria of an Accounting and Financial Reporting System of the Accounting Guide for LSC Recipients (2010 Ed.). However, some internal control weaknesses were noted relative to SJLS' Accounting Manual, Bank Reconciliations, Travel Reimbursements, and Client Trust Accounts.

Finding 32: SJLS is in compliance with the Payroll Guidelines of the LSC Accounting Guide, as it maintains adequate supporting documentation of salary level, payments and corresponding reviews and approvals.

II. BACKGROUND OF REVIEW

On February 3-7, 2014, the Legal Services Corporation's ("LSC") Office of Compliance and Enforcement ("OCE") conducted an on-site Compliance Review at South Jersey Legal Services, Inc. ("SJLS"). The purpose of the visit was to assess the recipient's compliance with the LSC Act, regulations, and other applicable LSC guidance such as Program Letters, the Accounting Guide for LSC Recipients (2010 Ed.), and the Property Acquisition and Management Manual. The visit was conducted by a team of five (5) attorneys and two (2) fiscal compliance specialists. Five (5) members of the team were OCE staff members and two (2) members were temporary employees.

SJLS was created in 2003 as a result of the merger between Camden Regional Legal Services and Cape-Atlantic Legal Services. SJLS receives funds from federal, state, and local government sources, including the LSC, several county United Way agencies, and other public and private grantors.

With a current staff of 45, SJLS occupies offices in the seven (7) counties, with office locations in Camden (Main Office), Mount Holly, Vineland, Woodbury, Atlantic City, and Cape May Court House. This includes Cumberland, Atlantic, Salem, and Camden City, where 64.5% of the population live below 200% of the federal poverty level. Of the 1.8 million residents residing in the SJLS service area, 25% live below 200% of the federal poverty level.

In 2012, SJLS staff completed a total of 4,753 cases. Of those, 38% of SJLS' closed cases were housing matters, 23% income maintenance, 19% consumer cases, 9% family matters, with the balance ranging from employment matters to education cases to health law issues.

In 2013, SJLS staff completed a total of 3,336 cases. Of those, 42% of SJLS' closed cases were housing matters, 25% income maintenance, 14% consumer cases, 7% family matters, with the balance ranging from employment matters to education cases to health law issues.

In 2013, SJLS received \$1,208,483 in LSC Basic Field Grant funding; in 2012, SJLS received a total of \$1,259,683 in LSC Basic Field Grant funding; and in 2011, SJLS received \$1,476,072 in LSC Basic Grant funding. SJLS' anticipated LSC Basic Field Grant for 2014 is \$1,221,953. In 2014, SJLS also received \$111,317 in Migrant funding.

The on-site review was designed and executed to assess SJLS' compliance with basic client eligibility, intake, case management, regulatory and statutory requirements, and to ensure that SJLS correctly implemented the 2008 CSR Handbook, as amended in 2011. Specifically, the review team assessed SJLS for compliance with the regulatory requirements of: 45 CFR Part 1611 (Financial eligibility); 45 CFR Part 1626 (Restrictions on legal assistance to aliens); 45 CFR §§ 1620.4 and 1620.6 (Priorities in use of resources); 45 CFR § 1611.9 (Retainer agreements); 45 CFR Part 1636 (Client identity and statement of facts); 45 CFR Part 1604 (Outside practice of law); 45 CFR Part 1608 (Prohibited political activities); 45 CFR Part 1609 (Fee-generating cases); 45 CFR Part 1610 (Use of non-LSC funds, transfers of LSC funds,

program integrity); 45 CFR Part 1614 (Private attorney involvement);¹ 45 CFR Part 1627 (Subgrants and membership fees or dues); 45 CFR Part 1635 (Timekeeping requirement); former 45 CFR Part 1642 (Attorneys' fees);² 45 CFR Part 1630 (Cost standards and procedures); 45 CFR Part 1612 (Restrictions on lobbying and certain other activities); 45 CFR Parts 1613 and 1615 (Restrictions on legal assistance with respect to criminal proceedings and Restrictions on actions collaterally attacking criminal convictions); 45 CFR Part 1617 (Class actions); 45 CFR Part 1632 (Redistricting); 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings); 45 CFR Part 1637 (Representation of prisoners); 45 CFR Part 1638 (Restriction on solicitation); 45 CFR Part 1643 (Restriction on assisted suicide, euthanasia, or mercy killing); 42 USC 2996f § 1007 (Abortion, school desegregation litigation and military selective service act or desertion); and whether the program's policies and procedures compared favorably to the elements outlined in Chapter 3-Internal Control/Fundamental Criteria of an Accounting and Financial Reporting System of the Accounting Guide for LSC Recipients (2010 Ed.).

In preparation for the visit, by letter dated November 15, 2013, OCE requested that SJLS provide certain case lists. Case lists requested included all cases reported in its 2011 CSR data submission ("closed 2011 cases"), all cases reported in its 2012 CSR data submission ("closed 2012 cases"), all cases closed between January 1, 2013 and November 30, 2013 ("closed 2013 cases"), and all cases which remained open as of November 30, 2013 ("open cases"). OCE requested that two (2) sets of lists be compiled - one (1) for cases handled by SJLS staff and the other for cases handled through SJLS' PAI component. OCE requested that each list contain the client name, the file identification number, the name of the case handler assigned to the case, the opening and closing dates, the CSR case closure category assigned to the case, the funding code assigned to the case, and an indication of whether the case was handled by staff or by a private attorney pursuant to 45 CFR Part 1614. SJLS was advised that OCE would seek access to case information consistent with Section 509(h), Pub. L. 104-134, 110 Stat. 1321 (1996), LSC Grant Assurance Nos. 10, 11, and 12, and the LSC *Access to Records* protocol (January 5, 2004). OCE instructed SJLS to notify OCE promptly, in writing, if it believed that providing the requested material, in the specified format, would violate the attorney-client privilege or would be otherwise protected from disclosure.

On December 13, 2013, SJLS responded in writing and stated the following:

Under § 509, LSC has no authority to request data linking the client's name with the service rendered to the client and may not request information "subject to the attorney-client privilege." The requested information is confidential and is subject to the attorney-client privilege. SJLS obligations to its clients regarding disclosure of information are governed by the New Jersey Rules of Professional Conduct ("RPC") and the law pertaining to attorney-

¹ In addition, when reviewing files with pleadings and court decisions, compliance with other regulatory restrictions was reviewed as more fully reported *infra*.

² On December 16, 2009, the enforcement of this regulation was suspended and the regulation was later revoked during the LSC Board of Directors meeting on January 30, 2010. During the instant visit, LSC's review and enforcement of this regulation was therefore only for the period prior to December 16, 2009.

client privilege, N.J.S.A.2A:84A-20. RPC 1.6 prohibits the disclosure of certain information relating to the representation of a client and the New Jersey Supreme Court has held that a client's identity falls within the scope of prohibited disclosure.

SJLS proposed to protect the identity of its clients by using unique client identifiers (“UCI”) comprised of a five (5) digit number unique to each client served. The number would be generated by SJLS’ Automated Case Management System (“ACMS”), Legal Server Case Management Software. The software would create a different number for each client based solely on his/her social security number. SJLS also requested that client names be protected during the review thru the use of redaction mechanisms.

As discussed on December 17, 2013, the Executive Director of SJLS (“ED”) and Director of OCE agreed that the partial redaction would be accomplished by the intermediary holding a finger or fingers over the center of the signature, allowing the case reviewer to see one or more letters at the beginning and end of the name. This agreement was memorialized by an access letter dated the same day.

Thereafter, after being granted an extension of time to provide the requested information, until January 10, 2014, SJLS provided the materials in a timely manner. OCE made an effort to create a representative sample of cases that the team would review during the visit. OCE distributed the sample proportionately among open and closed cases. The sample consisted largely of randomly selected cases, but also included cases selected to test for compliance with those CSR instructions relative to timely case closings, ACMS data integrity, application of the CSR case closure categories, and duplicate reporting.

During the visit, SJLS cooperated fully and provided the requested materials. SJLS afforded access to information in the case files through staff intermediaries. SJLS maintained possession of the case files and disclosed financial eligibility information, problem code information, and information concerning the general nature of the legal assistance provided to the client pursuant to the OCE and SJLS agreement of December 17, 2013.

Pursuant to the access protocol, the team was not allowed to see full client names, including signatures on required file documents linked to client names. During the course of the review, the UCI could not be independently verified to the signature on the attestations and retainers. In other words, although the intermediaries revealed partial signatures on the attestations, retainers, and 45 CFR Part 1636 documentation, they could not be positively matched to the UCI. OCE has no reason to doubt that the files selected by OCE were the ones reviewed during the visit. Partial redactions of client signature names was accomplished by the intermediary blocking the signature line (with their finger) so that one could know that a signature was present, but not the name behind the signature. Further, at no time was the opportunity provided to know the signature name on an attestations, retainers, or client identity and statement of facts documents, or the name of the client for the case – meaning that no verification of whether the required document matched the client was possible. Likewise, for alien eligibility documentation, there was no client identity information provided and reviewers could only determine whether or not

alien documentation was either present or had been reviewed – and not the identity of the person on the documentation, nor whether those documents matched the client being represented.

Overall, the open cooperation exhibited by the various staff intermediaries gave the impression that only truthful information was being shared during case review. However, verification of the name-related compliance documentation nevertheless could not be conducted. As a result, the DR report cannot verify the findings in any area that requires client identity as part of a verification process. This would include 45 CFR Part 1636 (Client identity and statement of facts), 45 CFR Part 1626 (Restrictions on legal assistance to aliens), and 45 CFR § 1611.9 (Retainer agreements).

OCE reviewed a sample of 558 cases and interviewed members of SJLS' upper and middle management, fiscal personnel, staff attorneys, and support staff. OCE assessed SJLS' case intake, case acceptance, case management, and case closure practices and policies for staff and Private Attorney Involvement ("PAI") programs. OCE fiscal staff reviewed SJLS' compliance with the LSC grant, conducting a limited review of internal controls, assessed whether SJLS engaged in prohibited political activities, received fees from non-permissible fee-generating cases or non-permissible attorney fee awards, or engaged in lobbying activity, as well as reviewed SJLS' use of non-LSC funds, its PAI component allocations, its use of LSC funds to pay membership dues and fees, its timekeeping, cost standards and procedures, and other fiscal activities. A sampling of informational pamphlets and brochures was reviewed for compliance with 45 CFR Part 1608.

During the course of the visit, OCE advised SJLS of any compliance issues as they arose. OCE notified members of SJLS' upper and middle management and fiscal personnel of compliance issues identified during the review which require modification.

OCE advised SJLS of its preliminary findings by telephone exit conference on Monday, February 10, 2014. During the exit conference, OCE advised SJLS that, with few exceptions, its staff members were familiar with the LSC regulations, the CSR Handbook, and the Frequently Asked Questions disseminated by LSC, and that SJLS has in place policies, procedures, and practices designed to facilitate compliance-related activities. SJLS was also made aware of several written policies which require modification. OCE explained to SJLS that the findings were preliminary, that OCE may make further and more detailed findings in the Draft Report, and that SJLS would have 30 days to submit comments to the Draft Report. SJLS was advised that a Final Report would be issued that would include SJLS' comments, where appropriate. SJLS was further advised that OCE may request additional documentation or a demonstration that the required corrective action items have been implemented.

By letter dated November 18, 2014, OCE issued a Draft Report ("DR") detailing its findings, recommendations, and required corrective actions ("RCAs"). SJLS was asked to review the DR and provide written comments. By e-mail dated November 18, 2014, SJLS requested an extension of time to respond the DR, which was granted on the same date. By letter dated January 15, 2015, SJLS responded to the DR, but provided no evidence or details concerning the RCAs. By letter dated March 3, 2015, SJLS re-submitted its comments to the DR. OCE has carefully considered SJLS' comments and has either accepted and incorporated them within the

body of the report, or responded accordingly. SJLS' comments, in their entirety, are attached to this Final Report.

III. FINDINGS

Finding 1: SJLS' automated case management system ("ACMS") is sufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded.

Recipients are required to utilize automated case management systems and procedures which will ensure that information necessary for the effective management of cases is accurately and timely recorded in a case 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 (2008 Ed., as amended 2011), § 3.1.

LSC has determined that certain ACMS fields that are critical to eligibility (number in household, income, assets, citizenship/alien eligibility status, and LSC eligibility) may not have defaults because they tend to reduce the accuracy of the data submitted. Accuracy is reduced as there is no way to determine whether staff entering data into ACMS fields made an inquiry and decision regarding what should be entered in the field or simply skipped over the field, allowing the default value to be recorded. *See* Program Letter 02-06.

Since late 2012, SJLS has utilized LegalServer Case Management Software ("LegalServer") as its ACMS. LegalServer was developed by PS Technologies and is a web-based system which allows staff access from any location with an internet connection. The system has various features that support compliance, such as system alerts that advise the user of incomplete or inconsistent data and fields critical to compliance which do not allow the user to proceed if incomplete. LSC financial eligibility is automatically determined by the ACMS based upon information entered by the user. The ACMS does not have defaults in fields critical to compliance; therefore, it is in compliance with Program Letter 02-06.

Based on both interviews and a comparison of the information elicited from the ACMS to information contained in the hard files sampled, SJLS' ACMS is generally sufficient to ensure that information necessary for the effective management of cases is timely and accurately recorded.

Review of sampled cases evidenced two (2) possible ACMS issues which were the subject of continued contacts with both the Director of Litigation and with the Director of Pro Bono Services and Centralized Intake ("DPBCI") via email and telephone interviews, subsequent to the visit.

The first potential pattern identified involved identification of cases clearly closed in a prior reporting year, but that remained open in the ACMS, and whether or not such cases had remained as open due to some type of ACMS issue. In Vineland Migrant Staff Open Case No. 12-32001702, the hard file evidenced that the case was closed as a "negotiated settlement with litigation" on May 31, 2012. In Camden Staff Open Case No. 09-29003443, the hard file evidenced that the case had been closed on December 21, 2009. However, both of these cases were on the open case list for their respective offices, at the time of the review. In the first case,

it was determined that the file, although closed in the case notes, had not been appropriately coded for closure through simple staff error. In the second case, it was determined that the file had been fully and properly closed in 2009, but then mistakenly reopened by a staff person in 2013 during the course of a new representation for the same client. When the file was identified during the case review, it was again correctly closed with its 2009 date, and should not be considered a standing issue.

The second potential pattern identified involved a few open “Camden Staff” cases reviewed which had PAI representation and, therefore, appeared to be incorrectly coded as a “staff” case. However, in subsequent contacts with the DPBCI she stated that she will only switch the case type designation after acceptance by a volunteer attorney, and that the few cases noted during the review of the open Camden Staff cases that now had PAI representation had the assignment of PAI counsel occur subsequent to the printing of the case list for LSC in advance of the visit. These cases then represent no ACMS issue. The OCE team was allowed to observe the case list electronically which reflected that the files had been switched to the proper designation.

Finally, there was a single case appearing on the Centralized Intake Unit (“CIU”) staff list that was not a CIU case, and again appears to involve human error in case coding. For this case, the Managing Attorney stated that she would review and investigate the case to determine whether it is open in another unit, or will otherwise close the file. *See* Camden Staff Open Case No. 12-0220407.

Recommendations

The DR recommended that SJLS consider an amendment of its ACMS so that once a case has been reported in a CSR that the file is somehow “locked” so that it cannot be reopened accidentally by staff. This also importantly will preserve the closed cases for a closed year.

In its response to the DR, SJLS did not comment on this recommendation.

There are no corrective actions required.

Finding 2: SJLS’ intake procedures and case management system generally support compliance related requirements.

To assess SJLS’ intake procedures and case management policy for compliance with LSC requirements, intake, case handler, and management staff were interviewed. The review revealed that intake procedures and practices generally support SJLS’ compliance related requirements with respect to performing conflict and duplicate checks during the intake process, screening for income and assets, and citizenship screening.

Woodbury and Mt. Holly Offices

The majority of SJLS’ intake is conducted by the CIU, which is staffed by intake specialists and is overseen by a Managing Attorney. Most of the intake staff is located in the Camden office,

but there are intake workers in the outer offices who staff the hotline, including those at both the Woodbury and Mt. Holly offices. In addition to the CIU screening, both the Woodbury and Mt. Holly offices perform intake screening for walk-in applicants during normal business hours. At the time of the review, there was no on-line application process in place. Based on interviews with a limited number of staff, it appears that there is very limited off-site intake screening conducted. During outreach, potential applicants are advised to call the CIU. The Mt. Holly Office does conduct some off-site intake. Specifically, this takes place every other Friday when an attorney and the intake paralegal attend the landlord-tenant court. The judge will make an announcement that SJLS is there for anyone who qualifies; the intake worker has all applicants fill out a manual intake form and then calls back to the office to screen for conflicts and duplicates (because the landlords are generally the opposing party, there is typically not a conflict). If the person is fully screened as being eligible, then they meet with the attorney. Upon return to the office, the client data is input into the ACMS.

Because most intake interviews, whether via the CIU or by a walk-in interview, are input directly into LegalServer, all initial screening follows the same set of procedure. In the Mt. Holly office, as noted above, there is limited off-site intake using a manual intake form at the courthouse. Nevertheless, this form is similar to the intake prompts used by LegalServer. The intake procedure is set forth in the SJLS “Intake Manual” which was provided in advance of the review. This manual is updated and revised by the SJLS staff, as necessary, based on changes to policy and procedures. As noted below, due to discrepancies between the Intake Manual and SJLS’ Eligibility Guidelines, one or both of these documents must be revised.

Financial Eligibility and Case Management

Conflict Checks: For intake conducted by the CIU and at the local offices, conflicts are checked program wide using the ACMS during the first step of the initial screening process. Those interviewed stressed that SJLS places a strong emphasis on conflict checking and this can be seen in the Intake Manual which provides, in relevant part:

A conflict check must be done for every caller, even if they are a prior client. This must be done as soon as the client’s name and phone number is obtained. A violation of the ethical code could occur if further information is obtained and it is later determined that there is a conflict. If there is any question whether a conflict exists, you must email SJLS Directors Cc: The Director of CIU to confirm whether a conflict exists.

Persons identified as a conflict or even a potential conflict are not screened for any other information until the potential conflict has been cleared by the Managing Attorney.

Duplicate Checks: During conflict checks described above, screeners determine whether the applicant has previously contacted SJLS. Screeners have been properly trained regarding when to reopen a case in accordance with LSC requirements. If in doubt, the original case handler and/or the Managing Attorney are contacted.

Rejected Applicants: If an applicant for legal services is rejected due to a conflict or for any other reason, including being over-income, over-assets, an ineligible alien, having an issue outside of priorities, etc., then intake screening ceases and the applicant is advised that his or her case cannot be accepted by SJLS.

If there is an open intake file on LegalServer, the intake worker closes the intake file and indicates the reason rejected using the appropriate code. The intake worker may also provide an additional explanation of the reason for rejecting the case in the case notes section of the intake file. A record of the rejected intake is then maintained in LegalServer.

Income Screening: Interviews and file review revealed that income inquiry and recordation is conducted in a consistent manner. Applicants are questioned about all sources of income including, but not limited to, income from employment, tips, Social Security, child support payments, welfare, unemployment, alimony or other support, worker's compensation/other disability, a pension, and rental income. Moreover, intake workers ask about the cost of housing to determine how the applicant is covering expenses in an effort to determine whether there are any other sources of income. If an applicant is living with someone else, efforts are made to determine the entire household income. Nevertheless, they properly exclude the income of persons who are paying rent to, or sharing the rent with, others in the household. Staff demonstrated a strong understanding of the program's financial eligibility policy and the LSC income guidelines.

Reasonable Inquiry Regarding Income Prospects: Recipients are required to make reasonable inquiry into each applicant's income prospects, pursuant to the requirements of 45 CFR § 1611.7(a). All interviewees were aware of this requirement and stated they make appropriate inquiry as required. The ACMS contains a required field specific to this inquiry.

Authorized Exceptions to Income Ceiling: The LSC regulations, at 45 CFR § 1611.3(a), require the Board of Directors to adopt financial eligibility policies for individuals and groups and to review these once every three (3) years. The most recent approval of these policies occurred on February 19, 2013, as evidenced by a document titled "SJLS Financial Eligibility Guidelines." Among the factors which are considered if an applicant is over the 125% of the Federal Poverty Guidelines ("FPG") threshold, but under the 200% ceiling are: medical expenses; child care, transportation and other expenses necessary for employment; and fixed debts and obligations, including mortgages, rent (not including utilities) and unpaid federal, state and local taxes from prior years. These are all consistent with the 45 CFR Part 1611 regulation.

These authorized exceptions are then applied to the gross income as a "spend down" to the applicant's income. If, after deducting these factors from the gross income, the applicant's net income is at or below 150% of the FPG, the case can be accepted. If it remains above 150%, the case is rejected. Some of the offices have Title III funding and may provide representation to eligible applicants whose total income is above 200% of FPG or whose net income is above the 150% threshold, using those funds.

Asset Screening/Authorized Exceptions to Asset Ceiling: A review of both the 2013 Financial Eligibility Guidelines for SJLS and the SJLS Intake Manual disclosed a discrepancy with respect

to the asset ceiling and its exceptions. Based on interviews, it appears the intake workers are using the Intake Manual instead of SJLS' 2013 Guidelines when determining eligibility. As LSC had recently issued the new Income Eligibility table for 2014, *see* 79 Fed Reg. 6836-7, February 5, 2014, the team recommended that the SJLS Board of Trustees ("Board") and staff take this opportunity to bring the two (2) polices into conformance.

The SJLS standard asset limitation, as set forth in the Intake Manual, is \$5,000 for a household of one (1) and \$10,000 for a household of two (2) or more; senior citizens (over 60) can have assets of \$12,000 per household. However, the 2013 Financial Eligibility Guidelines have more specific and higher figures for senior citizens, the disabled, and those persons who are institutionalized. The Guidelines provide: "Because of their special needs, greater dependency and more limited earning potential, the Asset Limitation for the elderly (60 and older), institutionalized or handicapped shall be \$12,000 for a one (1) person unit and \$16,000 for family units containing two (2) or more members." Moreover, there are differences between the Intake Manual and the 2013 Financial Eligibility Guidelines with respect to the exclusions from assets; again, with staff following the Intake Manual. Specifically, the Intake Manual has certain asset exclusions including: the principal residence; up to two (2) vehicles used by the applicant or household members (the first may not exceed \$10,000 in value and the second has a ceiling of \$7,500); and a work-related vehicle or equipment necessary for employment or self-employment and used for that purpose. Finally, the Intake Manual does exclude consideration of assets which are not readily convertible and available to the applicant. However, if these assets have sufficient value, they may be considered an included asset, therefore the intake worker and/or attorney is to bring this to the attention of the Managing Attorney for a determination. The Financial Eligibility Guidelines appear to have additional exclusions listed; however, interviews with staff seem to indicate that they follow the exclusions set forth in the Intake Manual. The 2013 Financial Eligibility Guidelines have the following differences (the numbers are those in the Guidelines for ease of reference):

- (3) All automobiles owned by the family unit [as opposed to two (2), with a set value];
- (4) Trust funds held on behalf of a minor child in the family unit, provided that the trust has not been created primarily for the purpose of establishing eligibility for services;
- (5) The cash surrender value of any life insurance policy, burial trust, Income Retirement Account (IRA) Keogh or other Pension Plan;
- (7) Personal and household items;
- (8) One (1) burial plot per person;
- (9) Trust funds held for educational and medical purposes
- (10) Health aids; and
- (11) Any non-liquid assets excluded under the SSI, Food Stamp, AFDC or General Relief programs.

In addition, "(6) Income-producing property, disposition of which is reasonably likely to render the owner dependent upon public welfare" seems to be more clearly written than the explanation in the Intake Manual ("Work-related vehicle or equipment necessary for employment or self-employment and used for this purpose").

The ED or his/her designee may waive the either the Standard or Special Asset Limitation in unusual situations. The intake worker or advocate may request a waiver if one (1) or more of the authorized income exceptions exists. The approved waiver is then included in the client's file and in a file maintained by the ED.

Because of the discrepancies between the Intake Manual and the SJLS 2013 Financial Eligibility Guidelines, as noted below, SJLS will need to take corrective action to bring the two (2) policies into conformance with each other and in to compliance with LSC regulations.

With the changes in 45 CFR Part 1611 effective August 2005, the LSC regulation provided the following guidance regarding assets exemptions:

In establishing asset ceilings, the recipient may exclude consideration of a household's principal residence, vehicles used for transportation, assets used in producing income, and other assets which are exempt from attachment under State or Federal law. *See* 45 CFR § 1611.3(d)(1).

Based on the above, a program may exempt, without further authority, three (3) types of assets: (1) the household's principal residence, (2) vehicles used for transportation,³ and (3) assets used in producing income. For any other asset that a program wishes to exempt from consideration, that item must be sourced from a State or Federal law and listed as an item exempt from attachment under that law. Items not included in the three (3) categories directly allowed by LSC, and not listed as exempt under a State or Federal law cannot be excluded from assets screening.

The SJLS Financial Eligibility Guidelines allows for the exclusion of all "personal property." It was noted to SJLS management that State or Federal exemption laws can allow for exclusion of personal property but that usually there is a total dollar amount limitation, and that the program policy appears to be in error. SJLS management indicated that it wished to revisit its entire assets policy for this and other exempted items so as to ensure full compliance with the regulation.

It was also noted to program management that, in setting its dollar amount assets level, the inclusion of increased assets should be taken into consideration. It is noted that LSC's adoption of the new assets guidelines in 2005 was done with full intention to not include "personal property" as a general exempted category. In the supplementary information to the regulation, LSC wrote that:

Implicit in the requirement is the expectation that the recipient will set its ceiling at a level as to cover the value of such things as household

³ LSC changed the language regarding vehicles in its draft regulation that read "vehicles required for work" and adopted "vehicles used for transportation" to allow more flexibility regarding this category. However, in the supplementary information to the regulation, LSC made clear that "...vehicles used purely for recreational activities (e.g. dune buggies, golf carts, go-karts, and the like) would have to be included..." *See* Federal Register, Vol. 70, No. 151, page 45551.

furnishings, clothing and other personal affects [sic] of applicant (and members of the applicant's households) and other such assets as applicants may reasonably be expected to have without liquidating in the attempt to secure legal assistance. *See* Federal Register, Vol. 70, No. 151, page 45550.

Financial Eligibility Determination of an Applicant who is a Victim of Domestic Violence:

Recipients are required to specify in financial eligibility policies that during the financial eligibility determination of an applicant who is a victim of domestic violence, only the assets and income of the applicant and household members shall be considered. Further, the income and assets of the alleged perpetrator of the domestic violence and any income or assets jointly held by the applicant with the alleged perpetrator or assets jointly held with other members of the household and the alleged perpetrator also shall not be considered. *See* 45 CFR § 1611.3(e). SJLS has adopted such policies in both its Intake Manual and Financial Eligibility Guidelines. Interviews with staff indicated not only familiarity with these policies, but with screening consistent with the requirements of 45 CFR § 1611.3(e).

Government Benefits Exemption: In accordance with 45 CFR §§ 1611.3(f) and 1611.4(c), a recipient's governing body is permitted to determine an applicant to be financially eligible without making an independent determination of income or assets, if the applicant's income is derived solely from a governmental program for low-income individuals or families. SJLS' Financial Eligibility Guidelines do contain such an exemption. The Guidelines provide:

If a prospective client's sole income is derived from a governmental program for low-income families, that applicant may be determined to be financially eligible without an independent review of the applicant's income or assets. The government program must have been determined by the Board to have an assets test and an income standard at or below 125% of FPG.

It was noted that this provision does not apply, and an independent review of the applicant's income and assets is necessary, if the applicant has a source of income in addition to the governmental program. *See* SJLS Financial Eligibility Guidelines at ¶ II.B.

In addition, SJLS has the following guidelines which allows the program to provide representation to those whose income appears to be over the 125% threshold:

Assistance may be provided to a person whose gross income exceeds the Standard Limitation, but does not exceed 200% of the FPG if:

- (1) The person is seeking legal assistance to secure benefits provided by a governmental program for low-income individuals or families; and
- (2) The person is seeking legal assistance to secure or maintain benefits provided by a governmental program for individuals with disabilities. *See* SJLS Financial Eligibility Guidelines, page 4.

However, interviews with staff indicated that they were not applying the Government Benefits Exemption allowed by the SJLS policy but instead were fully screening all persons for all sources of income and the factors, if applicable. By screening all applicants for all sources of income, SJLS has more information about their applicants' resources in making the determination for financial eligibility.

SJLS is reminded that, pursuant to their policy, if an applicant's total household income is derived solely from a governmental program for low income individuals or families, then SJLS may determine that the applicant is financially eligible based on those benefits pursuant to 45 CFR § 1611.4(c). It was also noted to SJLS that the adoption of the exception found in 45 CFR § 1611.4(c) involves a dedicated analysis by a recipient's Board. This regulation section allows that "...a recipient may determine an applicant to be financially eligible without making an independent determination of income or assets, if the applicant's income is derived solely from a governmental program for low-income individuals or families." See 45 CFR § 1611.4(c). It is insufficient for a program to simply adopt a policy that repeats the above quoted language. Rather, as detailed in the supplementary information to the regulation,

...the recipient's governing body has to take some identifiable action to recognize the asset test of the governmental benefit program being relied upon. This ensures that the eligibility standards of the governmental program have been carefully considered and are incorporated into the overall financial eligibility policies adopted and regularly reviewed by the recipient's governing body. See Federal Register, Vol. 70, No. 151, page 45553.

SJLS must take corrective action to have its Board designate the specific governmental benefit programs that intake staff will be allowed to use as a short-cut to normal intake.

Group Clients: SJLS' Financial Eligibility Guidelines permit LSC-funded assistance to groups in accordance with 45 CFR § 1611.6. No group cases were identified within the review period and interviews with staff indicated no group cases were identified.

Citizenship and Eligible Alien Status Screening: All interviewees demonstrated sufficient understanding of the citizenship and alien eligibility documentation requirements of 45 CFR Part 1626, including those for Kennedy Amendment, T-Visa, and U-Visa cases. In most cases, citizenship status is initially assessed and recorded in the ACMS by CIU staff. Applicants are screened by telephone for citizenship or alien eligibility status. Applicants who appear in-person are required to sign attestations, in some instances. However, when an applicant uses the program's CIU telephone contact, some applicants are not required to execute citizenship documentation. The language of the attestation complies with the requirements of the CSR Handbook (2008 Ed., as amended 2011), § 5.5. Non-citizens are asked to provide documentation of eligible alien status. Attorneys are responsible for reviewing eligible alien documentation, making a determination of eligibility, and recording this information.

Case Acceptance: The non-advocate CIU staff do not provide legal assistance, however, they may refer calls to the attorneys and paralegals. Paralegals on the CIU staff can provide “counsel and advice” and “limited action” in certain appropriate instances. All screened applicants are transferred to the office which provides assistance based on the program’s priorities. Walk-in cases screened for intake at the local office level are referred to the Managing Attorney or Senior Attorney for case acceptance determinations. Case handlers are responsible for contacting the client, determining the level of assistance to be provided based upon case acceptance policies, obtaining compliance documentation, and completing opening notes in the ACMS. In the Woodbury, Mt. Holly, Vineland, Camden, and Atlantic City offices, cases are accepted after a group case acceptance discussion. In the Cape May office, cases acceptance is conducted by the Managing Attorney on a daily, or as needed basis, for extended services cases or cases opened as a result of walk-in applicants. Interviews revealed that clients are notified within days and no longer than a week whether their case has been accepted for extended representation. All interviewees reported that Managing/Senior Attorneys are available for consultation as needed. In those instances, the responsible attorney will communicate case acceptance or rejection to an applicant via telephone or in person.

Case Closure: When a case is ready for closure, case handlers are responsible for preparing a closing letter and the standardized compliance checklist. This checklist is a review of all major LSC compliance requirements which requires the case handler to determine if the file is complete and the case is LSC eligible.

On-site review of SJLS’ intake system indicated that intake staff is consistent in their use of the ACMS to conduct income and asset eligibility screenings, collect demographic information, perform conflict checks, verify citizenship, and store electronic reporting data. The majority of intake staff interviewed demonstrated familiarity with program priorities and the citizenship and alien eligibility requirements of 45 CFR Part 1626. Supervising and staff attorneys generally close their cases the same day advice is provided, and the client is mailed a closing letter detailing the legal advice.

Cases are reviewed every three (3) to six (6) months by Managing Attorneys, who review the cases for financial eligibility and legal accuracy, program wide. Errors are identified and corrected during this process. Oversight of compliance-related activities is performed by a Managing Attorney who performs quality control checks of compliance activities by generating ACMS reports for citizenship, closing codes, duplicates, income and asset amounts, timeliness, funding codes, and data entry mistakes, during the review period as noted above. All offices follow this procedure.

Outreach

Outreach is conducted in the Camden office, Vineland office, and Cape May office only. The Camden office conducts outreach efforts designed to assist members of the population with prevailing legal needs. The office often partners with domestic violence shelters in order to reach specific persons in need of assistance. Currently, attorneys in this office, as well as volunteer private attorneys, provide legal information and/or advice to outreach participants in the areas of family, consumer, and bankruptcy law. Non-attorneys do not provide assistance in

this office's outreach programs. The majority of outreach participants are screened for eligibility prior to the clinic. Applicants who are not pre-screened prior to the clinic are screened for citizenship and financial eligibility at the clinic site prior to being allowed to participate in the clinic. If the clinic is off-site, un-screened participants complete a manual intake form, which obtains all of the necessary information concerning the applicant's financial eligibility, and execute an attestation, or provide verification of alien eligibility; a conflict/duplicate check is performed by an attorney prior to providing attendees with legal advice. The conflict/duplicate check is performed off-site by logging into LegalServer remotely and verifying that no conflict/duplicate is present or, if remote access is unavailable, by calling into the office and having a conflict/duplicate check performed by one (1) of the intake paralegals.

The Vineland office conducts outreach efforts designed to assist senior citizens. The office often partners with senior citizen centers in order to reach those in the community who are in need of representation. Currently, attorneys in this office provide legal information to outreach participants in the areas of estate planning and elder law. Non-attorneys do not provide assistance in this office's outreach programs and no legal advice is given to the outreach participants. If an outreach participant is in need of legal advice, they are screened for eligibility in the same manner as discussed for the Camden office.

The Cape May office conducts outreach efforts designed to assist members of the population with prevailing legal needs. The office often partners with Ryan White Groups and South Jersey AIDS Alliance in order to reach specific persons in need of assistance. Currently, attorneys and one (1) paralegal in this office provide legal information and/or advice to outreach participants in the areas of housing law and government benefits. The paralegal's provision of assistance at the outreach programs is directly monitored by the Managing Attorney. Applicants who are not pre-screened prior to the clinic are screened at the clinic site prior to being allowed to participate in the clinic. The screening consists of having participants complete a manual intake form, which contains a citizenship attestation and obtains financial eligibility information. However, a conflict/duplicate check is not performed prior to providing outreach participants with legal advice. If the applicant's case is accepted and advice or brief services is provided, a conflict/duplicate check is performed after the outreach event has taken place, once the advocate returns to the office and enters all of the client's information into LegalServer.

It is recommended that SJLS conduct a conflict check prior to providing legal advice, and to check with their local bar rules for the appropriate manner in which to handle cases where legal advice has been given in a case that has conflict issues.

Camden Office

The Camden office accepts walk-in applicants for CIU screenings. There are three (3) paralegals who conduct intake screenings in this office, and they are responsible for answering all of Camden's CIU calls and screening general CIU telephone applicants for eligibility. All CIU callers are placed in a holding queue in the order their call was received and they are assisted in that order. If an applicant calls the CIU outside of regular intake hours, they are directed by a recorded message to call back during normal intake hours. However, an applicant may call the office's local telephone number and leave a voicemail message regarding their

request for assistance. Messages left in the office's general mailbox are checked and returned daily by the intake staff.

Walk-in or Telephone Applicants

The Camden office does not conduct in-person intake screenings; all screenings are performed telephonically by the CIU. Initially, an applicant may walk into the office during scheduled intake hours which, for the Camden office, are Monday through Friday, from 9:00 a.m. to 1:00 p.m. If arrival of applicant is at a time when no one is present, they are instructed to return within those hours or to call the CIU. Upon entering the office, a walk-in applicant is greeted by one of the intake paralegals and directed to a confidential intake screening room. Once in the room, the intake paralegal dials the number for the CIU and leaves the room. At this point, the applicant's call is placed in the holding queue and answered in the order it was received. Upon being connected with an intake paralegal, a conflict/duplicate check is performed and the applicant is screened for financial, citizenship, and case type eligibility. If the applicant is eligible for services, the paralegal accepts the case for advice or brief services only and provides the client with legal assistance over the telephone, after citizenship/alien eligibility is noted. If the applicant is not eligible, they are denied services and referred to other organizations that may be able to assist them. If the client requires additional services, the paralegal will forward the case to the Managing Attorney of the appropriate office, who will decide whether to provide additional, extensive services. Cases are transferred to the appropriate office by emailing the Managing Attorney of that office; interviews revealed that Managing Attorneys check the case assignment emails daily, so that they can provide assistance as soon as practicable.

At the conclusion of the screening and/or provision of legal assistance, the caller is either informed that their case is closed or that it will be forwarded to a Managing Attorney for further review. If their case requires further services from another office, the client is informed that someone from that office will call them to provide additional assistance. Prior to leaving the office, a paralegal may provide an informational packet based on the nature of the person's legal needs (e.g., landlord/tenant, divorce, unemployment benefits, etc.). If the case is an emergency and has been accepted by the paralegal, the paralegal will schedule an appointment for the client to meet with an attorney that same day. For cases that are served by a Camden staff attorney, the paralegal will have the client execute a citizenship attestation/verification of alien eligibility prior to scheduling the appointment. For non-emergency cases, and for those cases that are serviced by another SJLS office, the applicant is not required to complete a citizenship attestation/verification of alien eligibility prior to or after the intake screening process.

Intake staff reported that for non-LSC-funded cases, when they are presented with an applicant who is over-income and/or over-asset, they will verify and document the existence of any authorized factors or exceptions to the income/asset ceiling by spending down the applicant's income until it is below 150% of the FPG. However, all intake staff interviewed expressed an understanding that for LSC-funded cases, they could not apply over-income factors, or spend-down an applicant's income, if the applicant's income exceeded 125% of the FPG. This is inconsistent with SJLS' Financial Eligibility Guidelines SJLS needs to provide more training in this area so that the Financial Eligibility Guidelines are applied consistently and according to SJLS' written policy. According to interviews, intake staff do not conduct group eligibility

determinations, pursuant to the requirements of 45 CFR §§ 1611.6 and 1611.7, as all of the applicants who were screened for eligibility were individual applicants, and they have not had a recent occasion to screen a group applicant. These statements notwithstanding, there is a group eligibility manual intake form that can be utilized by intake staff in the event that a group applicant requests legal assistance. However, that form is not compliant with the requirements of 45 CFR §§ 1611.6 and 1611.7. The form explains the definition of low-income utilized by SJLS. The form states that “In answering these questions above, I utilize the definition of low-income persons as those having income 150% of the FPG;” however, absent application of authorized over-income factors, persons eligible for LSC-funded financial assistance should have an income of no more than 125% of the FPG.

As noted above, once it has been determined that the applicant is eligible for services, and their case has been accepted by an intake paralegal for advice or brief services, the intake staff worker schedules an appointment for the client to meet with a staff attorney, if extended services are possible. On the day of the appointment, the staff attorney will review the merits of the client’s case and inform the applicant as to whether their case will be accepted or rejected for extensive services. Case acceptance decisions for extended services are made on a daily basis by the office’s Managing Attorney and the applicant is consulted immediately concerning their acceptance. Clients are verbally informed of whether their case is accepted or rejected. If the client’s case is accepted, they will be asked to complete and sign a retainer agreement, which outlines the scope and subject matter of the legal representation to be provided, along with a notice of disclosure.

If the client’s case is a type that is typically handled by SJLS’ Pro Bono attorneys, the paralegal will forward the case to SJLS’ PAI Coordinator by email. If the client’s case is forwarded to SJLS’ PAI component for review, the client is informed at the conclusion of the intake interview that they will be contacted regarding acceptance/denial of their extended services case once it has been determined if the client’s case can be serviced by SJLS’ PAI component. If the case is successfully referred to SJLS’ PAI component, the intake paralegal changes the responsible office and case handler codes in the ACMS. The case is then electronically moved to SJLS’ PAI Coordinator’s case list, and the PAI Coordinator routinely monitors the list to ensure that all referred cases are timely matched with a volunteer attorney.

Vineland Office

The intake procedures for the Vineland office are similar to the Camden office intake procedures, with the following exceptions: The office’s intake hours are Monday through Friday from 9:00 a.m. to 5:00 p.m., and there are two (2) intake staff workers. Unlike the Camden office, the Vineland office conducts walk-in intake screenings as well as telephone screenings. Walk-in applicants who are able to complete a CIU intake screening are placed in an interview room and provided with a telephone and the phone number to call the CIU.

The intake procedures for applicants who are unable to contact CIU, due to language barriers or unfamiliarity with a telephone prompt system, are as follows: (1). an applicant walks into the office and is brought to the intake receptionist’s office; (2). a conflict/duplicate check may be performed, but is not conducted as a matter of course; (3). the intake worker will complete a

manual intake form by asking the applicant to provide the information requested on the form. The manual intake form obtains the applicant's background information, such as their name, address, household size, case type, adverse party's name, etc. The form also contains a citizenship attestation, as well as a verification of alien eligibility, but does not list the over-income factors that may be applied, pursuant to 45 CFR § 1611.5. While the form contains a citizenship attestation/verification of alien eligibility, intake interviews revealed that in some instances, an appointment is made for the applicant to meet with an attorney without requiring the applicant to first execute an attestation verifying citizenship eligibility.

The intake screening process for a telephone applicant is virtually identical to the walk-in procedure. Walk-in applicants are not screened for citizenship/alien eligibility but are placed in the private interview room to contact CIU. They are not required to execute a citizenship attestation/verification of alien eligibility prior to, or after, calling CIU. If the intake interview is being done over the telephone, the manual intake form is completed by asking the applicant to verbally verify their citizenship or alien eligibility status, as well as provide other information necessary for determining eligibility. At the conclusion of the intake interview for non-emergency cases, the applicant is informed that their case will be forwarded to a staff attorney who will contact the applicant regarding case acceptance. For emergency cases, an appointment will be made for the applicant to speak with an attorney.

After a walk-in or telephone intake screening is completed, the intake staff person will enter the applicant's information directly into LegalServer and create a physical case file. Applicants are informed of case acceptance/rejection verbally after speaking with the attorney.

Cape May Office

The intake procedures for the Cape May office are similar to the Vineland office intake procedures. The office's intake hours are Wednesdays and Thursdays from 9:00 a.m. to 5:00 p.m.; the office is closed for lunch from 1:00 p.m. to 2:00 p.m. and does not conduct telephone intake screenings. Interviews revealed that intake screenings will be done outside of the intake hours if an applicant has an emergency and requires immediate legal assistance. All intake screenings in this office are conducted by a paralegal or an attorney. Unlike the Vineland and Camden offices, applicants are not placed in a room to contact the CIU; if they are able to contact the CIU, they are provided with the phone number and instructed to call CIU during the normal intake hours. These applicants may also receive legal assistance prior to, or after, being provided with the CIU contact information, for extended service representation. As the same was found in the Vineland office, a manual intake form is completed for all walk-in applicants. Additionally, walk-in applicants who are provided with the CIU number are not required to execute a citizenship attestation/verification of alien eligibility prior to leaving the office. At the conclusion of the in-person intake interview, the applicant is informed if their case will be accepted or rejected. Further, intake interviews revealed that intake staff is not aware of how to apply over-income factors; all staff indicated that the Managing Attorney reviews all over-income cases to determine eligibility at the time of intake, or at case acceptance meetings.

Atlantic City Office

The intake level at this office is extremely limited, with the intake staff estimating that there may be as few as four (4) intakes conducted within a month. Further, one (1) Atlantic City attorney interviewed stated that he never conducts intake and that any person asking him about making an application is referred to the CIU. The attorney added that it is the standard practice to refer most applicants to the CIU rather than have intake conducted by the Atlantic City staff.

The Atlantic City staff described an intake system in which most persons go through the CIU but that, on occasion, to assist or accommodate a particular applicant, intake would be conducted at Atlantic City office. Staff stated that the Atlantic City office recently (approximately three (3) months prior to the on-site visit) transitioned from direct participation in intake to routing most intake through the CIU. The intake staff provided the current Atlantic City priorities, a citizenship certification form, and the manual intake form.

Several divergences from program policy were noted in the intake method by staff. One (1) significant divergence noted was that staff in this office uses very few of the program's "allowable expense" factors to spend down income over 125%. The staff only identified a small subset of items that would be used to spend down income over 125%, which are as follows: child care, dues related to work, and some medical – such as medical expenses that are recurring or costs of medical devices. When asked if any type of taxes could be considered, the staff answered "no." The very limited group of items used by this staff significantly varies from the program policy. The SJLS Financial Eligibility Guidelines dated February 19, 2013, pages 4 to 5, details seven (7) categories of factors, including a wide capture of medical expenses and five (5) categories of taxes. Based on the interview, SJLS staff is not following the program's authorized exceptions policy. It is noted that the more limited standard stated by some staff may have resulted in persons being deemed ineligible, who might have been found to be eligible by a different staff intake worker who considered all of the available factors.

In another screening area, defining the members of the "household," SJLS staff stated that the following would be considered – whether the person living with the applicant are relatives; whether such persons, if not relatives, contribute to the household, and whether the other persons are employed. While these inquiries would obtain information relevant to a determination of the program's definition of household, they would not alone be enough. The SJLS Financial Eligibility Guidelines dated February 19, 2013, states on page 3:

A "household" shall be defined as the prospective client and anyone with whom the client lives and who is legally dependant [sic] on the client or for whom client provides a share of all major living expenses. Where a client is wholly supported by a member of the household, that member's income will be considered for eligibility. The totality of the circumstances will still be considered.

Regarding one (1) possible exempt asset category, “vehicles,” the test described by SJLS did not match the program policy.⁴ The SJLS 2013 Financial Eligibility Guidelines, at page 6 state the current automobile asset exclusion as “all automobiles owned by the family unit.” In contrast, the SJLS staff stated that the type of car could be considered, and that after determining the value versus equity in the vehicle that certain “high-end” cars could result in a cash amount being added as a countable asset. SJLS noted an approximate standard of \$12,000 under which the equity in a vehicle would not be included. None of these elements are found in the program’s current policy.

Of note, the staff interviewed was previously (and recently) part of the CIU, for many years. In that capacity, he would conduct intake for cases of any office. The staff was questioned regarding their supervision during their assignment to the CIU. Staff stated that they would go to the Managing Attorney of the Atlantic City office should there be any intake questions.

Finally, the Atlantic City office’s current paper intake form provides poor or no guidance in some key screening areas and, as such, it is inadequate to support and fully document, accurate and complete intake screening. For example, regarding factors for over-income clients, the paper form merely states “Allowable Expenses” followed by a blank line for this area of inquiry, and contains no list of the approved items that could be applied. Similarly, the paper intake form contains no definition of household, nor any questions geared towards the household information required by the program policy. The paper intake form only requests household information in two (2) categories: “number of people over 18” and “number of people under 18.” As such, this paper form does not support an accurate determination of household, nor does it create a record that household was properly assessed and determined.

Required Corrective Actions

The DR instructed SJLS to take corrective action so that all applicants are properly and fully screened for eligibility in a similar manner throughout the program and to take corrective action to ensure that all walk-in applicants comply with 45 CFR §§ 1626.6(a) and 1626.7(a).

In response to the DR, SJLS stated that upon, becoming aware of the non-compliant screening practices raised by OCE during the February 3-7, 2014 visit, it immediately discussed the matter with the Managing Attorney of the CIU. The Managing Attorney in turn, discussed the issue with the CIU staff and reinforced the need to comply with SJLS intake policies and procedures and follow specific LSC regulations. SJLS further stated that the issue was reviewed with SJLS Managers at a Managers Meeting on February 27, 2014; at which not only the need for compliance was reinforced, but also the need to not use different intake forms in each office but to use the computer-based Legal Server system. Detailed instructions were also provided so that all manual intakes are done on identical SJLS forms, and changes were made to Legal Server which now prevents some of the errors noted by OCE, according to comments to the DR.

⁴ It is noted that the program’s current vehicle-related standard in the program’s current policy do not follow the current regulatory language. Regarding vehicles, the regulation allows exclusion of “vehicles used for transportation.” The standard is not “owned” but rather “used for transportation.” *See* 45 CFR § 1611.3(d)(1).

Based on a review of SJLS' response to these Findings, RCA Nos. 1 and 4 are closed. The DR also instructed SJLS to take corrective action to bring its Intake Manual and Financial Eligibility Guidelines into conformance with each other and into compliance with 45 CFR Part 1611.

In response to the DR, SJLS stated that the Intake Manual is currently under review and is expected to be modified and finalized by SJLS' Board at its May 20, 2015 meeting, and the Eligibility Guidelines are expected to be revised and adopted by SJLS' Board at its March 25, 2015 meeting. By letter dated April 15, 2015, SJLS provided a copy of the new Financial Eligibility Guidelines as adopted on March 25, 2015.

Review of the revised policy revealed that the specific governmental benefit programs had not been specified.

The corrective action will remain open pending receipt of Board minutes or other documents evidencing the Board's designations, as well as a copy of the revised Intake Manual. Such evidence should be submitted to LSC within 30 days of SJLS' receipt of this Report.

Recommendations

The DR recommended that SJLS conduct a conflict check prior to providing legal advice, and to check with its local bar rules for the appropriate manner in which to handle cases where legal advice has been given in a case that has conflict issues.

In its response to the DR, SJLS did not comment on this recommendation.

The DR recommended that once required changes are made, SJLS management ensure adequate training and oversight is provided to all staff who conduct intake.

In its response to the DR, SJLS did not comment on this recommendation.

Finding 3: SJLS maintains the income eligibility documentation required by 45 CFR Part 1611, CSR Handbook (2008 Ed., as amended 2011), § 5.3, and applicable LSC instructions. However, a revision to its financial eligibility policy is warranted to demonstrate compliance with this regulation.

Recipients may provide legal assistance supported with LSC funds only to individuals whom the recipient has determined to be financially eligible for such assistance. *See* 45 CFR § 1611.4(a). Specifically, recipients must establish financial eligibility policies, including annual income ceilings for individuals and households, and record the number of members in the applicant's household and the total income before taxes received by all members of such household in order to determine an applicant's eligibility to receive legal assistance.⁵ *See* CSR Handbook (2008 Ed., as amended 2011), § 5.3. For each case reported to LSC, recipients shall document that a

⁵ A numerical amount must be recorded, even if it is zero. *See* CSR Handbook (2008 Ed., as amended 2011), § 5.3.

determination of client eligibility was made in accordance with LSC requirements. *See* CSR Handbook (2008 Ed., as amended 2011), § 5.2.

In those instances in which the applicant's household income before taxes is in excess of 125 % but no more than 200% of the applicable Financial Poverty Guidelines ("FPG") and the recipient provides legal assistance based on exceptions authorized under 45 CFR § 1611.5(a)(3) and 45 CFR § 1611.5(a)(4), the recipient shall keep such records as may be necessary to inform LSC of the specific facts and factors relied on to make such a determination. *See* 45 CFR § 1611.5(b) and CSR Handbook (2008 Ed., as amended 2011), § 5.3.

For CSR purposes, individuals financially ineligible for assistance under the LSC Act may not be regarded as recipient "clients" and any assistance provided should not be reported to LSC. In addition, recipients should not report cases lacking documentation of an income eligibility determination to LSC. However, recipients should report all cases in which there has been an income eligibility determination showing that the client meets LSC eligibility requirements, regardless of the source(s) of funding supporting the cases, if otherwise eligible and properly documented. *See* CSR Handbook (2008 Ed., as amended 2011), § 4.3.

SJLS provided its Financial Eligibility Guidelines in advance of the review. In compliance with 45 CFR §§ 1611.3(c)(1), 1611.3(d)(1), and 1611.3(e), the policy sets forth the eligibility requirements to receive LSC funded assistance. However, in Section V. titled "Additional Eligibility Factors," SJLS lists factors which are inconsistent with 45 CFR § 1611.5, such as: "(B) The availability of private legal representation at a low cost with respect to the particular matter in which assistance is sought and (C) The consequences for individuals if legal assistance is denied." In addition, the policy does not indicate that income prospects will be considered prior to income eligibility being determined in all cases (not just over-income cases). *See* 45 CFR § 1611.7(a)(1). The SJLS policy also does not list all types of income as outlined in 45 CFR § 1611.2(i), and the over-income factors listed in Section IV. B includes "medical expenses" as an over-income factor, but the regulation lists it as "unreimbursed medical expenses and medical insurance premiums." *See* 45 CFR § 1611.5(a)(4)(ii).

SJLS' Financial Eligibility Guidelines indicate that financial eligibility will be determined pursuant to the income guidelines most recently promulgated by LSC. All sampled cases reviewed evidenced that the applicants were screened for income eligibility. Sampled case files reviewed for applicants whose income exceeded 125% of the FPG evidenced that the applicant was funded by non-LSC programs or had authorized exceptions applied pursuant to 45 CFR § 1611.5(a)(3) and 45 CFR § 1611.5(a)(4).

All cases reviewed contained income eligibility documentation required by 45 CFR § 1611.4, CSR Handbook (2008 Ed., as amended 2011), § 5.3, and applicable LSC instructions for clients whose income does not exceed 125% of the FPG, with one (1) exception.

There was one (1) case file that was over-income and did not contain evidence of a 45 CFR § 1611.5 authorized exception or adequate evidence that a household income over 125% of FPG had been spent below 125%, as required by SJLS' policy. *See* Vineland Migrant Staff Open Case No. 11-21007412.

Required Corrective Action

The DR instructed SJLS to take corrective action to amend its Financial Eligibility Guidelines to comply with 45 CFR Part 1611, as indicated above. At the beginning of the visit, SJLS was made aware of this matter and began to take steps to address this corrective action during the visit by informing its Board of the required modification.

In its response to the DR, SJLS stated that the amendment to its Financial Eligibility Guidelines should be completed at SJLS' March 25, 2015 Board meeting. By letter dated April 15, 2015, SJLS provided a copy of the new Financial Eligibility Policy as adopted on March 25, 2015.

OCE will review the new policy and advise SJLS, by separate cover, if it is sufficient to close this RCA.

Finding 4: SJLS maintains asset eligibility documentation as required by 45 CFR §§ 1611.3(c) and (d) and CSR Handbook (2008 Ed., as amended 2011), § 5.4. However, a revision to its asset eligibility policy is warranted to demonstrate compliance with this regulation.

As part of its financial eligibility policies, recipients are required to establish reasonable asset ceilings in order to determine an applicant's eligibility to receive legal assistance. *See* 45 CFR § 1611.3(d)(1). For each case reported to LSC, recipients must document the total value of assets except for categories of assets excluded from consideration pursuant to its Board-approved asset eligibility policies.⁶ *See* CSR Handbook (2008 Ed., as amended 2011), § 5.4. In the event that a recipient authorizes a waiver of the asset ceiling due to the unusual circumstances of a specific applicant, the recipient shall keep such records as may be necessary to inform LSC of the reasons relied on to authorize the waiver. *See* 45 CFR § 1611.3(d)(2).

The revisions to 45 CFR Part 1611 changed the language regarding assets from requiring the recipient's governing body to establish, "specific and reasonable asset ceilings, including both liquid and non-liquid assets," to "reasonable asset ceilings for individuals and households." *See* 45 CFR § 1611.6 in prior version of the regulation and 45 CFR § 1611.3(d)(1) of the revised regulation. Both versions allow the policy to provide for authority to waive the asset ceilings in unusual or meritorious circumstances. The older version of the regulation allowed such a waiver only at the discretion of the ED. The revised version allows the ED or his/her designee to waive the ceilings in such circumstances. *See* 45 CFR § 1611.6(e) in prior version of the regulation and 45 CFR § 1611.3(d)(2) in the revised version. Both versions require that such exceptions be documented and included in the client's files.

The current policy approved by the SJLS Board of Directors establishes that the following criteria shall apply in determining the ability of the individual to employ private counsel:

⁶ A numerical total value must be recorded, even if it is zero or below the recipient's guidelines. *See* CSR Handbook (2008 Ed., as amended 2011), § 5.4.

Assets are all cash or other resources that are readily convertible to cash which are currently and actually available to the individual seeking services and which could be utilized to obtain private representation. The Standard Asset Limitation shall be \$5,000 for a household of one (1) and \$10,000 for a household of two or more. The following are excluded from the determination of assets eligibility: (a) the person's principal residence; (b) reasonable equity value in work-related equipment, providing the equipment is presently being used or can reasonably be expected to be used in the future for the purpose of generating income consistent with its market value; (c) all automobiles owned by the family unit; (d) trust funds held on behalf of a minor child in the family unit, provided that the trust has not been created primarily for the purpose of establishing eligibility for services; (e) the cash surrender value of any life insurance policy, burial trust, Income Retirement Account (IRA), Keogh or other Pension Plan; (f) income-producing property, disposition of which is reasonably likely to render the owner dependent upon public welfare; (g) personal and household items; (h) one burial plot per person; (i) trust funds held for educational and medical purposes; (j) health aids; and (k) any non-liquid assets excluded under the SSI, Food Stamp, AFDC or General Relief programs.

Because of their special needs, greater dependency and more limited earning potential, the asset limitation for the elderly (60 and older), institutionalized or handicapped shall be \$12,000 for a one-person unit and \$16,000 for family units containing two or more members. The special asset limitation shall apply only when the elderly, institutionalized or handicapped person is applying for services. However, in determining the financial eligibility of a person living in a family unit with an elderly, institutionalized or handicapped person, assets owned wholly, or in part, by the elderly, institutionalized or handicapped person shall not be considered unless they exceed the special asset limitation. In addition to the exclusions from the standard asset limitation, persons subject to the special asset limitation may also claim as exempt any assets reasonably necessary for medical or therapeutic reasons related to their age or handicap and, in the case of institutionalized persons, assets which, if disposed of, would significantly decrease the possibility of the person being able to return to an independent or semi-independent living arrangement. After determining that a person's assets do not exceed the applicable asset limitation, before a final asset eligibility determination is made, consideration shall be given to whether the person has sufficient assets that are convertible to cash available to

obtain the type of services requested without causing substantial hardship. Substantial hardship shall be presumed when the person, or a family unit member, is currently or will shortly be dependent upon such liquid assets to meet the basic needs of food, clothing and shelter. Substantial hardship shall also be presumed when the reasonable cost of the services requested would reduce available liquid assets below one-half of the applicable asset limitation.

If an eligible client becomes ineligible through a change in circumstances, SJLS shall discontinue representation if the change will enable the client to afford private legal assistance and discontinuation is not inconsistent with the attorney's or the program's professional responsibility. This policy shall also be followed if a client initially determined to be financially eligible is later found not to have been eligible for services. If SJLS has substantial reason to doubt the accuracy of eligibility information, it shall make an appropriate inquiry to verify eligibility in a manner consistent with the attorney-client relationship. No third parties shall be contacted for the purpose of confirming eligibility unless the client has given his consent for such contacts in advance. However, a client's refusal without good cause to permit such inquiries, when necessary to confirm financial eligibility, may constitute grounds for finding the client ineligible.

The ED or his/her designee may waive the standard or special asset limitation in unusual situations. The existence of one (1) or more of the factors shall suffice to support a waiver. Such a waiver must be documented and included in the person's file and in a file maintained by the ED, according to SJLS's policy.

All cases reviewed contained evidence of asset screening and documentation. Accordingly, SJLS is in compliance with the asset eligibility documentation required by 45 CFR §§ 1611.3(c) and (d) and CSR Handbook (2008 Ed., as amended 2011), § 5.4.

However, as discussed previously, SJLS' intake policy and procedures include the asset exclusion of all automobiles owned by the family unit. LSC regulations, pursuant to 45 CFR § 1611.3(d)(1), allow for the exception of "vehicles used for transportation." SJLS must take corrective action to amend their policy and procedures to reflect the requirement that an excluded vehicle be used for transportation, in compliance with 45 CFR § 1611.3(d)(1). At the beginning of the visit, SJLS was made aware of this matter and began to take steps to address this corrective action during the visit by informing its Board of the required modification.

Required Corrective Action

The DR instructed SJLS to take corrective action to amend its policy and procedures to reflect the requirement that a vehicle used for transportation is an excludable asset as outlined in 45 CFR § 1611.3(d)(1).

In its response to the DR, SJLS stated that the amendment to its policy and procedures should be completed at SJLS' March 25, 2015 Board meeting. By letter dated April 15, 2015, SJLS provided a copy of the new Financial Eligibility Policy as adopted on March 25, 2015.

Review of the revised policy indicates that the required modification was made. Based on that review RCA No. 6 is closed.

Finding 5: SJLS is in compliance with the requirements of 45 CFR Part 1626 (Restrictions on legal assistance to aliens). However, SJLS' written policy must be modified to comply with 45 CFR § 1626.12.

The level of documentation necessary to evidence citizenship or alien eligibility depends 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 (2008 Ed., as amended 2011), § 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 (2008 Ed., as amended 2011), § 5.5.

Prior to 2006, recipients were permitted to provide non-LSC funded legal assistance to an alien who had been battered or subjected to extreme cruelty in the United States by a spouse or parent, or by a member of the spouse's or parent's family residing in the same household, or an alien whose child had been battered or subjected to such cruelty.⁷ Although non-LSC funded legal assistance was permitted, such cases could not be included in the recipient's CSR data submission. In January 2006, the Kennedy Amendment was expanded and LSC issued Program Letter 06-2, "Violence Against Women Act 2006 Amendment" (February 21, 2006), which instructs 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 CSRs.

All cases reviewed evidenced that the client was screened for citizenship/alien eligibility and all cases appeared to contain the requisite 45 CFR Part 1626 documentation.⁸

⁷ *See* Kennedy Amendment at 45 CFR § 1626.4.

⁸ Verification of name related compliance documentation could not be conducted as explained in the "Background of Review" Section II. As a result, this report cannot verify the findings in any area that requires client identity as part of a verification process.

SJLS has a written policy as required by 45 CFR § 1626.12, however the policy does not include the pertinent regulation definitions contained in 45 CFR § 1626.2, does not detail causes to verify citizenship, as provided in 45 CFR § 1626.6(b), and does not authorize representation of special eligible aliens enumerated in 45 CFR § 1626.10.

Required Corrective Action

The DR instructed SJLS to take corrective action to add the above mentioned sections to its 45 CFR Part 1626 policy. At the beginning of the visit, SJLS was made aware of this matter and began to take steps to address this corrective action during the visit by informing its Board of the required modification.

In its response to the DR, SJLS stated that the amendment to its policy pertaining to 45 CFR § 1626.12 should be completed at SJLS' May 20, 2015 Board meeting.

RCA No. 7 shall remain open until such time as the amended policy is received and reviewed by LSC.

Finding 6: SJLS is in compliance with the retainer requirements of 45 CFR § 1611.9 (Retainer agreements).

Pursuant to 45 CFR § 1611.9, recipients are required to execute a retainer agreement with each client who receives extended legal services from the recipient. The retainer agreement must be in a form consistent with the applicable rules of professional responsibility and prevailing practices in the recipient's service area and shall include, at a minimum, a statement identifying the legal problem for which representation is sought, and the nature of the legal service to be provided. *See* 45 CFR § 1611.9(a).

The retainer agreement is to be executed when representation commences or as soon thereafter is practical and a copy is to be retained by the recipient. *See* 45 CFR §§ 1611.9(a) and (c). The lack of a retainer does not preclude CSR reporting eligibility.⁹ Cases without a retainer, if otherwise eligible and properly documented, should be reported to LSC.

During the on-site review, extended service cases were sampled to assess whether SJLS was executing retainer agreements in accordance with 45 CFR § 1611.9.

Review of sampled cases evidenced that SJLS has strong practices to obtain a client retainer at the beginning of cases. However, case sampling identified a few case files in which the scope of the representation was inadequate. *See* Woodbury Staff Closed 2013 Case No. 13-0221472. The scope in the retainer stated that the program would review the legal problem and provide legal advice; however, the program went on to represent the client, closing the case as a "contested court decision." *See also*, Atlantic City Staff Closed 2013 Case No. 13-0222035. The retainer scope was to investigate the legal issue; however, the program went on to provide

⁹ However, a retainer is more than a regulatory requirement. It is also a key document clarifying the expectations and obligations of both client and program, thus assisting in a recipient's risk management.

further representation and closed the case as a “negotiated settlement without litigation.” In such cases, a second retainer is necessary when the program decides to provide expanded or additional services beyond the services contracted for in the original retainer.

There was also a single case lacking a retainer where one (1) was required. In Vineland Staff Closed 2013 Case No. 10-29002752, the case was properly closed as a negotiated settlement without litigation. This file appeared to be an outlier, and not reflective of the program’s otherwise standard practice to obtain client retainer agreements, in that this file began as a PAI referral case, but then received extended service by an SJLS advocate. Because the case began as a PAI case that would not require a client retainer be present in the case record, no retainer was obtained at the beginning of the case; when the case continued with staff representation, the need for a retainer was overlooked.

Recommendation

The DR recommended that SJLS develop a procedure to review client retainer agreements to make certain they properly match the scope of the representation provided to the client.

In its response to the DR, SJLS did not comment on this recommendation.

Finding 7: Sample cases, interviews, and a review of SJLS’ policies evidenced substantial compliance with the requirements of 45 CFR Part 1636 (Client identity and statement of facts). However, SJLS’ written policy must be modified to comply with 45 CFR Part 1636.

LSC regulations require that recipients identify by name each plaintiff it represents in any complaint it files, or in a separate notice provided to the defendant, and identify each plaintiff it represents to prospective defendants in pre-litigation settlement negotiations. In addition, the regulations require that recipients prepare a dated, written statement signed by each plaintiff it represents, enumerating the particular facts supporting the complaint. *See* 45 CFR §§ 1636.2(a) (1) and (2).

The statement is not required in every case. It is required only when a recipient files a complaint in a court of law or otherwise initiates or participates in litigation against a defendant, or when a recipient engages in pre-complaint settlement negotiations with a prospective defendant. *See* 45 CFR § 1636.2(a).

All sampled files that required a statement of facts appeared to contain a document that met the requirements of this regulation.¹⁰

The SJLS policy, in effect at the time of the review, requires modification in order to be in compliance with LSC regulations. SJLS’ 45 CFR Part 1636 policy does not indicate that it is applicable to cases for which PAI attorneys are compensated by SJLS. *See* 45 CFR § 1636.4.

¹⁰ Verification of name related compliance documentation could not be conducted as explained in the “Background of Review” Section II. As a result, this report cannot verify the findings in any area that requires client identity as part of a verification process.

SJLS must take corrective action to add the required language to its written policy. At the beginning of the visit, SJLS was made aware of this matter and began to take steps to address this corrective action during the visit by informing its Board of the required modification.

Required Corrective Action

The DR instructed SJLS to take corrective action to add the required language, as specified above, to its written policy.

In its response to the DR, SJLS stated that the amendment to its 45 CFR § 1636.4 policy should be completed at SJLS' May 20, 2015 Board meeting.

This corrective action shall remain open until such time as the amended policy is received and reviewed by LSC.

Finding 8: Sampled cases indicated that SJLS is in compliance with the requirements of 45 CFR §§ 1620.3(a) and 1620.6 (Priorities in the use of resources). However, SJLS' written policy must be modified to comply with 45 CFR § 1620.4.

LSC regulations require that recipients adopt a written statement of priorities that determines the cases which may be undertaken by the recipient, regardless of the funding source. *See* 45 CFR § 1620.3(a). Except in an emergency, recipients may not undertake cases outside its priorities. *See* 45 CFR § 1620.6.

LSC regulations further requires that staff who handle cases or matters, or make case acceptance decisions, sign written agreements indicating they have read and are familiar with the recipient's priorities, have read and are familiar with the definition of an emergency situation and procedures for dealing with an emergency, and will not undertake any case or matter for the recipient that is not a priority or an emergency.

In advance of the on-site visit, SJLS provided its 2012 Priority Statement which included Family law, Juvenile Court Proceedings, Elder law, Public Benefits, Health Access, Consumer and Utility, Employment, Housing, and Education law.

All sampled cases reviewed were within SJLS' priorities in compliance with 45 CFR Part 1620. Interviews with the ED and a review of signed written agreements also evidenced that SJLS is in compliance with the requirements of 45 CFR § 1620.6.

SJLS' priority policy does not address 45 CFR § 1620.4 (Establishing policies and procedures for emergencies). SJLS must take corrective action to revise its policy to address 45 CFR § 1620.4. At the beginning of the visit, SJLS was made aware of this matter and began to take steps to address this corrective action during the visit by informing its Board of the required modification.

Required Corrective Action

The DR instructed SJLS to take corrective action to revise its policy to address 45 CFR § 1620.4.

In its response to the DR, SJLS provided LSC with evidence of its amended 45 CFR § 1620.4 policy. The policy was reviewed and found to be in compliance with 45 CFR Part 1620. The policy was adopted by the Board of Directors on January 20, 2015.

Based on a review of SJLS' response to this Finding and the evidence provided, RCA No. 9 is closed.

Finding 9: SJLS is in non-compliance with the requirements of the CSR Handbook (2008 Ed., as amended 2011), § 5.6 (Description of legal assistance provided) for the CIU cases. SJLS management took short-term corrective action to de-select those CIU cases that lacked evidence of legal assistance.

LSC regulations specifically define “case” as a form of program service in which the recipient provides legal assistance. *See* 45 CFR §§ 1620.2(a) and 1635.2(a). Consequently, whether the assistance that a recipient provides to an applicant is a “case”, reportable in the CSR data depends, to some extent on whether the case is within the recipient’s priorities and whether the recipient has provided some level of legal assistance, limited or otherwise.

If the applicant’s legal problem is outside the recipient’s priorities, or if the recipient has not provided any type of legal assistance, it should not report the activity in its CSR. For example, recipients may not report the mere referral of an eligible client as a case when the referral is the only form of assistance that the applicant receives from the recipient. *See* CSR Handbook (2008 Ed., as amended 2011), § 7.2.

Recipients are instructed to record client *and* case information, either through notations on an intake sheet or other hard-copy document in a case file, or through electronic entries in an ACMS database, or through other appropriate means. For each case reported to LSC such information shall, at a minimum, describe, *inter alia*, the level of service provided. *See* CSR Handbook (2008 Ed., as amended 2011), § 5.6.

The review of sampled cases evidenced a significant error that has resulted in numerous cases without legal advice being reported in the program’s annual CSR submission to LSC as “counsel and advice” cases. Due to this pattern, SJLS was in non-compliance with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 5.6. These cases originated from the CIU and involved intakes in which the applicant was only given legal information by a non-advocate. These cases were found in the Camden Staff case sample and affected a majority of the 2013 closed cases sampled from the CIU. As a matter of standard practice, the CIU staff members provide appropriate substantive area materials to callers, but examination of these materials determined that they were general and did not involve the application of the specific facts to the legal area. This was discussed with the Director of Pro Bono Services and Centralized Intake

(“DPBCI”) who agreed that the materials provided by the intake paralegals do not amount to legal advice. Therefore, such cases must be deselected and not reported in any future CSR submission to LSC, as these cases do not qualify as a reportable CSR case because the program never provided any legal assistance.

There was a small subset of CIU cases reviewed that would qualify for reporting as “counsel and advice,” as the DPBCI had provided legal advice to the caller. For example, for bankruptcy cases, the DPBCI stated that she will search the public bankruptcy records to determine whether the individual had a bankruptcy discharge within the past eight (8) years. For those who do, they are informed that they cannot file another bankruptcy within the eight (8) year period. For those who have not, they are told that bankruptcy is possible. This simple action and subsequent communication meets the need for the application of law to the specific facts and, therefore, such cases contain legal advice, and are reportable as “counsel and advice.” The advice is typically documented in a letter signed by the DPBCI, who is an attorney.

The use of different standard letters to applicants/clients was identified during the review, along with the need to engage program management regarding relevant letter language. It was determined that these letters should be improved so as to clearly distinguish when legal advice is being provided, and also to ensure that the information is otherwise consistent. For example, when informing a client that they cannot yet file again for bankruptcy, as described above, the letter should also avoid any absolute language stating that the program **will not be taking the case nor providing any legal advice**. The better statement is to inform the client that the program is only providing the legal advice found in the letter and will not be accepting the case for full representation. Technical assistance was provided by the team, to the DPBCI on February 6, 2014, during the visit to the Camden office. This technical assistance involved certain language options regarding advice letters to clients who may only receive limited services from the program. During this assistance provided by the OCE team, the DPBCI provided suggested language to be utilized in future letters, for the team’s review and comment. The proposed language by SJLS was accurate and sufficient.

In total, of the 19 sampled closed 2013 CIU cases that were marked for CSR inclusion, 18 files should have been de-selected from future CSR reporting for lack of legal advice. There were numerous other files that were closed in 2012 that should not have been reported in the 2012 CSR submission. *See* Camden Staff Closed 2012 Case Nos. 11-29007159; 12-29000603; 12-29002102; 12-29002726; 12-29003268; 12-29003571; 12-29003751; 12-29003724; 12-29004722; 12-29004888; 12-29004973; 12-29006647; 12-29003306; and 12-0220585.

SJLS management was requested to take short-term corrective action to de-select the CIU cases that lacked evidence of legal advice. SJLS management sought, and obtained, an extension from LSC’s Office of Information Management for reporting its 2013 CSR numbers. In continued interactions with both the DPBCI and the Director of Litigation, the review team was informed that, prior to submission of the 2013 CSR, a full review of CIU cases had been conducted and that CIU cases lacking legal advice had been de-selected from the 2013 CSR data. As a result, no further corrective action regarding proper coding of CIU “information only” files appears to be necessary for 2013 closed cases.

With the exception of the CIU cases mentioned above, the on-site review evidenced that SJLS is in substantial compliance with CSR Handbook (2008 Ed., as amended 2011), § 5.6, as all cases reviewed contained a description of legal assistance provided to the client.

Required Corrective Action

As a required corrective action, the DR instructed SJLS to provide OCE with the policy and procedures implemented, or to be implemented, to ensure that the above mentioned errors are not repeated.

In its response to the DR, SJLS stated that “intakes improperly reported as advice and counsel were deselected as noted” and “CIU management and staff were specifically instructed that when actual counsel and advice was not provided to the applicant, such cases could not and should not be closed under closing code “A” in compliance with § 5.6 of the CSR Handbook.” SJLS indicated that, in December 2014, a new Managing Attorney had been hired for the CIU who would be better able to oversee LSC compliance during the intake process. SJLS further stated that “the Deputy Director periodically reviews intakes closed by CIU to ensure compliance in this regard.” At the time of OCE’s visit, the Managing Attorney of CIU was split between overseeing CIU and PAI, rendering oversight of CIU’s LSC compliance more challenging, according to comments to the DR.

Based on a review of SJLS’ response to this Finding, RCA No. 10 is closed.

Finding 10: SJLS’ application of the CSR case closure categories is substantially consistent with Chapters VIII and IX of the CSR Handbook (2008 Ed., as amended 2011).

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 (2008 Ed., as amended 2011), § 6.1.

The review assessed whether SJLS’ application of the CSR case closure categories is consistent with Chapters VIII and IX of the CSR Handbook (2008 Ed., as amended 2011). The sampled cases contained numerous examples of correctly used case closing categories, including more complex case closure categories. SJLS’ application of the CSR case closure categories is substantially consistent with Chapters VIII and IX of the CSR Handbook (2008 Ed., as amended 2011). However, as noted below, there were a few exceptions.

Some the exceptions involved the use of case closure category “other,” (K) which was found to have been incorrectly used in the five (5) cases sampled that had been closed with that code. In four (4) of these cases, the files should have been deselected from CSR reporting, as no legal advice was provided, with a majority of these files being a simple referral outside of the program. *See* Woodbury Staff Closed 2013 Case No. 13-0225091 and Camden Staff Closed 2013 Case Nos. 13-0225219, 13-0224885, and 13-0224685. In the remaining case, the file contained legal advice for which another case closure category was more accurate.

Other closing code errors included Woodbury Staff Closed 2013 Case No. 13-0224587 which should have been closed as “counsel and advice,” Camden Staff Closed 2012 Case No.12-29001812, with a closing code of “extensive service,” when the more appropriate closing code would have been “negotiated settlement with litigation,” and Camden Staff Closed 2011 Case No. 10-29002600, with a closing code of “contested court decision,” when the more appropriate closing code would have been “extensive service.”

Required Corrective Action

The DR instructed SJLS to take corrective action to ensure that closing code “other” (K) be used only for CSR eligible and reportable cases and when this closure category best describes the level of service provided.

In its response to the DR, SJLS stated that “CIU management and staff were instructed in the proper and improper uses of closing code “K” in accordance with the CSR Handbook,” and “the Deputy Director periodically reviews cases closed by CIU to ensure compliance in this regard.”

Based on a review of SJLS’ response to this Finding, RCA No. 11 is closed.

Recommendations

The DR recommended that SJLS provide training or other guidance to staff on the correct usage of closing code “other” (K).

In its response to the DR, SJLS did not comment on this recommendation.

The DR recommended that SJLS management periodically print lists of any cases designated for LSC reporting which were closed using case closure category “other,” in order to ensure this category has been correctly applied by staff.

In its response to the DR, SJLS did not comment on this recommendation.

Finding 11: SJLS is in substantial compliance with the requirements of the CSR Handbook (2008 Ed., as amended 2011), § 3.3 (Timely closing and dormant cases). However, there were four (4) case files which were untimely closed.

To the extent practicable, programs shall report cases as having been closed in the year in which assistance ceased, depending on case type. Cases in which the only assistance provided is counsel and advice or limited action (CSR Categories A and B), should be reported as having been closed in the grant year in which the case was opened. *See* CSR Handbook (2008 Ed., as amended 2011), § 3.3(a).¹¹ There is, however, an exception for limited service cases opened

¹¹ The time limitation of the 2001 Handbook that a brief service case should be closed “as a result of an action taken at or within a few days or weeks of intake” has been eliminated. However, cases closed as limited action are subject

after September 30, and those cases containing a determination to hold the file open because further assistance is likely. *See* CSR Handbook (2008 Ed., as amended 2011), § 3.3(a). All other cases (CSR Categories F through L, 2008 CSR Handbook) should be reported as having been closed in the grant year in which the recipient determines that further legal assistance is unnecessary, not possible or inadvisable, and a closing memorandum or other case-closing notation is prepared. *See* CSR Handbook (2008 Ed., as amended 2011), § 3.3(b). Additionally LSC regulations require that systems designed to provide direct services to eligible clients by private attorneys must include, among other things, case oversight to ensure timely disposition of the cases. *See* 45 CFR § 1614.3(d)(3).

The review assessed compliance with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 3.3 (Timely closing and dormant cases) and determined, with four (4) exceptions, that SJLS is in substantial compliance. There were no dormant cases noted. However, four (4) of the case files reviewed were not closed in a timely manner. *See* Camden Staff Closed 2014 Case Nos. 12-17003544, which was opened on June 6, 2012 and closed on January 31, 2014 with a closing code of “counsel and advice.” All legal work ceased in the case in 2013 and there was no evidence noting any future work pending or required; 12-0220390, which was opened on December 12, 2012 and closed on January 30, 2014 with a closing code of “counsel and advice.” All legal work ceased in the case in 2013 and there was no evidence noting any future work pending or required; 13-0221833, which was opened on February 19, 2013 and closed on January 15, 2014 with a closing code of “counsel and advice.” All legal work ceased in the case in 2013 and there was no evidence noting any future work pending or required; and 13-0222617, which was opened on March 22, 2013 and closed on January 15, 2014 with a closing code of “counsel and advice.” All legal work ceased in the case in 2013 and there was no evidence noting any future work pending or required.

Recommendation

The DR recommended that SJLS review all cases periodically for their status, in order to ensure timely closing of cases and to ensure cases that are not timely closed are not reported to LSC in the CSRs.

In its response to the DR, SJLS did not comment on this recommendation.

Finding 12: SJLS is in compliance with the requirements of the CSR Handbook (2008 Ed., as amended 2011), § 3.2 regarding duplicate cases.

Through the use of automated case management systems and procedures, recipients are required to ensure that cases involving the same client and specific legal problem are not recorded and reported to LSC more than once. *See* CSR Handbook (2008 Ed., as amended 2011), § 3.2.

to the time limitation on case closure found in CSR Handbook (2008 Ed., as amended 2011), § 3.3(a) this category is intended to be used for the preparation of relatively simple or routine documents and relatively brief interactions with other parties. More complex and/or extensive cases that would otherwise be closed in this category should be closed in the new CSR Closure Category L (Extensive Service).

When a recipient provides more than one (1) type of assistance to the same client during the same reporting period, in an effort to resolve essentially the same legal problem, as demonstrated by the factual circumstances giving rise to the problem, the recipient may report only the highest level of legal assistance provided. *See* CSR Handbook (2008 Ed., as amended 2011), § 6.2.

When a recipient provides assistance more than once within the same reporting period to the same client who has returned with essentially the same legal problem, as demonstrated by the factual circumstances giving rise to the problem, the recipient is instructed to report the repeated instances of assistance as a single case. *See* CSR Handbook (2008 Ed., as amended 2011), § 6.3. Recipients are further instructed that related legal problems presented by the same client are to be reported as a single case. *See* CSR Handbook (2008 Ed., as amended 2011), § 6.4.

Case files sampled revealed that SJLS is in compliance with the requirements of the CSR Handbook (2008 Ed., as amended 2011), § 3.2, as no duplicate case files were noted.

Accordingly, there are no recommendations or required corrective actions.

In response to the DR, SJLS did not comment on this Finding.

Finding 13: Review of the timekeeping records and interviews with full-time attorneys evidenced that SJLS is in compliance with the requirements of 45 CFR Part 1604 (Outside practice of law). However, SJLS' written policy must be modified to comply with 45 CFR § 1604.3.

This part is intended to provide guidance to recipients in adopting written policies relating to the outside practice of law by recipients' full-time attorneys. Under the standards set forth in 45 CFR Part 1604, recipients are authorized, but not required, to permit attorneys, to the extent that such activities do not hinder fulfillment of their overriding responsibility to serve those eligible for assistance under the Act, to engage in pro bono legal assistance and comply with the reasonable demands made upon them as members of the Bar and as officers of the Court.

Interviews with management and staff members confirmed that SJLS is not involved in any unauthorized outside practice of law and is in compliance with the requirements of 45 CFR Part 1604.

SJLS' written policy pertaining to 45 CFR Part 1604 requires modification in order to be in full compliance with the regulation. Specifically, SJLS' definition of outside practice of law does not match the definition pursuant to 45 CFR § 1604.2(b). The policy states that outside practice of law only applies to providing legal assistance to a client who isn't entitled to receive assistance from SJLS, but outside practice of law can occur when representing a client that is entitled to representation from SJLS. Additionally, the policy includes examples that are not listed in the regulation. The policy does not require that the ED determine that the outside practice of law be consistent with the attorney's responsibilities and does not prohibit intentionally identifying the case with SJLS. *See* 45 CFR §§ 1604.4(a) and (b). Finally, the

policy does not address how SJLS' resources will be used if outside practice of law is conducted pursuant to 45 CFR § 1604.6.

Required Corrective Action

The DR instructed SJLS to take corrective action to modify its 45 CFR Part 1604 policy, as noted above. At the beginning of the visit, SJLS was made aware of this matter and began to take steps to address this corrective action during the visit by informing its Board of the required modification.

In its response to the DR, SJLS stated that the amendment to its 45 CFR Part 1604 policy should be completed at SJLS' May 20, 2015 Board meeting.

This corrective action shall remain open until such time as the amended policy is received and reviewed by LSC.

Finding 14: A limited fiscal and sampled case review, as well as interviews with members of management and staff, evidenced compliance with the requirements of 45 CFR Part 1608 (Prohibited political activities).

LSC regulations prohibit recipients from expending grants funds or contributing personnel or equipment to any political party or association, the campaign of any candidate for public or party office, and/or for use in advocating or opposing any ballot measure, initiative, or referendum. *See* 45 CFR Part 1608.

Examination of SJLS Check Registers for 2012 and 2013, generated from their accounting system, representing all (non-payroll) payments to persons and entities from January 1, 2012 through December 31, 2013 were scanned for disbursements to possible political entities with negative results. Additionally, pages of SJLS' on-line web-site (www.lsnj.org/sjls), its Facebook page (<https://www.facebook.com/SJLegalServices>), and the results of a search of on-line news articles pertaining to SJLS were reviewed for relationships with political activities or entities. A review of such materials found no prohibited political activities.

In discussions with the ED, it was confirmed that SJLS has not been involved in any activities prohibited by 45 CFR Part 1608. A review of sampled cases disclosed no evidence that staff members, while engaged in legal assistance activities supported under the LSC Act, engaged in any political activity, provided voters with transportation to the polls, or provided similar assistance in connection with an election or voter registration activity. As such, it appears that SJLS is in compliance with the requirements of 45 CFR Part 1608 (Prohibited political activities).

There are no recommendations or required corrective actions.

In its response to the DR, SJLS did not comment on this Finding.

Finding 15: Review of the recipient’s sampled cases, as well as interviews with members of management and staff, evidenced compliance with the requirements of 45 CFR Part 1609 (Fee-generating cases), and no fee-generating cases were noted. However, SJLS’ written policy needs to be modified to comport with 45 CFR Part 1609.

Except as provided by LSC regulations, recipients may not provide legal assistance in any case which, if undertaken on behalf of an eligible client by an attorney in private practice, reasonably might be expected to result in a fee for legal services from an award to the client, from public funds or from the opposing party. *See* 45 CFR §§ 1609.2(a) and 1609.3.

Recipients may provide legal assistance in such cases where the case has been rejected by the local lawyer referral service, or two (2) private attorneys; neither the referral service nor two (2) private attorneys will consider the case without payment of a consultation fee; the client is seeking, Social Security, or Supplemental Security Income benefits; the recipient, after consultation with the private bar, has determined that the type of case is one (1) that private attorneys in the area ordinarily do not accept, or do not accept without pre-payment of a fee; the Executive Director has determined that referral is not possible either because documented attempts to refer similar cases in the past have been futile, emergency circumstances compel immediate action, or recovery of damages is not the principal object of the client’s case and substantial attorneys’ fees are not likely. *See* 45 CFR §§ 1609.3(a) and 1609.3(b).

LSC has also prescribed certain specific recordkeeping requirements and forms for fee-generating cases. The recordkeeping requirements are mandatory. *See* LSC Memorandum to All Program Directors (December 8, 1997).

In light of recent regulatory changes, LSC has prescribed certain specific requirements for fee-generating cases. *See* Program Letters 09-3 (December 17, 2009) and 10-1 (February 18, 2010). LSC has determined that it will not take enforcement action against any recipient that filed a claim for, or collected or retained attorneys’ fees during the period of December 16, 2009 through March 15, 2010. Enforcement activities related to claims for attorneys’ fees filed prior to December 16, 2009, or fees collected or retained prior to December 16, 2009, are no longer suspended and any violations which are found to have occurred prior to December 16, 2009 will subject the grantee to compliance and enforcement action. Additionally, the regulatory provisions regarding accounting for and use of attorneys’ fees and acceptance of reimbursement from clients remain in force, and violations of those requirements, regardless of when they have occurred, will subject the grantee to compliance and enforcement action.

SJLS has a written policy governing the acceptance of fee-generating cases which was adopted February 19, 2013. The SJLS Policy on Fee-Generating Cases is generally compliant with 45 CFR Part 1609 and Program Letter 10-1, with the exception of the requirements for reporting and recording of attorneys’ fees as defined by 45 CFR § 1609.4(a), which requires that attorneys’ fees be allocated to the fund in which the recipient’s LSC grant is recorded in the same proportion that LSC funds were expended to support the representation. Pursuant to 45 CFR § 1609.4(b) attorneys’ fees must be recorded as received and how expended.

The SJLS Policy on Fee-Generating Cases (1609) also establishes the case approval and documentation requirements and establishes an hourly fee schedule to be used for law students, paralegals, and attorneys based on experience. Also defined is a schedule of the types of cases by statute permitted by SJLS as acceptable as fee-generating cases and the documentation form to be maintained on all cases. The policy requires one (1) form in the case file and one (1) form to the ED where there is a reasonable expectation that a legal fee could result.

During the period of January 2011 through September 2013, SJLS received no attorneys' fees from fee-generating cases, as there were no cases reviewed involving fee-generating cases.

A review of SJLS' General Ledger ("GL") revealed that they received limited court awarded attorneys' fees of \$13,920 in 2011 and \$3,860 in 2012. These revenues were recorded as unrestricted attorneys' fees, were all posted to the GL as unrestricted funds, and so reflected in the independent audits. What amount, if any, may have been attributable to LSC funding was not determined.

Required Corrective Action

The DR instructed SJLS to take corrective action to modify its fee-generating policy to comply with 45 CFR Part 1609. At the beginning of the visit, SJLS was made aware of this matter and began to take steps to address this corrective action during the visit by informing its Board of the required modification.

In its response to the DR, SJLS stated that the amendment to its 45 CFR Part 1609 policy should be completed at SJLS' May 20, 2015 Board meeting.

This corrective action shall remain open until such time as the amended policy is received and reviewed by LSC.

Additional Information Requested

The DR instructed SJLS to advise LSC as to what percentage, if any, of the fees received in 2011 and 2012 should have been allocated to LSC funding. If fees should have been allocated to LSC, the DR instructed SJLS to provide evidence of proper reallocation or of a plan to do so.

In its response to the DR, SJLS stated that none of the attorneys' fees received by SJLS in 2011 and 2012 should have been allocated to LSC funding.

Based on a review of SJLS' response to additional information requested, LSC finds it to be an adequate response to the question presented.

Finding 16: A limited review of SJLS' accounting and financial records indicated compliance with 45 CFR Part 1610 in regard to the use of non-LSC funds, transfers of LSC funds and program integrity. SJLS is in non-compliance with 45 CFR § 1610.5 (Notification).

Part 1610 was adopted to implement Congressional restrictions on the use of non-LSC funds and to assure that no LSC funded entity engage in restricted activities. Essentially, recipients may not themselves engage in restricted activities, transfer LSC funds to organizations that engage in restricted activities, or use its resources to subsidize the restricted activities of another organization.

The regulations contain a list of restricted activities. *See* 45 CFR § 1610.2. They include lobbying, participation in class actions, representation of prisoners, legal assistance to aliens, drug related evictions, and the restrictions on claiming, collecting or retaining attorneys' fees.

Recipients are instructed to maintain objective integrity and independence from any organization that engages in restricted activities. In determining objective integrity and independence, LSC looks to determine whether the other organization receives a transfer of LSC funds, and whether such funds subsidize restricted activities, and whether the recipient is legally, physically, and financially separate from such organization.

Whether sufficient physical and financial separation exists is determined on a case by case basis and is based on the totality of the circumstances. In making the determination, a variety of factors must be considered. The presence or absence of any one (1) or more factors is not determinative. Factors relevant to the determination include:

- i) the existence of separate personnel;
- ii) the existence of separate accounting and timekeeping records;
- iii) the degree of separation from facilities in which restricted activities occur, and the extent of such restricted activities; and
- iv) The extent to which signs and other forms of identification distinguish the recipient from the other organization.

See 45 CFR § 1610.8(a); *see also*, OPO Memo to All LSC Program Directors, Board Chairs (October 30, 1997).

Recipients are further instructed to exercise caution in sharing space, equipment and facilities with organizations that engage in restricted activities--particularly if the recipient and the other organization employ any of the same personnel or use any of the same facilities that are accessible to clients or the public. But, as noted previously, standing alone, being housed in the same building, sharing a library or other common space inaccessible to clients or the public may be permissible as long as there is appropriate signage, separate entrances, and other forms of identification distinguishing the recipient from the other organization, and no LSC funds subsidize restricted activity. Organizational names, building signs, telephone numbers, and other

forms of identification should clearly distinguish the recipient from any organization that engages in restricted activities. *See* OPO Memo to All LSC Program Directors, Board Chairs (October 30, 1997).

While there is no *per se* bar against shared personnel, generally speaking, the more shared staff, or the greater their responsibilities, the greater the likelihood that program integrity will be compromised. Recipients are instructed to develop systems to ensure that no staff person engages in restricted activities while on duty for the recipient, or identifies the recipient with any restricted activity. *See* OPO Memo to All LSC Program Directors, Board Chairs (October 30, 1997).

Under 45 CFR § 1610.5, no recipient may accept funds of \$250 or more from any source other than the Corporation, unless the recipient provides to the source of the funds written notification of the prohibitions and conditions which apply to the funds.

SJLS' GL data for LSC funds were extracted for the periods of January 1, 2012 through December 31, 2013 and examined for any transfers of LSC funds. No transfers of LSC funds in a manner as described in 45 CFR § 1610.2(g) were identified. Pursuant to 45 CFR § 1610.2(g), a transfer means a payment of LSC funds by a recipient to a person or entity for the purpose of conducting programmatic activities that are normally conducted by the recipient, such as the representation of eligible clients, or that provide direct support to the recipient's legal assistance activities. The SJLS Check Registers for January 1, 2012 through December 31, 2013, as generated from SJLS' accounting system and representing all (non-payroll) payments to persons and entities from the recipient program during that period, were scanned for disbursements indicating possible transfers of LSC funds; none were identified.

Additionally, pages of SJLS' on-line web-site (www.lsnj.org/sjls), its Facebook page (<https://www.facebook.com/SJLegalServices>), and the results of a search of on-line news articles mentioning SJLS were reviewed for relationships with other organizations or entities. A limited review of such materials found no indication of relationships with organizations engaged in prohibited activities. IRS Form 990 filed by SJLS for the years ending December 31, 2011 and December 31, 2012 did not reflect any fiduciary relationship with any another organization which would have affected the program integrity of SJLS pursuant to 45 CFR § 1610.8. A review of signage and building space revealed no potential 1610 issues.

SJLS has established procedures for notification of donors of solicited and unsolicited donations (based on receipt of a donation). Each donor is provided a letter signed by the ED defining the deductibility of the donation for tax purposes which notes that "Your contribution will be expended in accordance with Federal Legal Services Corporation Act, 42 USC 2996 et. seq. and Public Law 104-134." However, grantors were not notified of the limitations imposed on their grant funds.

Required Corrective Actions

The DR instructed SJLS to take corrective action to give such notice as mentioned above during the application process for a grant or contract, or immediately upon receiving notice of an award.

The DR instructed SJLS to take corrective action to comply with the requirements of 45 CFR § 1610.5 (Notification).

In its response to the DR, SJLS disagreed with this Finding and provided evidence of its 45 CFR § 1610.5 (Notification) letter that is routinely provided as a matter of course as part of its funding application process.

Based on a review of SJLS' response to this Finding and the evidence provided, RCA No. 14 is closed.

Finding 17: SJLS is in compliance with 45 CFR Part 1614 which is designed to ensure that recipients of LSC funds involve private attorneys in the delivery of legal assistance to eligible clients. SJLS has met their required 12.5% PAI expenditures for the years 2011 and 2012. However, SJLS' process for accounting for PAI costs is undocumented and does not fully disclose the cost of the PAI program¹².

LSC regulations require LSC recipients to devote an amount of LSC and/or non-LSC funds equal to 12.5 % of its LSC annualized basic field award for the involvement of private attorneys in the delivery of legal assistance to eligible clients. This requirement is referred to as the "PAI" or private attorney involvement requirement.

Activities undertaken by the recipient to involve private attorneys in the delivery of legal assistance to eligible clients must include the direct delivery of legal assistance to eligible clients. The regulation contemplates a range of activities, and recipients are encouraged to assure that the market value of PAI activities substantially exceed the direct and indirect costs allocated to the PAI requirement. The precise activities undertaken by the recipient to ensure private attorney involvement are, however, to be determined by the recipient, taking into account certain factors. *See* 45 CFR §§ 1614.3(a), (b), (c), and (e)(3). The regulations, at 45 CFR § 1614.3(e)(2), require that the support and expenses relating to the PAI effort must be reported separately in the recipient's year-end audit. The term "private attorney" is defined as an attorney who is not a staff attorney. *See* 45 CFR § 1614.1(d). Further, 45 CFR § 1614.3(d)(3) requires programs to implement case oversight and follow-up procedures to ensure the timely disposition of cases to achieve, if possible, the results desired by the client and the efficient and economical utilization of resources.

Recipients are required to develop a PAI Plan and budget. *See* 45 CFR § 1614.4(a). The annual plan shall take into consideration the legal needs of eligible clients in the geographical area, the delivery mechanisms potentially available to provide the opportunity for private attorneys to meet legal needs, and the results of consultation with significant segments of the client community, private attorneys and bar associations, including minority and women's bar

¹² Since the time of the on-site review, LSC has revised 45 CFR Part 1614. All references in this Report are to the regulation, as in effect at the time of the review. SJLS is now required to adhere to the regulation, as effective November 14, 2014.

associations. The recipient must document that its proposed annual Plan has been presented to all local bar associations and the Plan shall summarize their response. See 45 CFR §§ 1614.4(a) and (b).

Additionally, 45 CFR Part 1614 requires that recipients utilize a financial management system and procedures that document its PAI cost allocations, identify and account for separately direct and indirect costs related to its PAI effort, and report separately the entire allocation of revenue and expenses relating to the PAI effort in its year-end audit.

The Audited Financial Statements for 2011 and 2012 reflected that SJLS met their PAI expenditure requirements, as did a review of the unaudited costs for 2013. However, the accounting process used for PAI determining expenditures was not documented in SJLS' Accounting Manual.

Examination of the accounting process determined that the monthly salary/benefits expense postings for the assigned attorneys and paralegals were estimates based on prior experience, as described by staff interview. At year-end, actual PAI time reports for assigned legal staff are generated from the ACMS and actual salary/benefits are computed. This practice calls for a year-end journal entry to be made to reflect actual costs; however, it was found that, in 2012, such an entry was not made as the postings already reflected that the 12.5% requirement had been met and the difference was felt to be de minimis. The following schedule reflects the "as posted" vs. actual at year end expenses for PAI salaries:

2012 As Posted	7010 Salaries Attorneys	\$71,137.91
Actual Exec Dir.	59.9 hrs.	\$ 7,112
Dep. Dir.	173.9 hrs.	\$14,630
Dir. Lit.	107 hrs.	\$ 8,954
Pro Bono Coord.	1,116.7 hrs.	\$45,710
Total:	1,457.5	\$76,406
2012 As Posted:	7015 Salaries Paralegal	\$34,504.15
Actual: Paralegal	908 hrs.	\$34,575

As a result, the 2012 PAI costs for attorney salaries were understated by \$5,268.09 and for paralegal salaries by \$70.85. Inasmuch as these direct costs were used to compute indirect costs, those costs would also have been understated. The SJLS PAI accounting process should be incorporated in the SJLS Accounting Manual. While there is no regulation that would require it be placed in their Accounting Manual, industry standard practices place all accounting practices

in a single location, though it may have sub categories (such as cash disbursement, property, payroll, etc.). Inasmuch as PAI is required to be separately reported in the annual independent audit and its reporting is subject to specific standards (i.e., attorney and paralegal costs must be based on contemporaneous time records), one would expect to find required processes defined in the Accounting Manual. Also, as noted in the LSC Accounting Guide (2010 Ed.) 3-4 “INTERNAL CONTROL STRUCTURE:” “In establishing an adequate internal control structure, the following items must be considered:..... 5. Establishment of an Accounting Manual: Each recipient must develop a written accounting manual that describes the specific procedures to be followed by the recipient in complying with the Fundamental Criteria.”

While there is no restriction on a program using estimates or projections for interim or budgetary purposes, posting of PAI attorney and paralegal costs, per 45 CFR § 1614.3(e)(1)(i), must be on contemporaneously documented time records.

The DPBCI manages the program-wide PAI Pro Bono effort. She is required to approve all cases processed for closure to insure that LSC’s and SJLS’ procedures and requirements are met. PAI staff consists of the DPBCI and some CIU staff.

All applicants are interviewed by SJLS to determine eligibility. The intake screening process for PAI is no different from the intake process for a staff case as discussed in Finding 2. The SJLS CIU screens applicants for financial eligibility and, in most cases, SJLS develops the case facts, collects necessary documents, and evaluates the merits of the case in light of SJLS’ priorities. Conflict checks are made on all cases prior to acceptance in to the PAI program. Private attorneys also conduct a conflict check in their respective law firms prior to accepting a case from SJLS. When a case is accepted and referred to PAI for placement, the DPBCI searches and matches the case type with a volunteer who practices law in the area needed. The DPBCI considers each attorney's substantive area(s) of expertise, case preferences, and language fluency along with the client's needs, including linguistic and cultural barriers to effective advocacy, the possibility of conflict, the attorney's schedule, and the need to gather additional information from the client before a particular client is referred.

Once an attorney agrees to accept a case, the DPBCI forwards the client’s eligibility intake information and a summary which describes the client’s legal problem. A case acceptance letter is sent to the client with instructions to schedule an appointment with the attorney as soon as possible. Included with the letter is a Notice to Clients and a list outlining the conditions of case acceptance through PAI. The client is also provided with a copy of the PAI Retainer Agreement that he/she executed prior to the referral which grants SJLS permission to refer the case to the private attorney. All execution of documents takes place during the eligibility interview.

When representation has been established by a private attorney, the DPBCI checks the status of the case every month by telephone or e-mail. A tickler letter is sent to the attorney every 90-days or telephone communication is maintained until the case is completed. The tickler letter allows an attorney to report problems that may be associated with representing the client. PAI staff may act as a buffer when difficulties arise between the client and private attorney, and the DPBCI mediates any disputes. A client grievance procedure consistent with 45 CFR Part 1621 is also available. Once the case is completed, the private attorney must forward a copy of the final court document or correspondence to SJLS. A case cannot be officially closed until a final

document is received from the attorney. The DPBCI reviews, approves, and signs-off on all case closures, including assigning the CSR closing code. In cases involving more than “counsel and advice” or “limited action,” the client is notified by letter that his/her case has been completed and closed. Included with this letter is a confidential Client Satisfaction Questionnaire to evaluate the services provided by the private attorney.

Clinics/Projects

Camden County Debt Advice Clinics: In the Spring of 2012, the PAI program started Camden County Debt Advice Clinics. Volunteer attorneys and a Board member conduct these clinics every other month in the Camden office. These clinics have been attended by bankruptcy waitlist clients in Camden County. Participants are given handouts explaining the debt collection process from the initial contact of the debt collector through judgment and collection. Participants are given advice and information on creditors' and debtors' rights and responsibilities, negotiation techniques, what to do if they are sued for a debt, and how to respond to a Summons and Complaint. These interactions are considered to be matters and are not reported to LSC because only legal information is provided.

PAI holds debt advice seminars/advice consultations in Camden County (for residents of Burlington, Camden and Gloucester counties) every other month. The clinics touch on bankruptcy as a tool so the client may best determine when, how and if bankruptcy is a good option for him or her. Participants are then given 15 minute one-on-one advice consultations with the attorney. Some of the participants go on the waitlist for these seminars/advice consults through the CIU as described above. Some are contacted by the DPBCI (she calls individuals currently on the bankruptcy waitlist to see if they are interested in attending) and screened by PAI.

The Pro Bono Violence Project: The PAI program has joined the Burlington Bar Association and Providence House Domestic Services to assist victims of domestic violence in Burlington County. Referrals for representation at domestic violence final restraining order hearings come to PAI as referrals through domestic violence women's shelters. The applicants either call the CIU (process described above) to be screened or the women's shelters contact the DPBCI and she screens the individual for eligibility. The volunteer attorneys assist individuals seeking to obtain Final Restraining Orders. Advice and consultation is also provided at a local domestic violence women's safe house on topics such as divorce, custody, and child support in a one-on-one setting. These cases are reported to LSC in the CSRs.

The Pro Bono Divorce Project: This Project is designed for individuals who want no-fault divorces (no custody, child support, debt or asset issues). SJLS' plan was to have divorces handled either by a pro se clinic (pro bono attorney instructs individuals how to file for divorce on their own and the individuals receive the forms) or by referral to a Pro Bono attorney for full representation. At the time of the review, SJLS had been able to place all individuals who returned the required paperwork for full representation and had not needed to use the clinic model. These cases are reported to LSC in the CSRs after full representation is completed.

The Children's SSI Project: The Children's SSI Project places cases with volunteer attorneys in which children have been denied Supplemental Security Income ("SSI"). Law students from Rutgers University Law School assist Pro Bono attorneys representing children in appealing denials of SSI benefits. These cases are reported to LSC in the CSRs.

SJLS refers bankruptcy cases in two ways: (1) Through their joint program with the bankruptcy bench/bar and Rutgers Law School-Camden (The Pro Bono Bankruptcy Project) where attorneys work with law students to help clients file for Chapter 7, and (2) through individual referrals directly through SJLS.

Volunteer Referrals: Volunteer private attorneys assist individuals who are in need of Chapter 7 bankruptcy assistance. Individuals who qualify financially per the eligibility guidelines of SJLS are sent a packet of information to complete and return. There is a waitlist for referral to a volunteer attorney, which may be several months. If referred, the attorney will review the individual's case and, if appropriate, assist with a Chapter 7 bankruptcy filing and representation. When the file is referred through the Pro Bono Bankruptcy Project, SJLS PAI assists the clients in obtaining credit reports and collects other information that the attorney and law student will need to file the petition and schedules.

The SJLS/Rutgers Pro Bono Bankruptcy Project: The Project accepted 65 referrals in the Spring of 2013. The private attorneys meet with the clients and law students at the Rutgers University Law School.

When the file is referred directly to a pro bono attorney outside of the Pro Bono Bankruptcy Project, SJLS PAI does the same document gathering and the private attorneys meet with the clients at the attorney's office. These cases are reported to LSC in the CSRs after full representation.

LSC requires recipients to create oversight and follow-up systems and procedures that are sufficient to track the timely referral, follow-up, and disposition of PAI cases. *See* 45 CFR § 1614.3(d)(3) and CSR Handbook (2008 Ed., as amended 2011), § 10.4. SJLS has systems and practices in place to track PAI activities to ensure that PAI cases have effective oversight and follow-up which has led to a high rate of compliance. Interviews, case review, and review of PAI oversight documentation provided during the on-site review evidenced that SJLS is in compliance with 45 CFR § 1614.3(d)(3) and CSR Handbook (2008 Ed., as amended 2011), § 10.4.

All sampled PAI cases reviewed were in compliance with LSC regulations and the CSR Handbook (2008 Ed., as amended 2011).

Required Corrective Action

The DR instructed SJLS to take corrective action to document its process of accounting for PAI costs pursuant to 45 CFR § 1614.3(4)(e).

In its response to the DR, SJLS stated that immediately following OCE's visit, SJLS conducted a Directors meeting in which OCE's concerns regarding SJLS' need to document PAI costs were addressed. As a result, SJLS modified its method for tracking PAI costs and now bases such accounting on actual contemporaneous staff time records. SJLS provided the pertinent section of its Accounting Manual, as part of its response.

Based on a review of SJLS' response to this Finding, RCA No. 15 is closed.

Recommendation

The DR recommended that SJLS incorporate their PAI accounting process in the SJLS Accounting Manual.

SJLS provided the pertinent section of the Accounting Manual.

Finding 18: SJLS is in compliance with the requirements of 45 CFR Part 1627 which prohibits recipients from using LSC funds to pay membership fees or dues to any private or nonprofit organization and regulates the requirements for all subgrants. However, SJLS' written policy requires modification to fully comply with 45 CFR Part 1627.

LSC has developed rules governing the transfer of LSC funds by recipients to other organizations. *See* 45 CFR § 1627.1. These rules govern subgrants, which are defined as any transfer of LSC funds from a recipient to an entity under a grant, contract, or agreement to conduct certain activities specified by or supported by the recipient related to the recipient's programmatic activities.¹³ Except that the definition does not include transfers related to contracts for services rendered directly to the recipient, *e.g.*, accounting services, general counsel, management consultants, computer services, etc., or contracts with private attorneys and law firms involving \$25,000 or less for the direct provision of legal assistance to eligible clients. *See* 45 CFR §§ 1627.2(b)(1) and (b)(2); *see also*, 48 *Federal Register* 28485 (June 2, 1983) and 48 *Federal Register* 54207 (November 30, 1983).

All subgrants must be in writing and must be approved by LSC. In requesting approval, recipients are required to disclose the terms and conditions of the subgrant and the amount of funds to be transferred. Additionally, LSC approval is required for a substantial change in the work program of a subgrant, or an increase or decrease in funding of more than 10 percent. Minor changes of work program, or changes in funding less than 10 percent do not require LSC approval, but LSC must be notified in writing. *See* 45 CFR §§ 1627.3(a)(1) and (b)(3).

¹³ Programmatic activities includes those that might otherwise be expected to be conducted directly by the Recipient, such as representation of eligible clients, or which provides direct support to a Recipient's legal assistance activities or such activities as client involvement, training or state support activities. Such activities would not normally include those that are covered by a fee-for-service arrangement, such as those provided by a private law firm or attorney representing a Recipient's clients on a contract or Judicare basis, except that any such arrangement involving more than \$25,000 is included.

Subgrants may not be for a period longer than one (1) year, and all funds remaining at the end of the grant period are considered part of the recipient's fund balance. All subgrants must provide for their orderly termination or suspension, and must provide for the same oversight rights for LSC with respect to subrecipients as apply to recipients. Recipients are responsible for ensuring that subrecipients comply with LSC's financial and audit requirements. It is also the responsibility of the recipient to ensure the proper expenditure of, accounting for, and audit of the transferred funds. *See* 45 CFR §§ 1627.3(b)(1), (b)(2), (c), and (e).

LSC funds may not be used to pay membership fees or dues to any private or nonprofit organization, except that payment of membership fees or dues mandated by a governmental organization to engage in a profession is permitted. *See* 45 CFR § 1627.4. Nor may recipients make contributions or gifts of LSC funds. *See* 45 CFR § 1627.5. Recipients must have written policies and procedures to guide staff in complying with the regulations and shall maintain records sufficient to document the recipient's compliance. *See* 45 CFR § 1627.8.

A limited review of accounting records and detailed GL for calendar years December 31, 2011, 2012, and 2013 disclosed that SJLS is in compliance with 45 CFR § 1627.4(a). The only dues attributed to LSC funding was staff attorney registration with the "New Jersey Lawyers Fund for Client Protection," an entity of the Supreme Court of New Jersey, which is mandatory pursuant to New Jersey Rule 1:28. The New Jersey Lawyers Fund for Client Protection handles the payments and registration process for lawyers admitted to practice law in New Jersey. SJLS is in compliance with 45 CFR § 1627.3; there were no LSC funded subgrants noted.

A review of SJLS' written policy requirements disclosed that modification is required to comply with 45 CFR Part 1627. SJLS' policy does not: include the pertinent regulation definitions pursuant to 45 CFR § 1627.3; include the prohibition pertaining to contributions pursuant to 45 CFR § 1627.5; discuss the requirements governing transfer to another LSC recipients, as provided by 45 CFR § 1627.6; or, address tax sheltered annuities, retirement accounts, and pensions pursuant to 45 CFR § 1627.7.

Required Corrective Action

The DR instructed SJLS to take corrective action to modify its policy, as outlined above, to comply with 45 CFR Part 1627. At the beginning of the visit, SJLS was made aware of this matter and began to take steps to address this corrective action during the visit by informing its Board of the required modification.

In its response to the DR, SJLS stated that the amendment to its 45 CFR Part 1627 policy should be completed at SJLS' May 20, 2015 Board meeting.

This corrective action shall remain open until such time as the amended policy is received and reviewed by LSC.

Finding 19: Review of the recipient’s policies, as well as interviews with members of management and staff, evidenced that SJLS is in compliance with 45 CFR Part 1635 (Timekeeping requirement).

The timekeeping requirement, 45 CFR Part 1635, is intended to improve accountability for the use of all funds of a recipient by assuring that allocations of expenditures of LSC funds pursuant to 45 CFR Part 1630 are supported by accurate and contemporaneous records of the cases, matters, and supporting activities for which the funds have been expended; enhancing the ability of the recipient to determine the cost of specific functions; and increasing the information available to LSC for assuring recipient compliance with Federal law and LSC rules and regulations. *See* 45 CFR § 1635.1.

Specifically, 45 CFR § 1635.3(a) requires that all expenditures of funds for recipient actions are, by definition, for cases, matters, or supporting activities. The allocation of all expenditures must satisfy the requirements of 45 CFR Part 1630. The timekeeping system must be able to aggregate time record information on both closed and pending cases by legal problem type. Recipients shall require any attorney or paralegal who works part-time for the recipient and part-time for an organization that engages in restricted activities to certify in writing that the attorney or paralegal has not engaged in restricted activity during any time for which the attorney or paralegal was compensated by the recipient or has not used recipient resources for restricted activities.

The review of staff timekeeping records for the month of July 2013 revealed that time records are contemporaneously kept in compliance with 45 CFR Part 1635. The time spent on each case, matter or supporting activity is recorded in compliance with 45 CFR §§ 1635.3(b) and (c). Documents examined consisted of the payroll file for the two (2) pay periods in July 2013. Individual files consisted of a “Weekly Time Sheet” prepared by each employee and approved by their manager attached to which were supporting documents consisting of either “Daily Timesheets” or a “Weekly Time Report” generated from the ACMS. Any inconsistencies noted had been previously identified and action taken by SJLS fiscal staff.

There are no recommendations or required corrective actions.

In its response to the DR, SJLS did not comment on this Finding.

Finding 20: Review of sampled cases, as well as interviews with management and staff members, evidenced compliance with the requirements of former 45 CFR Part 1642 (Attorneys’ fees).

Prior to December 16, 2009, except as otherwise provided by LSC regulations, recipients could not claim, or correct and retain attorneys’ fees in any case undertaken on behalf of a client of the recipient. *See* 45 CFR § 1642.3.¹⁴ However, with the enactment of LSC’s FY 2010 consolidated

¹⁴ The regulations defined “attorneys’ fees” as an award to compensate an attorney of the prevailing party made pursuant to common law or Federal or State law permitting or requiring the award of such fees or a payment to an attorney from a client’s retroactive statutory benefits. *See* former 45 CFR § 1642.2(a).

appropriation, the statutory restriction on claiming, collecting or retaining attorneys, fees was lifted. Therefore, at its January 30, 2010 meeting, the LSC Board of Directors took action to repeal the regulatory restriction on claiming, collecting or retaining attorneys' fees. Accordingly, effective March 15, 2010 recipients may claim, collect and retain attorneys' fees for work performed, regardless of when such work was performed.

LSC further determined that it will not take enforcement action against any recipient that filed a claim for, or collected or retained attorneys' fees during the period December 16, 2009 and March 15, 2010. Claims for, collection of, or retention of attorneys' fees prior to December 16, 2009 may, however, result in enforcement action. As well, the regulatory provisions regarding accounting for and use of attorneys' fees and acceptance of reimbursement remain in force and violation of these requirements, regardless of when they occur, may subject the recipient to compliance and enforcement action. *See* LSC Program Letters 09-3 (December 17, 2009) and 10-1 (February 18, 2010).

Review of sampled cases, as well as interviews with management and staff evidenced SJLS' compliance with the requirements of former 45 CFR Part 1642 (Attorneys' fees).

There are no recommendations or required corrective actions.

In its response to the DR, SJLS did not comment on this Finding.

Finding 21: Review of sampled cases, as well as interviews with members of management and staff, evidenced compliance with the requirements of 45 CFR Part 1612 (Restrictions on lobbying and certain other activities). However, SJLS' written policy requires modification to comply with 45 CFR § 1612.11.

The purpose of 45 CFR Part 1612 is to ensure that LSC recipients and their employees do not engage in certain prohibited activities, including representation before legislative bodies or other direct lobbying activity, grassroots lobbying, participation in rulemaking, public demonstrations, advocacy training, and certain organizing activities. This part also provides guidance on when recipients may participate in public rulemaking or in efforts to encourage State or local governments to make funds available to support recipient activities, and when they may respond to requests of legislative and administrative officials.

SJLS has a written policy regarding 45 CFR Part 1612 which was reviewed by OCE prior to the visit. The policy needs to be modified in order to comply with LSC regulations. The policy does not provide definitions of key regulation terms pursuant 45 CFR § 1612.2. The policy includes, as permissible, activities that are not included in 45 CFR § 1612.5 or anywhere else in the regulation. For example, Section I. B(9) of SJLS' policy states that "SJLS may participate as a legal advisor to, as a South Jersey Legal Services, Inc. representative to or as a member of an organization, task force...;" Section I. C(1)(c) of SJLS' policy provides that "SJLS may testify before or make information available to commissions, committees or advisory bodies;" and Section IV(C) of SJLS' policy states that "SJLS employees may participate in a task force established by the recipient or by other entities, so long as the task force does not engage in any

prohibited activity.” Further, the policy does not include the permissible activities listed in 45 CFR §§ 1612.9(b)(1) and (2) and does not include the recordkeeping requirements listed in 45 CFR § 1612.10.

Review of SJLS’ financial records, a search of on-line data bases (Google, Yahoo, and Bing), and review of sampled cases evidenced neither any permitted nor prohibited 45 CFR Part 1612 activities. Discussions with the ED confirmed that SJLS had not been involved in any 45 CFR Part 1612 activity during the period 2011 through 2013.

Required Corrective Action

The DR instructed SJLS to take corrective action to modify its written policy to comport with 45 CFR Part 1612, as outlined above. At the beginning of the visit, SJLS was made aware of this matter and began to take steps to address this corrective action during the visit by informing its Board of the required modification.

In its response to the DR, SJLS stated that the amendment to its 45 CFR Part 1612 policy should be completed at SJLS’ May 20, 2015 Board meeting.

This corrective action shall remain open until such time as the amended policy is received and reviewed by LSC.

Finding 22: Review of sampled cases, as well as interviews with members of management and staff, evidenced that SJLS is in compliance with the requirements of 45 CFR Parts 1613 and 1615 (Restrictions on legal assistance with respect to criminal proceedings and actions collaterally attacking criminal convictions).

Recipients are prohibited from using LSC funds to provide legal assistance with respect to a criminal proceeding. *See* 45 CFR § 1613.3. Nor may recipients provide legal assistance in an action in the nature of a habeas corpus seeking to collaterally attack a criminal conviction. *See* 45 CFR § 1615.1.

None of the sampled cases reviewed involved legal assistance with respect to a criminal proceeding or a collateral attack in a criminal conviction. Interviews with management and staff members also confirmed that SJLS is not involved in this prohibited activity.

There are no recommendations or required corrective actions.

In its response to the DR, SJLS did not comment on this Finding.

Finding 23: Review of the recipient’s policies and sampled cases, as well as interviews with members of management and staff, evidenced that SJLS is in compliance with the requirements of 45 CFR Part 1617 (Class actions).

Recipients are prohibited from initiating or participating in any class action. *See* 45 CFR § 1617.3. The regulations define “class action” as a lawsuit filed as, or otherwise declared by a court of competent jurisdiction, as a class action pursuant Federal Rules of Civil Procedure, Rule 23, or comparable state statute or rule. *See* 45 CFR § 1617.2(a). The regulations also define “initiating or participating in any class action” as any involvement, including acting as co-counsel, amicus curiae, or otherwise providing representation relative to the class action, at any stage of a class action prior to or after an order granting relief. *See* 45 CFR § 1617.2(b)(1).¹⁵

SJLS’ policy on class actions comports with 45 CFR Part 1617.

None of the sampled cases reviewed involved initiation or participation in a class action. Interviews with management and staff members also confirmed that SJLS is not involved in this prohibited activity and is in compliance with the requirements of 45 CFR Part 1617.

There are no recommendations or required corrective actions.

In its response to the DR, SJLS did not comment on this Finding.

Finding 24: Review of sampled cases, as well as interviews with members of management and staff, evidenced that SJLS is in compliance with the requirements of 45 CFR Part 1632 (Redistricting).

Recipients may not make available any funds, personnel, or equipment for use in advocating or opposing any plan or proposal, or representing any party, or participating in any other way in litigation, related to redistricting. *See* 45 CFR § 1632.3.

None of the sampled cases reviewed involved initiation or participation in redistricting activities. Interviews with management and staff members confirmed that SJLS is not involved in this prohibited activity.

SJLS has a written policy containing the 45 CFR Part 1632 restrictions and has implemented procedures which are in compliance with the LSC regulation. Interviews and sampled cases reviewed confirmed compliance with this regulation.

There are no recommendations or required corrective actions.

In its response to the DR, SJLS did not comment on this Finding.

¹⁵ It does not, however, include representation of an individual seeking to withdraw or opt out of the class or obtain the benefit of relief ordered by the court, or non-adversarial activities, including efforts to remain informed about, or to explain, clarify, educate, or advise others about the terms of an order granting relief. *See* 45 CFR § 1617.2(b)(2).

Finding 25: Review of sampled cases, as well as interviews with members of management and staff, evidenced that SJLS is in compliance with the requirements of 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings).

Recipients are prohibited from defending any person in a proceeding to evict the person from a public housing project if the person has been charged with, or has been convicted of, the illegal sale, distribution, manufacture, or possession with intent to distribute a controlled substance, and the eviction is brought by a public housing agency on the basis that the illegal activity threatens the health or safety or other resident tenants, or employees of the public housing agency. *See* 45 CFR § 1633.3.

SJLS has a written policy governing the defense of certain eviction proceedings as required by 45 CFR Part 1633, which is in compliance with the regulation. None of the sampled cases reviewed involved defense of any such eviction proceeding. Interviews with management and staff members also confirmed that SJLS is not involved in this prohibited activity and is in compliance with the requirements of 45 CFR Part 1633.

There are no recommendations or required corrective actions.

In its response to the DR, SJLS did not comment on this Finding.

Finding 26: Review of the recipient's policies and sampled cases, as well as interviews with members of management and staff, evidenced that SJLS is in compliance with the requirements of 45 CFR Part 1637 (Representation of prisoners).

Recipients may not participate in any civil litigation on behalf of a person incarcerated in a federal, state, or local prison, whether as plaintiff or defendant; nor may a recipient participate on behalf of such incarcerated person in any administrative proceeding challenging the condition of the incarceration. *See* 45 CFR § 1637.3.

SJLS' Policy on Representation of Incarcerated Persons comports with 45 CFR Part 1637. None of the sampled cases reviewed involved participation in civil litigation or administrative proceedings on behalf of incarcerated persons. Interviews with management and staff members confirmed that SJLS is not involved in this prohibited activity and is in compliance with the requirements of 45 CFR Part 1637.

There are no recommendations or required corrective actions.

In its response to the DR, SJLS did not comment on this Finding.

Finding 27: Review of the recipient’s policies and sampled files, as well as interviews with members of management and staff, evidenced that SJLS is in compliance with the requirements of 45 CFR Part 1638 (Restriction on solicitation).

In 1996, Congress passed, and the President signed, the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (the "1996 Appropriations Act"), Pub. L. 104-134, 110 Stat. 1321 (April 26, 1996). The 1996 Appropriations Act contained a new restriction which prohibited LSC recipients and their staff from engaging a client which it solicited. *See* Section 504(a)(18). This restriction has been contained in all subsequent appropriations acts. This restriction is a strict prohibition from being involved in a case in which the program actually solicited the client. As stated clearly and concisely in 45 CFR § 1638.1: “[t]his part is designed to ensure that recipients and their employees do not solicit clients.”

SJLS has a written policy governing the restrictions on solicitation, as required by 45 CFR Part 1638, which comports with the regulation. None of the sampled cases reviewed evidenced involvement in these activities. Interviews with management and staff members confirmed that SJLS is not involved in this prohibited activity and is, therefore, in compliance with the requirements of 45 CFR Part 1638.

There are no recommendations or required corrective actions.

In its response to the DR, SJLS did not comment on this Finding.

Finding 28: Review of the recipient’s policies and sampled cases, as well as interviews with members of management and staff, evidenced that SJLS is in compliance with the requirements of 45 CFR Part 1643 (Restriction on assisted suicide, euthanasia, and mercy killing). However, SJLS must develop a written policy that comports with 45 CFR § 1643.5.

No LSC funds may be used to compel any person, institution or governmental entity to provide or fund any item, benefit, program, or service for the purpose of causing the suicide, euthanasia, or mercy killing of any individual. Nor may LSC funds be used to bring suit to assert, or case handler, a legal right to suicide, euthanasia, or mercy killing, or case handler, or any other form of legal assistance for such purpose. *See* 45 CFR § 1643.3.

None of the sampled cases reviewed evidenced involvement in these activities. Interviews with management and staff members confirmed that SJLS is not involved in this prohibited activity and is, therefore, in compliance with the requirements of 45 CFR Part 1643.

SJLS does not have a written policy pertaining to Restrictions on Assisted Suicide, Euthanasia, and Mercy Killing as required by 45 CFR § 1643.5. At the beginning of the visit, SJLS was made aware of this matter and began to take steps to address this corrective action during the visit by informing its Board of the required modification.

Required Corrective Action

The DR instructed SJLS to take corrective action and develop a written policy that comports with 45 CFR Part 1643.

In its response to the DR, SJLS stated that the development of its 45 CFR Part 1643 policy should be completed at SJLS' May 20, 2015 Board meeting.

This corrective action shall remain open until such time as the policy is received and reviewed by LSC.

Finding 29: Review of sampled cases, as well as interviews with members of management and staff, evidenced that SJLS is in compliance with the requirements of certain other LSC statutory prohibitions (42 USC 2996f § 1007 (a) (8) (Abortion), 42 USC 2996f § 1007 (a) (9) (School desegregation litigation), and 42 USC 2996f § 1007 (a) (10) (Military selective service act or desertion).

Section 1007(b) (8) of the LSC Act prohibits the use of LSC funds to provide legal assistance with respect to any proceeding or litigation which seeks to procure a non-therapeutic abortion or to compel any individual or institution to perform an abortion, or assist in the performance of an abortion, or provide facilities for the performance of an abortion, contrary to the religious beliefs or moral convictions of such individual or institution. Additionally, Public Law 104-134, Section 504 provides that none of the funds appropriated to LSC may be used to provide financial assistance to any person or entity that participates in any litigation with respect to abortion.

Section 1007(b) (9) of the LSC Act prohibits the use of LSC funds to provide legal assistance with respect to any proceeding or litigation relating to the desegregation of any elementary or secondary school or school system, except that nothing in this paragraph shall prohibit the provision of legal advice to an eligible client with respect to such client's legal rights and responsibilities.

Section 1007(b) (10) of the LSC Act prohibits the use of LSC funds to provide legal assistance with respect to any proceeding or litigation arising out of a violation of the Military Selective Service Act or of desertion from the Armed Forces of the United States, except that legal assistance may be provided to an eligible client in a civil action in which such client alleges that he was improperly classified prior to July 1, 1973, under the Military Selective Service Act or prior law.

None of the sampled cases evidenced involvement with these prohibited activities. Interviews with management and staff members confirmed that SJLS is not involved in the aforementioned prohibited activities and is in compliance with these requirements.

There are no recommendations or required corrective actions.

In its response to the DR, SJLS did not comment on this Finding.

Finding 30: Review of SJLS' policies evidenced non-compliance with the requirements of 45 CFR Part 1644. (Disclosure of case information) SJLS must develop a written policy that comports with 45 CFR Part 1644.

In accordance with 45 CFR Part 1644, recipients are directed to disclose to LSC and the public certain information on cases filed in court by their attorneys. Under 45 CFR § 1644.4, the following information must be disclosed for all actions filed on behalf of plaintiffs or petitioners who are clients of the recipient:

- a. the name and full address of each party to a case, unless the information is protected by an order or rule of court or by State or Federal law, or the recipient's attorney reasonably believes that revealing such information would put the client of the recipient at risk of physical harm;
- b. the cause of action;
- c. the name and full address of the court where the case is filed; and
- d. the case number assigned to the case by the court.

SJLS does not have a written policy on Disclosure of Case Information as required by 45 CFR § 1644.5. At the beginning of the visit, SJLS was made aware of this matter and began to take steps to address this corrective action during the visit by informing its Board of the required modification.

Required Corrective Action

The DR instructed SJLS to take corrective action to develop a written policy that comports with 45 CFR Part 1644.

In its response to the DR, SJLS stated that the development of its 45 CFR Part 1644 policy should be completed at SJLS' May 20, 2015 Board meeting.

This corrective action shall remain open until such time as the policy is received and reviewed by LSC.

Finding 31: A limited review of SJLS' internal control policies and procedures evidenced general compliance with the elements as outlined in Chapter 3 - Internal Control/Fundamental Criteria of an Accounting and Financial Reporting System of the Accounting Guide for LSC Recipients (2010 Ed.). However, some internal control weaknesses were noted relative to SJLS' Accounting Manual, Bank Reconciliations, Travel Reimbursements, and Client Trust Accounts.

In accepting LSC funds, recipients agree to administer these funds in accordance with requirements of the Legal Services Corporation Act of 1974 as amended (Act), any applicable appropriations acts and any other applicable law, rules, regulations, policies, guidelines, instructions, and other directives of the LSC, including, but not limited to, LSC Audit Guide for Recipients and Auditors, Accounting Guide for LSC Recipients (2010 Ed.), (“LSC Accounting Guide”) the CSR Handbook, the LSC Property Acquisition and Management Manual (“PAMM”), and any amendments to the foregoing. Applicants agree to comply with both substantive and procedural requirements, including recordkeeping and reporting requirements.

A LSC recipient, under the direction of its Board of Directors, is required to establish and maintain adequate accounting records and internal control procedures. Internal control is defined as a process effected by an entity’s governing body, management and other personnel, designed to provide reasonable assurances regarding the achievement of objectives in the following categories: (1) Effectiveness and efficiency of operations; (2) Reliability of financial reporting; and (3) Compliance with applicable laws and regulations. *See* LSC Accounting Guide, Chapter 3.

The LSC Accounting Guide provides guidance on all aspects of fiscal operations and the 2010 edition has a significantly revised Accounting Procedures and Internal Control Checklist that provides guidance to programs on how accounting procedures and internal control can be strengthened and improved with the goal of eliminating, or at least reducing as much as reasonably possible, opportunities for fraudulent activities to occur.

Accounting/Fiscal Policies and Procedures

Recipients are required to establish and maintain adequate accounting records and fiscal control procedures. Each recipient's governing body has a fiduciary responsibility to the program and is responsible for reviewing and approving accounting and control policies and makes recommendations for changes and improvements. LSC promulgates regulations that govern recipients' use of Corporation funds. These regulations appear in 45 CFR § 1600 et seq. As a condition of their grants, recipients are required to adopt accounting policies and procedures that meet the requirements of these regulations, and to modify those policies and procedures as necessary when any of the regulations are amended or new regulations are issued.

SJLS’ Accounting Manual

SJLS has an Accounting Manual that it supplements with policy statements. The SJLS Accounting Manual was last revised on October 7, 2013.

During the review, it was recommended that SJLS remove credit card and bank account numbers from the SJLS Accounting Manual. SJLS was also advised to revise the Cost Standards section which contained an erroneous list of activities prohibited by or inconsistent with Section 504 of the LSC Act.

Bank Reconciliations

The guidelines contained in the LSC Accounting Guide, Appendix VII, Section I., encourage recipients to reconcile bank accounts monthly, and suggest the procedures for bank reconciliation, e.g., comparison of checks with the check register relative to date, number, payee, and amount, examination of signatures and endorsements, examination of voided checks, accounting for check serial numbers, comparison of dates and amounts of daily deposits shown on the cash receipts records with bank statements, etc.

SJLS' Accounting Manual provides as follows:

All SJLS bank statements are delivered, unopened, to the ED or his/her designee, who reviews the cancelled checks for unauthorized signatures, unusual endorsements, and other such matters as may come to his/her attention. The Fiscal Assistant has responsibility for the writing of checks and preparing the cash disbursement journal as well as the cash receipts journals. The Finance Director has responsibility for the preparation of the monthly bank reconciliation. The Deputy Director reviews the monthly bank reconciliation.

The SJLS Accounting Manual further details the process taken to complete the reconciliation and states that the Finance Director will review the listing of outstanding checks and all stale checks (i.e., checks that have been outstanding for more than six (6) months) must be researched and either a new check issued or the old check written off, via general journal entry.

A limited review was conducted of bank reconciliations for five (5) of SJLS' bank accounts during the review period. The review revealed that SJLS does not follow its written policy and procedures and that SJLS' bank statements were reconciled untimely. Bank reconciliations were completed more than a month after date of receipt (received December 2011 and reconciled February 17, 2012) and stale checks were not reissued or written off. *See* LSC Accounting Guide, Chapter 3, Section 3-5.2(d).

Property Control and Purchases

The recipient must maintain a property management system for its LSC funded activities that is adequate to meet the standards of the LSC PAMM and the LSC Accounting Guide.

Recipients should have property controls that include the following:

- 1 - Records of fixed assets purchased in excess of \$5,000 should include, purchase date, description of item including model and serial number, cost and salvage value, identification of funds use to purchase assets, depreciation lives of assets, identification number and location of asset;

2 - Balancing of fixed-asset records for items with a cost in excess of the capitalization limit to the general ledger control accounts;

3 - Tagging of fixed assets;

4 - Physical inventories taken at least once every 2 years and compared to fixed asset records; and

5 - Review and approval of adjustments to fixed-asset records and GL control accounts.

See LSC Accounting Guide, Chapter 2, Section 2-2.4.

SJLS records its equipment and property purchases in a property subsidiary record. The detailed property records are maintained by the Finance Director and reconciled to the GL.

A limited review of SJLS' Inventory List found that there had been no acquisition or lease of real or personal property made in whole or in part with LSC funds during the review period. It was also found that adequate records of fixed assets are maintained by the program.

Credit Card and Cash Disbursements

Recipients are required to establish and maintain adequate accounting records and fiscal control procedures. Each recipient's governing body has a fiduciary responsibility to the program and is responsible for reviewing and approving accounting and control policies and makes recommendations for changes and improvements. *See LSC Accounting Guide, Chapter 1, Section 1-7.* LSC promulgates regulations that govern recipients' use of Corporation funds. These regulations appear in 45 CFR 1600 et seq. As a condition of their grants, recipients are required to adopt accounting policies and procedures that meet the requirements of these regulations, and to modify those policies and procedures as necessary when any of the regulations are amended or new regulations are issued.

Recipients are required to adhere to requirements of the LSC Accounting Guide including LSC's "Fundamental Criteria of an Accounting and Financial Reporting System." The LSC Accounting Guide, Chapter 3, Section 3-5 sets forth financial accounting and reporting standards for recipients of LSC funds, and describes the accounting policies, records, and internal control procedures to be maintained by recipients to ensure the integrity of accounting, reporting and financial systems.

The LSC Accounting Guide contains suggested guidelines for ensuring adequate controls over purchase approvals. Purchase approval should be required at an appropriate level of management before a commitment of resources is made. *See LSC Accounting Guide, Chapter 3, Section 3-5.4.*

A limited review was conducted of the policies and procedures surrounding the use of the company credit card and cash disbursements. The review disclosed that SJLS has adequate policies and procedures, which include proper internal controls, which are adhered to.

Segregation of Duties

Accounting duties should be segregated to ensure that no individual simultaneously has both the physical control and the record keeping responsibility for any asset, including, but not limited to, cash client deposits, supplies, and property. Duties must be segregated so that no one individual can initiate, execute, and record a transaction without a second independent individual being involved in the process. *See LSC Accounting Guide, Chapter 3, Section 3-4.3.*

A review of SJLS' responses to the Segregation of Duties Worksheet (provided to SJLS in advance of the visit) and interviews with fiscal personnel disclosed generally appropriate internal controls in place to provide maximum safeguards.

Travel Reimbursement

The LSC Accounting Guide, Appendix VII. Section F., contains suggested guidelines for ensuring adequate internal controls over travel costs. The guidelines include formal written travel policies, including policies regarding prior approval for travel, ensuring receipt of sufficient documentation from travelers prior to reimbursement, ensuring adequate controls over the accounting for travel advances and reimbursements, review of prior payments before reimbursing travelers to avoid duplication, etc.

SJLS reimburses employees and other authorized individuals for travel expenses incurred while performing activities within the scope of their SJLS duties. A receipt is required to obtain reimbursement of business expenses unrelated to mileage reimbursement. Reimbursements are submitted monthly on SJLS' Travel Expense Statement which must be signed by the employee and approved by the Managing Attorney.

A limited review was conducted of SJLS' travel reimbursements for attorneys and the ED which disclosed that SJLS has adequate policies and procedures, which include proper internal controls, which are adhered to. However, the travel expenses and reimbursements for the ED should not be reviewed and approved by the Deputy Director. It is not the best practice to have staff review supervisors' expenses. It is recommended that disbursements to the ED be reviewed by the Board of Trustees.

Client Trust Accounts

The LSC Accounting Guide, Chapter 2, Section 2-2.3, requires that recipients open a separate escrow account exclusively for client trust funds. The bank account should be approved by the recipient's governing body. A separate client trust record must be maintained for each client to document to the receipt and disbursement of client funds. The total of the individual client trust records must equal the cash in the escrow bank account's corresponding liability accounts. Recipients should adopt policies and procedures for controlling client trust transactions including receipts, disbursements, and reconciliation. Recipients are also instructed to comply with state laws governing the disposition of unclaimed properties. *See LSC Accounting Guide, Appendix VII, L.*

The SJLS Accounting Manual contains policies and procedures for controlling client trust transactions. The policies and procedures are consistent with the guidelines contained in the LSC Accounting Guide and require that client funds be deposited in a dedicated, board approved bank account. Accounting for client trust funds involves documenting receipt and disbursement of funds and accounting for the individual balances of each client's funds held in trust. The account is reconciled monthly. The SJLS Accounting Manual further states that "client funds that have been inactive for a period of seven (7) years must escheat to the state in accordance with state law."

Interviews with staff revealed that the client trust accounts are maintained in the Quicken accounting system. The system and access is secured through an access token. At month-end, the Finance Director produces an activity report for the Attorney of Record ("AOR") and analyzes each client trust account for inactivity and notifies the AOR regarding status of undisbursed funds. The SJLS Accounting Manual provides:

If the outstanding check is a refund to a Client and has been outstanding for seven (7) years or more, the funds should be escheated to the State of New Jersey according to the State's Unclaimed Property Law. The Director of Litigation and Advocacy is responsible for properly processing the escheatment of funds to the State of New Jersey.

According to the Rules Governing the Courts of the State Of New Jersey, Rule 1:21-6(j),¹⁶ trust funds should be designated as unclaimed after two (2) years. A reasonable search should then be made by the attorney to determine the whereabouts of any missing owner. SJLS should revise their client trust policy to comply with the state law of New Jersey.

¹⁶ **Unidentifiable and Unclaimed Trust Fund Accumulations and Trust Funds Held for Missing Owners.** When, for a period in excess of two years, an attorney's trust account contains trust funds which are either unidentifiable, unclaimed, or which are held for missing owners, such funds shall be so designated. A reasonable search shall then be made by the attorney to determine the beneficial owner of any unidentifiable or unclaimed accumulation, or the whereabouts of any missing owner. If the beneficial owner of an unidentified or unclaimed accumulation is determined, or if the missing beneficial owner is located, the funds shall be delivered to the beneficial owner when due. Trust funds which remain unidentifiable or unclaimed, and funds which are held for missing owners, after being designated as such, may, after the passage of one year during which time a diligent search and inquiry fails to identify the beneficial owner or the whereabouts of a missing owner, be paid to the Clerk of the Superior Court for deposit with the Superior Court Trust Fund. The Clerk shall hold the same in trust for the beneficial owners or for ultimate disposition as provided by order of the Supreme Court. All applications for payment to the Superior Court Clerk under this section shall be supported by a detailed affidavit setting forth specifically the facts and all reasonable efforts of search, inquiry and notice. The Clerk of the Superior Court may decline to accept funds where the petition does not evidence diligent search and inquiry or otherwise fails to conform with this section.

Cash Receipts

The LSC Accounting Guide requires written accounting policies and procedures that describe the accounting system and ensures that similar transactions are processed consistently; that supporting documentation be saved with the receipts/deposits information; that requirements for restrictive endorsements are adhered to; and prompt deposit is made whether in person or electronic. *See* LSC Accounting Guide, Chapter 3, Sections 3-5.1 and 3-5.4. *See* also, Appendix VII, Sections H1 – H16.

A limited review was conducted of cash receipts during the review period for the operating account which disclosed that SJLS has adequate policies and procedures, including proper internal controls, pertaining to the receipt of cash.

Petty Cash

The LSC Accounting Guide Chapter 3, Section 3-5.4(c) regarding petty cash discusses the need for a Board-approved policy, accounting procedures that include restrictions on petty cash disbursements and reimbursements, properly approved supporting documentation, maintenance on an impress basis, and limited access and physical control over petty cash. The LSC Accounting Guide also indicates that cash receipts should not be commingled with the petty cash fund; reconciliation of the petty cash bank account should be done by an employee independent of the petty cash custodian; periodic surprise counts should be conducted; and such accounts should be part of the annual audit.

The SJLS Accounting Manual contains a petty cash policy. Each SJLS office maintains a petty cash account of \$200 with a maximum spend limit of \$25 per purchase. An interview with the Finance Director disclosed that petty cash accounts are reconciled quarterly, with surprise checks administered by the Finance Director or Director of Human Resources.

Board Oversight

The LSC Accounting Guide, Chapter 1, Section 1-7, defines a governing body's fiduciary responsibility to the program including the establishment of a Finance Committee which should, at a minimum (subject to any requirements of state law): review and revise budgets and make recommendations to the full Board of Directors; review monthly financial management reports with the Chief Financial Officer ("CFO"), controller, and/or Certified Public Accountant; review accounting and control policies; review the audited financial statements, management letter, and senior staff's response with staff and auditor; regularly review and make recommendations about investment policies; coordinate board training on financial matters; and act as liaison between the full board and staff on fiscal matters.

The LSC Accounting Guide, Chapter 1, Section 1-7, also recommends that a program have an Audit Committee whose role (subject to any requirements of state law) includes: hiring the auditor; setting the compensation of the auditor; overseeing the auditor's activities; setting rules and processes for complaints concerning accounting practices and internal control practices; reviewing the annual IRS Form 990 for completeness, accuracy, and on-time filing and

providing assurances of compliance to the full Board; and ensuring the recipient's operations are conducted and managed in a manner that emphasizes ethical and honest behavior, compliance with applicable laws, regulations and policies, effective management of the recipient's resources and risks, and accountability of persons within the organization.

The LSC Accounting Guide Notes:

While it is recognized that some boards, due to their small size and other considerations, will decide not to have a separate audit committee, nevertheless it is generally considered a best practice for governing bodies to have both a finance committee and a separate audit committee. The critical point is that all of the Finance and Audit Committee duties listed inadequately above [Section 1-7] must be performed by a financial oversight committee(s). It is also critical, and considered a best practice, that the financial oversight committee(s) have at least one member who is a financial expert or for the board to have access to a financial expert.

LSC Accounting Guide, Chapter 1, page 6. SJLS has established an Audit and Finance Committee composed of several active SJLS Board members, and including the ED, Deputy Director, and the Finance Director.

OCE interviewed the Chair of SJLS' Audit and Finance Committee ("Chair") concerning the level of financial oversight exercised by the SJLS Board. It was disclosed that the Board does not review the policies and procedures adopted by the program. OCE was advised that the Board of Trustees receives financial and accounting reports at its bi-monthly meetings from the Finance Director. It is recommended that the Board review the policies and procedures adopted by SJLS.

Through interview, the Chair also advised that, while there are no Board members with financial expertise, the program's independent public accountant is available to answer any fiscal questions which require fiscal expertise.

Required Corrective Action

The DR advised SJLS to revise the Cost Standard Section of its Accounting Manual which contained an erroneous list of activities prohibited or inconsistent with the Section 504 of the LSC Act.

In response to the DR, SJLS reported that it had conducted a Directors meeting to discuss and address OCE's concerns. SJLS provided a copy of the amended section of the Accounting Policy.

Based on LSC's review of SJLS' actions, RCA No. 20 is closed.

The DR also advised SJLS to revise its client trust policy to comply with the State Law of New Jersey. SJLS did not comment or provide evidence related to this RCA.

RCA No. 22 will remain open pending submission of revised policies and/or procedures as noted above.

Recommendation

The DR recommended that all disbursements issued to the ED be reviewed by the SJLS Board; however, such reviews need not take place prior to the disbursements.

In its response to the DR, SJLS did not comment on this Finding.

Finding 32: SJLS is in compliance with the Payroll Guidelines of the LSC Accounting Guide, as it maintains adequate supporting documentation of salary level, payments and corresponding reviews and approvals.

The LSC Accounting Guide, Appendix VII Accounting Procedures and Internal Control, Checklist B. Personnel and Payroll provides guidance to programs for Personnel/Payroll functions. The LSC Accounting Guide, Section 3.5.5(a), requires that “payroll records should list all payments to employees by name, check number, gross pay, withholdings, and net pay. An attendance record or time record shall be maintained for each employee and shall be approved by the employees’ supervisor. Each employee shall have a payroll/personnel file which includes, among other things, documentation concerning appointments, position reclassifications, salary information, evaluations, promotions, and terminations.” Section 3.5.5(b) Payroll Payments requires that “salary and wage rates should be approved in writing by an authorized individual and adjustments to payroll disbursements should be approved by an authorized individual independent of payroll preparation. Payrolls should be disbursed from an imprest bank account restricted for that purpose. Deposits to the payroll account should be controlled by an authorizing procedure which prevents duplicate deposits and over deposits.”

Program Letter 08-2 noted that the General Accounting Office (“GAO”) referred to salary advances as “interest free loans” and, while not prohibited, recipients must have written policies and procedures governing such advances and ensuring timely repayment. SJLS does not provide salary advances nor does it advance paid leave or maintain an employee “leave pool.”

SJLS’ written personnel policies include individual policies, copies of which are provided to all employees on date of hire, as well as those contained in three (3) separate collective bargaining agreements, which are provided to all employees. The multiple agreements are a legacy from the consolidation of recipient programs, with Legal Services Staff Association of Legal Service Workers UAW Local 2320 representing attorneys and Communications Workers of America AFL-CIO representing the remainder of staff in Burlington, Camden, Cumberland, Gloucester and Salem counties, while Communications Workers of America Local 1038 represents all staff in Cape May and Atlantic counties. All agreements were initiated in 2009 for the period ending December 31, 2011, however, all agreements continue in force by mutual agreement (but subject to termination by either party upon proper notice). The agreements reflect no variance in salaries, benefits, policies or procedures between the employee groups. There have been no changes to the salary plans as defined in the agreements (as approved by the SJLS Board in 2008).

SJLS utilizes the position of Director of Human Resources to establish segregation of duties within the Personnel/Payroll functions. Upon a new hire, the Director of Human Resources is responsible for obtaining required employment documents,- *i.e.*, IRS Forms W-4, Employment Eligibility Form I-9, etc., program employment documents,-*i.e.*, resume, employment application, direct deposit authorization, etc., and for providing copies of SJLS personnel policies to the new employee. This process is documented on a “New Employee Orientation Checklist.”

All payroll changes must be submitted on a standard SJLS Personnel Action form, and approved by the ED, prior to being routed to accounting. SJLS requires employees to prepare weekly payroll time reports, supported by contemporaneous daily time records maintained either manually, or for legal staff on Legal Server ACMS. SJLS’ payroll is processed bi-weekly using the ADP Workforce Now software. The payroll register and a wire transmittal letter to fund the payroll imprest account is approved by the Deputy Director or ED prior to being forwarded to ADP and the bank.

Required Corrective Action

The DR instructed SJLS to develop a plan of action to complete bank reconciliations on a more timely basis, to ensure compliance with the State of New Jersey’s Unclaimed Property Law, which requires a two (2) year reporting time, and to change its policies and procedures accordingly.

In response to the DR, SJLS stated that following OCE’s visit, SJLS conducted a Directors meeting to address OCE’s concerns regarding the timeliness of bank reconciliations. The response noted that, “as result, a recommendation was made to the Audit & Finance Committee of SJLS’ Board to authorize the hiring of a part-time staff accountant to assist in this process, as well as with other fiscal duties.” SJLS further stated that the Audit & Finance Committee agreed with the Board’s recommendation and the full Board approved the additional position in its revised budget on April 29, 2014. SJLS hired a part-time Staff Accountant on August 11, 2014. In addition, SJLS indicated that the Accounting Manual was modified to reflect this change as well.

Based on a review of SJLS’ response to this Finding, RCA No. 21 is closed.

IV. RECOMMENDATIONS¹⁷

Consistent with the findings of this Report, it is recommended that SJLS implement the following recommended actions:

1. Consider an amendment of its ACMS so that once a case has been reported in a CSR that the file is somehow “locked” so that it cannot be reopened accidentally by staff. This also importantly will preserve the closed cases for a closed year (Finding 1);

In its response to the DR, SJLS did not comment on this Finding.

2. Conduct a conflict check prior to providing legal advice, and to check with their local Bar rules for the appropriate manner in which to handle cases where legal advice has been given in a case that has conflict issues (Finding 2);

In its response to the DR, SJLS did not comment on this Finding.

3. Provide adequate training and oversight to any staff who conducts intake (Finding 2);

In its response to the DR, SJLS did not comment on this Finding.

4. Review client retainer agreements to make sure they properly match the scope of the representation provided to the client (Finding 6);

In its response to the DR, SJLS did not comment on this Finding.

5. Periodically print lists of any cases designated for LSC reporting which were closed using case closure category “other” (K), so as to review whether this category has been correctly applied (Finding 10);

In its response to the DR, SJLS did not comment on this Finding.

6. Review all cases periodically for their status, to ensure timely closing of cases, and ensure cases that are not timely closed are not reported LSC in the CSRs (Finding 11);

In its response to the DR, SJLS did not comment on this Finding.

7. Incorporate SJLS’ PAI accounting process in the SJLS Accounting Manual (Finding 17);

In its response to the DR, SJLS did not comment on this Finding.

¹⁷ Items appearing in the “Recommendations” section are not enforced by LSC and therefore the program is not required to take any of the actions or suggestions listed in this section. Recommendations are offered when useful suggestions or actions are identified that, in OCE’s experience, could help the program with topics addressed in the report. By contrast, the items listed in “Required Corrective Actions” (“RCA”) must be addressed by the program, and will be enforced by LSC.

8. Have disbursements to the ED reviewed by the Board (Finding 31);

In its response to the DR, SJLS did not comment on this Finding.

9. Have the Board review the policies and procedures adopted by SJLS (Finding 31); and

In its response to the DR, SJLS did not comment on this Finding.

10. Remove credit card and bank accounting numbers from the SJLS' Accounting Manual (Finding 31).

In its response to the DR, SJLS did not comment on this Finding.

V. REQUIRED CORRECTIVE ACTIONS

Consistent with the findings of this Report, SJLS is required to submit a plan within 30 days of the receipt of the Draft Report that describes the actions it will take to implement the Required Corrective Actions (“RCAs”) and implement the following RCAs:

1. Ensure that all applicants are properly and fully screened so that intake is conducted in a similar manner throughout the program (Finding 2);

In response to the DR, SJLS stated that upon, becoming aware of the non-compliant screening practices raised by OCE during the February 3-6, 2014 visit, it immediately discussed the matter with the Managing Attorney of the CIU. The Managing Attorney, in turn, discussed the issue with the CIU staff and reinforced the need to comply with SJLS intake policies and procedures and follow specific LSC regulations. SJLS further stated that the issue was reviewed with SJLS Managers at a Managers Meeting on February 27, 2014; at which not only the need for compliance was reinforced, but also the need to not use different intake forms in each office but to use the computer-based Legal Server system. Detailed instructions were also provided so that all manual intakes are done on identical SJLS forms, and changes were made to LegalServer which now prevents some of the errors noted by OCE, according to comments to the DR.

Based on a review of SJLS’ response to this Finding, RCA No. 1 is closed.

2. Bring the Intake Manual and Financial Eligibility guidelines in conformance with each other and with LSC regulations. *See* CSR Handbook (2008 Ed., as amended 2011), Chapter III (Finding 2);

In response to the DR, SJLS stated that the Intake Manual is currently under review and is expected to be modified and finalized by SJLS’ Board at its May 20, 2015 meeting, and the Eligibility Guidelines are expected to be revised and adopted by SJLS’ Board at its March 25, 2015 meeting. By letter dated April 15, 2015, SJLS provided a copy of the new Financial Eligibility Guidelines as adopted on March 25, 2015.

This corrective action shall remain open until such time as the modified Intake Manual is received by LSC.

3. Have the Board designate the specific governmental benefit programs that it will allow intake staff to use as a short-cut to normal intake (Finding 2);

In response to the DR, SJLS stated this should be completed along with the adoption of Financial Eligibility Guidelines at SJLS’ March 25, 2015 Board meeting. By letter dated April 15, 2015, SJLS provided a copy of its revised Financial Eligibility Guidelines as adopted on March 15, 2015.

Review of the revised policy revealed that the specific governmental benefit programs had not been specified.

The corrective action will remain open pending receipt of Board minutes or other documents evidencing the Board's designations, as well as a copy of the revised Intake Manual. Such evidence should be submitted to LSC within 30 days of SJLS' receipt of this Report.

4. Ensure that all walk-in applicants comply with the screening and documentation requirements pursuant to 45 CFR §§ 1626.6 (a) and 1626.7(a) (Finding 2);

In response to the DR, SJLS stated that upon, becoming aware of the non-compliant screening practices raised by OCE during the February 3-6, 2014 visit, it immediately discussed the matter with the Managing Attorney of the CIU. The Managing Attorney, in turn, discussed the issue with the CIU staff and reinforced the need to comply with SJLS Intake policies, procedures and follow specific LSC regulations. SJLS further stated that the issue was reviewed with SJLS Managers at a Managers Meeting on February 27, 2014; at which not only the need for compliance was reinforced, but also the need to not use different intake forms in each office but to use the computer-based Legal Server system. Detailed instructions were also provided so that all manual intakes are done on identical SJLS forms, and changes were made to Legal Server which now prevents some of the errors noted by OCE, according to comments to the DR.

Based on a review of SJLS' response to this Finding, RCA No. 4 is closed.

5. Amend its Financial Eligibility Guidelines to comply with 45 CFR Part 1611 (Financial Eligibility) (Finding 3);

In its response to the DR, SJLS stated that the amendment to its Financial Eligibility Guidelines should be completed at SJLS' March 25, 2015 Board meeting. By letter dated April 15, 2015, SJLS provided a copy of its revised Financial Eligibility Guidelines as adopted March 25, 2015.

OCE will review the revised policy and advise SJLS, under separate cover, if it is sufficient to close this RCA.

6. Amend its policy and procedure to reflect the requirement that an excluded vehicle be used for transportation, in compliance with 45 CFR § 1611.3(d)(1) (Finding 4);

In its response to the DR, SJLS stated that the amendment to its policy and procedures should be completed at SJLS' March 25, 2015 Board meeting. By letter dated April 15, 2015, SJLS provided a copy of its revised Financial Eligibility Guidelines as adopted on March 15, 2015.

Review of the revised policy indicates that the required modification was made. Based on the review, RCA No. 6 is closed.

7. Amend its policy pertaining to 45 CFR Part 1626 (Restrictions on legal assistance to aliens) to comply with 45 CFR § 1626.12 (Finding 5);

In its response to the DR, SJLS stated that the amendment to its policy pertaining to 45 CFR § 1626.12 should be completed at SJLS' May 20, 2015 Board meeting.

This corrective action shall remain open until such time as the amended policy is received and reviewed by LSC.

8. Amend its 45 CFR Part 1636 (Client identity and statement of facts) written policy to comply with 45 CFR § 1636.4 (Finding 7);

In its response to the DR, SJLS stated that the amendment to its 45 CFR § 1636.4 policy should be completed at SJLS' May 20, 2015 Board meeting.

This corrective action shall remain open until such time as the amended policy is received and reviewed by LSC.

9. Amend its 45 CFR Part 1620 policy (Priorities in use of resources) to comply with 45 CFR § 1620.4 (Establishing policies and procedures for emergencies) (Finding 8);

In its response to the DR, SJLS provided LSC with evidence of its amended 45 CFR § 1620.4 policy. The policy was reviewed and found to be in compliance with 45 CFR Part 1620. The policy was adopted by the Board of Directors on January 20, 2015.

Based on a review of SJLS' response to this Finding and the evidence provided, RCA No. 9 is closed.

10. Provide OCE with the policies and procedures implemented to ensure the errors discussed in Finding 9 are not repeated (Finding 9);

In its response to the DR, SJLS stated that "intakes improperly reported as advice and counsel were deselected as noted" and "CIU management and staff were specifically instructed that when actual counsel and advice was not provided to the applicant, such cases could not and should not be closed under closing code "A" in compliance with § 5.6 of the CSR Handbook." SJLS indicated that, in December 2014, a new Managing Attorney had been hired for the CIU who would be better able to oversee LSC compliance during the intake process. SJLS further stated that "the Deputy Director periodically reviews intakes closed by CIU to ensure compliance in this regard." At the time of OCE's visit, the Managing Attorney of CIU was split between overseeing CIU and PAI, rendering oversight of CIU's LSC compliance more challenging, according to comments to the DR.

Based on a review of SJLS' response to this Finding, RCA No. 10 is closed.

11. Ensure that closing code "other" (K) be used only for CSR eligible and reportable cases when this closure category best describes the level of service provided (Finding 10);

In its response to the DR, SJLS stated that "CIU management and staff were instructed in the proper and improper uses of closing code "K" in accordance with the CSR Handbook," and "the Deputy Director periodically reviews cases closed by CIU to ensure compliance in this regard."

Based on a review of SJLS' response to this Finding, RCA No. 11 is closed.

12. Amend its 45 CFR Part 1604 policy (Outside practice of law) to comply with 45 CFR § 1604.3 (Finding 13);

In its response to the DR, SJLS stated that the amendment to its 45 CFR Part 1604 policy should be completed at SJLS' May 20, 2015 Board meeting.

This corrective action shall remain open until such time as the amended policy is received and reviewed by LSC.

13. Amend its 45 CFR Part 1609 policy (Fee-generating cases) to comply with 45 CFR Part 1609 (Finding 15);

In its response to the DR, SJLS stated that the amendment to its 45 CFR Part 1609 policy should be completed at SJLS' May 20, 2015 Board meeting.

This corrective action shall remain open until such time as the amended policy is received and reviewed by LSC.

14. Give notice during the application process for a grant or contract, or immediately upon receiving notice of an award pursuant to the requirements of 45 CFR § 1610.5 (Notification) (Finding 16);

In its response to the DR, SJLS disagreed with this Finding and provided evidence of its 45 CFR § 1610.5 (Notification) letter that is routinely provided as a matter of course as part of its funding application process.

Based on a review of SJLS' response to this Finding and the evidence provided, RCA No. 14 is closed.

15. Document its process of accounting for PAI costs pursuant to 45 CFR § 1614.3(4)(e) (Finding 17);

In its response to the DR, SJLS stated that immediately following OCE's visit, SJLS conducted a Directors meeting in which OCE's concerns regarding SJLS' need to document PAI costs were addressed. As a result, SJLS modified its method for tracking PAI costs and now bases such accounting on actual contemporaneous staff time records. SJLS provided the pertinent section of its Accounting Manual, as part of its response.

Based on a review of SJLS' response to this Finding, RCA No. 15 is closed.

16. Amend its 45 CFR Part 1627 written policy (Subgrants and membership fees or dues) to fully comply with 45 CFR Part 1627 (Finding 18);

In its response to the DR, SJLS stated that the amendment to its 45 CFR Part 1627 policy should be completed at SJLS' May 20, 2015 Board meeting.

This corrective action shall remain open until such time as the amended policy is received and reviewed by LSC.

17. Amend its 45 CFR Part 1612 policy (Restrictions on lobbying and certain other activities) to comply with 45 CFR § 1612.11 (Finding 21);

In its response to the DR, SJLS stated that the amendment to its 45 CFR Part 1612 policy should be completed at SJLS' May 20, 2015 Board meeting.

This corrective action shall remain open until such time as the amended policy is received and reviewed by LSC.

18. Develop a written 45 CFR Part 1643 policy (Restriction on assisted suicide, euthanasia, and mercy killing) to comply with 45 CFR § 1643.5 (Finding 28);

In its response to the DR, SJLS stated that the development of its 45 CFR Part 1643 policy should be completed at SJLS' May 20, 2015 Board meeting.

This corrective action shall remain open until such time as the policy is received and reviewed by LSC.

19. Develop a written 45 CFR Part 1644 policy (Disclosure of case information) to comply with 45 CFR § 1644.5 (Finding 30);

In its response to the DR, SJLS stated that the development of its 45 CFR Part 1644 policy should be completed at SJLS' May 20, 2015 Board meeting.

This corrective action shall remain open until such time as the policy is received and reviewed by LSC.

20. Revise the Cost Standards section of its Accounting Manual which contains an erroneous list of activities prohibited by or inconsistent with Section 504 of the LSC Act (Finding 31);

In its response to the DR, SJLS stated that it has revised the Cost Standards of its Accounting Manual, as directed by OCE in the DR.

Based on a review of SJLS' response to this Finding and the evidence provided, RCA No. 20 is closed.

21. Develop a plan of action to complete bank reconciliations more timely (*See* LSC Accounting Guide Section 3-5.2) (Finding 31); and

In response to the DR, SJLS stated that following OCE's visit, SJLS conducted a Directors meeting to address OCE's concerns regarding the timeliness of bank reconciliations. The response noted that, "as result, a recommendation was made to the Audit & Finance Committee of SJLS' Board to authorize the hiring of a part-time staff accountant to assist in this process, as well as with other fiscal duties." SJLS further stated that the Audit & Finance Committee agreed with the Board's recommendation and the full Board approved the additional position in its revised budget on April 29, 2014. SJLS hired a part-time Staff Accountant on August 11, 2014. In addition, SJLS indicated that the Accounting Manual was modified to reflect this change as well.

Based on a review of SJLS' response to this Finding and the evidence provided, RCA No. 21 is closed.

22. Develop a plan of action to ensure compliance with the State of New Jersey's Unclaimed Property Law, which requires a two (2) year reporting time. SJLS' policies and procedures must be changed accordingly (Finding 31).

SJLS did not comment or provide evidence in response to this RCA.

RCA No. 22 will remain open pending receipt and review of revised policies/procedures.

VI. ADDITIONAL INFORMATION REQUESTED

The DR requested that SJLS provide the following additional information with its comments to this Draft Report:

1. The percentage, if any, of the attorneys' fees received in 2011 and 2012 which should have been allocated to LSC funding. If a portion of the attorneys' fees should have been allocated to LSC, the DR instructed SJLS to provide evidence of proper reallocation or of a plan to do so.

In its response to the DR, SJLS stated that none of the attorneys' fees received by SJLS in 2011 and 2012 should have been allocated to LSC funding.

Based on a review of SJLS' response to additional information requested, LSC finds it to be an adequate response to the question presented.



SOUTH JERSEY LEGAL SERVICES, INC.

DOUGLAS E. GERSHUNY, ESQUIRE
Executive Director

ANN M. GORMAN, ESQUIRE
Deputy Director

KENNETH M. GOLDMAN, ESQUIRE
Director of Litigation & Advocacy

ADMINISTRATIVE OFFICE

745 Market Street

Camden, NJ 08102

Phone: (856) 964-2010

Fax: (856) 964-0228

Email: dgershuny@lsnj.org

March 3, 2015

Lora M. Rath, Director
Office of Compliance & Enforcement
Legal Services Corporation
3333 K Street NW, 3rd Floor
Washington, D.C. 20007-3522

Re: Compliance Review Visit, Recipient No. 331020

Dear Ms. Rath:

In response to your follow-up letter dated January 28, 2015, please accept the following:

- RAC 1: Upon becoming aware of the non-compliant screening practices raised by OCE during its February 3-6, 2014 visit, we immediately discussed the matter with the Managing Attorney of our Centralized Intake Unit (CIU) who, in turn, discussed the issue with her intake staff and reinforced the need to comply with SJLS Intake policies, procedures and follow specific LSC regulations. In addition, we reviewed the issue with SJLS Managers at a Managers Meeting on February 27, 2014. At that meeting, we reinforced not only the need for compliance as noted, but also the need to not use different intake forms in each office but to use the computer-based Legal Server system used program-wide. Detailed instructions were also provided so that all manual intakes are done on identical SJLS forms. In addition, changes were made to Legal Server which now prevent some of the errors noted by OCE.
- RAC 2: From September through December 2014, SJLS was engaged in various activities related to the addition of NJ 12 to its service area. In December 2014, SJLS hired a full-time Managing Attorney for CIU and, in addition, several new intake workers in January 2015 to accommodate increased client volume. The SJLS Intake Manual is currently under review and is expected to be modified and finalized as per Finding 2 by SJLS' Board at its May 20, 2015 meeting, and the Eligibility Guidelines are expected to be revised and adopted by SJLS' Board at its March 25, 2015 meeting.
- RAC 3: This should be completed along with the Eligibility Guidelines at SJLS' March 25, 2015 Board meeting.
- RAC 4: Our corrective action with respect to this matter is the same as our response to RAC 1.
- RAC 5: This should be completed at SJLS' March 25, 2015 Board meeting.



SOUTH JERSEY LEGAL SERVICES, INC
South Jersey Legal Services, Inc., is a non-profit organization created to provide quality legal representation and advocacy to low-income individuals. Effective January 1, 2015, South Jersey Legal Services, Inc. serves Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Monmouth, Ocean and Salem Counties.



- RAC 6: This should be completed at SJLS' March 25, 2015 Board meeting.
- RAC 7: This should be completed at SJLS' May 20, 2015 Board meeting.
- RAC 8: This should be completed at SJLS' May 20, 2015 Board meeting.
- RAC 9: SJLS amended its 45 CFR 1620 policy on January 20, 2015. (See Attachment 1.)
- RAC 10: Intakes improperly reported as advice and counsel were deselected as noted. In addition, CIU management and staff were specifically instructed that when actual counsel and advice was not provided to the applicant, such cases could not and should not be closed under closing code "A" in compliance with §5.6 of the CSR Handbook. In December 2014, SJLS hired a new Managing Attorney for CIU who would be better able to oversee LSC compliance in intake¹ In addition, the Deputy Director periodically reviews intakes closed by CIU to ensure compliance in this regard.
- RAC 11: CIU management and staff were instructed in the proper and improper uses of closing code "K" in accordance with the CSR Handbook. In addition, the Deputy Director periodically reviews intakes closed by CIU to ensure compliance in this regard.
- RAC 12: This should be completed at SJLS' May 20, 2015 Board meeting.
- RAC 13: This should be completed at SJLS' May 20, 2015 Board meeting.
- RAC 14: OCE's Finding 16 that SJLS does not provide notice to funders under 45 CFR §1610.5 is incorrect. Such notice is routinely provided as a matter of course as part of our funding application process. (See Attachment 2.)
- RAC 15: Immediately following OCE's visit, SJLS conducted a directors meeting in which OCE's concerns regarding SJLS' need to document PAI costs was addressed. As a result, SJLS modified its method for tracking PAI costs and now bases such accounting on actual contemporaneous staff time records.
- RAC 16: This should be completed at SJLS' May 20, 2015 Board meeting.
- RAC 17: This should be completed at SJLS' May 20, 2015 Board meeting.
- RAC 18: This should be completed at SJLS' May 20, 2015 Board meeting.
- RAC 19: This should be completed at SJLS' May 20, 2015 Board meeting.
- RAC 20: Immediately following OCE's visit, SJLS conducted a directors meeting in which OCE's concerns regarding the cost standards section of SJLS' Accounting Manual were reviewed. As a result, the manual was amended consistent with Finding 31. (See Attachment 3.)

¹ At the time of OCE's visit, the Managing Attorney of CIU was split between overseeing CIU and PAI, rendering oversight of CIU's LSC compliance more challenging.

RAC 21: Following OCE's visit, SJLS conducted a directors meeting in which OCE's concerns regarding the timeliness of bank reconciliations was reviewed. As a result, a recommendation was made to the Audit & Finance Committee of SJLS' Board to authorize the hiring of a part-time staff accountant to assist in this process, as well as with other fiscal duties. The Audit & Finance Committee agreed and the full Board approved the additional position in its revised budget on April 29, 2014. SJLS hired a part-time Staff Accountant to fill this position on August 11, 2014. SJLS' Accounting Manual was modified to reflect this change as well. (See Attachment 4.)

RAC 22: See our response to RAC 21.

Please let me know if you need anything further.

SOUTH JERSEY LEGAL SERVICES

A handwritten signature in black ink, appearing to read 'D. Gershuny', is positioned above the printed name.

DOUGLAS E. GERSHUNY
Executive Director

ATTACHMENT 1

SOUTH JERSEY LEGAL SERVICES, INC.

Statement of Priorities (1620) – Policy

Reference: Regulation 1620

I. PRIORITIES

This annual report is completed for the purpose of assessing the relevance of the current prioritizing of our legal services to clients. South Jersey Legal Services, Inc. (SJLS) does not have the ability to meet 100% of the legal needs of the average persons in our seven county service area in need of legal help. Therefore, at the end of each year pursuant to internal policy and 45 CFR 1620, the staff and Board will continue to undergo a priority review and report to the Board of Trustees. The Board then votes on priorities for the upcoming year.

SJLS continually tries to identify and determine where the greatest needs are concerning the poverty community which we serve. SJLS is currently undergoing a strategic planning process that will include surveying clients, the private bar, the judiciary, and other service providers. Moreover, under the guidance of our Director of Litigation and Advocacy, efforts are being made on a continuous basis through meetings with staff and conducting strategic planning sessions to more fully meet client needs. Our staff works closely with the community organizations in our service area. They work in conjunction with the Directors and our Board of Trustees' Committee on Priorities and Delivery of Service in reaching out to organizations to insure that we are serving the needs of our clients.

We have also worked very closely with Legal Services of New Jersey who completed the field research for its third statewide social science study of civil legal needs ((both met and unmet) in New Jersey for those below 100% and 200% of poverty in 2007. In addition to statewide conclusions based upon 2800 interviews, the study will provide legal needs data specific to every regional program's service area, based upon a statistically valid sample. Additionally, all programs are periodically provided with data other than pertaining to the state and their service areas, including poverty, race, ethnicity, and language proficiency. LSNJ has been conducting these surveys approximately every three years and intends to continue to do so.

Also, on a continuing basis, survey forms are given out personally and mailed on an at random basis to get feedback from our client community by their assessment of the services which they received, as well as setting forth in their responses what they see as their priority needs.

Accordingly, pursuant to Section 504 (a) (9), P.L. 104-134, 110 Stat. 1321 (1996), and interim regulation 45 C.F. R. 1620 (August 29, 1996), the Board of South Jersey Legal Services, Inc. hereby sets the following specific priorities regarding the

types of matters and cases to which staff is authorized to devote time and resources. These decisions have been made following the procedure specified in 45 C.F.R. 1620.3(c) and after careful consideration of the factors enumerated in 45 C.F.R. 1620.3(c).

South Jersey Legal Services, Inc. shall continue to maintain the high level of professionalism it has exhibited throughout its history in delivering legal assistance to its client community. It shall also, to the extent reasonable and possible, maintain its record of offering a full range of legal services.

This statement of priorities does not indicate that assistance or activity will be undertaken in every one of the indicated areas, or that a particular case or matter which falls within one of the areas will be accepted. Even though a case or matter may fall within these stated priorities, it is important to recognize that many factors may cause South Jersey Services, Inc. to limit further the cases or matters undertaken at any given time. Such factors include, but are not limited to, available funding, staff time, and other resources; whether there has been a request for activity or assistance in a particular area; the degree of urgency or importance presented by a particular situation; the time that would be required; the expertise and experience of available staff; changes in law or policy affecting the rights of parties; and the strength of a particular claim. Judgments concerning many of these factors frequently will have to be made by South Jersey Legal Services, Inc. staff on a matter-by-matter or case-by-case basis, although where more general patterns or policies develop, they may be articulated in more general case or matter limitation or acceptance statements.

Support for Families It is a priority of South Jersey Legal Services, Inc. to safeguard, preserve and/or improve the integrity, safety and well being of the family. The program is authorized, therefore, to provide services in the family law matters as well as access to health care and/or health care insurance and the proper and thorough education of children and adults.

Preservation of the Home All of the factors mentioned in the prior paragraph (integrity, safety and well-being) are threatened by the loss or uninhabitability of the home. It is a priority of the South Jersey Legal Services, Inc. to preserve the home and enhance housing opportunities. The program is authorized, therefore, to provide services in such areas as, but not limited to, avoiding loss of the home, improving conditions therein and ameliorating dangerous or negative environmental conditions in the home or neighborhood.

Maintenance of Economic Stability Loss or substantial reduction of income or assets can lead to loss of the home and the eventual break-up of the family. It is a priority of South Jersey Legal Services, Inc. to maintain economic stability. The program is authorized, therefore, to provide services in areas such as, but not limited to, protecting against the loss or reduction of a family's income, source of income, its assets or its ability to produce income, assistance in obtaining new or substitute income, or assistance in clearing a family's credit record or debts.

Support for the Client Community The client community relies on South Jersey Legal Services, Inc. as its resource for legal assistance and comes to South Jersey Legal Services, Inc. with a full range of legal problems. It is important for South Jersey Legal Services, Inc. in its continuing assessment of the legal needs of its clients, to be aware of the legal problems its clients encounter, and, whenever possible, to at least provide clients with information, referral or brief advice that may, with a minimal use of resources, provide some assistance even though further services will not be provided unless the problem falls within the priorities set forth herein. Therefore, it is a priority of South Jersey Legal Services, Inc. to provide information, referral or brief advice to the client community, including, but not limited to, community legal education and materials and pro se advice and assistance.

Organizations and groups within the client community also strive to improve the lives of clients and may require legal assistance in furtherance of their work. South Jersey Legal Services, Inc. will provide services to such organizations or groups.

Support for Individuals and Special Populations While the foregoing addresses families, organizations and groups, South Jersey Legal Services, Inc. will not exclude those living alone and/or outside a family context. Assistance to such individuals, in all priority areas, is as important to societal well-being as assistance to families and will be dispensed without discrimination to individuals. Service to populations with special vulnerabilities shall also be rendered where reasonable and/or necessary. Such populations, whether families or individuals, include, but are not limited to, the elderly, the homebound, the disabled, those less capable of fending for themselves because of language, cultural or educational differences, racial and ethnic minorities, migrant farm workers, and those with other special problems which cause difficulty in access to legal assistance or create special legal needs.

Other Contributions to the Delivery of Program Services In addition to the foregoing, it is a priority of South Jersey Legal Services, Inc. to engage in other activities which further the delivery of legal assistance to the client community. These authorized activities include, but are not limited to, in- person community legal education; operating pro se clinics or otherwise supporting pro se activity; providing information or engaging in other outreach about Legal Services or the availability of legal assistance; developing written or other community legal education materials; intake, advice and referral, follow up, support, recruitment and development for private attorney involvement in legal assistance activities; participating in the development or carrying out of training, information dissemination, or other support for other Legal Services work, including preparation of desk manuals, case handling protocols, client services and procedure strategies, and similar items; receiving training, continuing legal education, or other forms of relevant information and support relevant to legal

assistance activities; supervision of program work, services, and activities; ongoing reading and other efforts to keep in touch with relevant substantive and procedural legal developments affecting legal assistance to low-income people; and other relevant activities.

Prohibition No employee of South Jersey Legal Services, Inc. shall accept and/or handle a case or matter that is not within these priorities, except in accordance with the procedure established by the Board of Trustees for the handling of emergencies and entitled "Emergency Cases or Matters."

II. **EMERGENCIES**

Emergency cases or matters that are not within South Jersey Legal Services, Inc.'s (SJLS) priorities may, in accordance with 45 C.F.R. 1620.4 and this procedure, be accepted by SJLS. Such acceptance shall only be in accordance with the procedures and definitions specified herein.

- A. **Definition Of Emergency.** An emergency is any case or matter for which other adequate or appropriate legal assistance is not available and that:
 - requires immediate legal action, or
 - includes circumstances involving the necessities of life, such as, but not limited to, a person's home or income, or
 - involves a significant risk to the life, health or safety of the applicant or immediate family members, or
 - involves issues that have arisen because of recently emerged circumstances, such as, but not limited to, major disasters or changes in the law, which because of their recent and rapid development have not permitted SJLS to reconsider or adjust its priorities.
- B. **ELIGIBILITY.** Any person presenting an emergency case or matter not within SJLS's priorities must qualify financially for the program's services.
- C. **PRIOR APPROVAL.** Casehandlers presented with a case or matter falling within this procedure must, before accepting same, obtain the approval of the Executive Director or his/her designee(s).
- D. **APPROVAL FACTORS.** The following factors may be considered by the Executive Director or his/her designee(s) in determining whether a case or matter constitutes an emergency:
 - whether the case or matter satisfies the definition of emergency as set forth above;
 - the time period in which action must be taken to protect the applicant's interest;
 - the severity of the consequences to the applicant if no action is taken;
 - the likelihood of success if urgent legal action is taken;

- the capacity of another source of free or low-income legal assistance to undertake the particular case or matter;
- the effect the problem presented will have on the client community;
- the consequences of diverting resources from existing priority Cases or matters.

E. **REPORTING** - The Executive Director or his/her designee(s) who approves the acceptance of an emergency case or matter not within SJLS's priorities shall complete, forthwith, the form entitled "Non-Priority Emergency Case or Matter Acceptance." A copy of said form, once completed, shall be placed in the client's file and the original given to or retained by the Executive Director.



Douglas E. Gershuny
Executive Director

DATED: January 20, 2015

Adopted by SJLS Board of Trustees: January 20, 2015

ATTACHMENT 2



SOUTH JERSEY LEGAL SERVICES, INC.

DOUGLAS E. GERSHUNY, ESQUIRE
Executive Director

ANN M. GORMAN, ESQUIRE
Deputy Director

KENNETH M. GOLDMAN, ESQUIRE
Director of Litigation & Advocacy

ADMINISTRATIVE OFFICE
745 Market Street
Camden, NJ 08102
Phone: (856) 964-2010
Fax: (856) 964-0228
dgershunv@lsnj.org

SOUTH JERSEY LEGAL SERVICES, INC.

Notice to Funders

South Jersey Legal Services (SJLS) is funded in part by the Legal Services Corporation (LSC), a non-profit corporation created and funded by the Congress of the United States. In 1996 Congress, in enacting the LSC appropriation bill Pub.L. 104-208, placed a requirement that all other funders receive written notice of limitations on the use of their grants. LSC codified this requirement at 45 CFR Part 1610.5. SJLS hereby provides that written notice that non-LSC funds may not be used in any manner inconsistent with the LSC Act or Section 504 (d) (1) of Pub.L. 104-208. Please contact the Executive Director of SJLS for any further information or copy of these restrictions. In applying for these funds, signing any contract, and utilizing these funds SJLS believes the LSC restrictions do not prohibit compliance with the purposes of these funds.



SOUTH JERSEY LEGAL SERVICES, INC
South Jersey Legal Services, Inc., is a non-profit organization created to provide quality legal representation and advocacy to low-income individuals. Effective January 1, 2015, South Jersey Legal Services, Inc. serves Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Monmouth, Ocean and Salem Counties.



ATTACHMENT 3

Purposes prohibited by the LSC Act include:

- political activities;
- activities inconsistent with professional responsibilities;
- criminal proceedings;
- actions challenging criminal convictions;
- organizing activities;
- abortions;
- school desegregation; and
- violations of the Military Selective Service Act or military desertion.

Activities prohibited by or inconsistent with Section 504 of the LSC Act include:

- redistricting;
- legislative and administrative advocacy;
- class actions;
- client identification and statement of facts;
- aliens;
- public policy making;
- abortion litigation;
- prisoner litigation;
- welfare reform;
- drug-related evictions; and
- in-person solicitation,

Except that:

- SJLS may use non-LSC funds to provide legal assistance to an individual who is not LSC financially eligible for services, provided the funds are used for the specific purposes for which those funds were provided and not otherwise prohibited by the LSC Act or prohibited by or inconsistent with Section 504 of the LSC Act.
- SJLS may receive public or IOLTA funds and use them in accordance with the specific purposes for which they were provided if the funds are not used for any activity prohibited by or inconsistent with Section 504 of the LSC Act.

“Public Funds” – means non-LSC funds derived from a Federal, State, or local government or instrumentality of a government. For purposes of this part, IOLTA funds shall be treated in the same manner as public funds.

“Non-Public Funds” (“Private Funds”) - means funds derived from an individual or entity other than a governmental source or LSC.

Investment of Funds: In order for SJLS to ensure that all funds are protected by the FDIC, funds are held in a Merrill Lynch Working Capital Management Account (WCMA). Merrill Lynch holds monies in different financial institutions to ensure that all funds are within the FDIC limit (depending on the balance in this account it may mean that various reputable FDIC insured banking institutions hold SJLS funds).

If the SJLS Board adopts an investment policy outside LSC's stated policies, as outlined in the Accounting Guide for LSC Recipients, the SJLS Board must acknowledge such divergence by resolution, and record it in the minutes of the Board meeting. In such cases, the SJLS Board accepts full responsibility for the security of those investments.

Checking Accounts and Transfer of Funds: In addition to Merrill Lynch, SJLS maintains several bank accounts to ensure that virtually all funds are FDIC protected. The accounts are as follows:

Bank Accounts	Account Description	Authorized Signers
PNC Bank (XX-XXXX-4133)	Enterprise Checking Acct Operating Account	Gary W. Boguski Douglas E. Gershuny Ann M. Gorman Kenneth M. Goldman Olga D. Pomar Lee M. Ginsburg Brittani Morris
PNC Bank (XX-XXXX-5886)	Business Interest Checking Operating Acct	Gary W. Boguski Douglas E. Gershuny Ann M. Gorman Olga D. Pomar Kenneth Goldman Lee M. Ginsburg Brittani Morris
PNC Bank (XX-XXXX-5902)	Business Basic Checking Payroll Account	Gary W. Boguski Douglas E. Gershuny Ann M. Gorman Olga D. Pomar Kenneth Goldman Lee M. Ginsburg Brittani Morris
PNC Bank (XX-XXXX-4847)	IOLTA Checking Client Trust Account	Gary W. Boguski Douglas E. Gershuny Ann M. Gorman Olga D. Pomar Kenneth M. Goldman Lee M. Ginsburg

client will reimburse SJLS for expenses and costs it pays on the client's behalf if the client obtains recovery of damages or payment of money connected to the case.

If the Managing Attorney determines that the client is unable to afford to pay case expenses and that the expense is necessary for diligent representation of the client's interests, the case handler may request payment of the expense by SJLS as follows:

1. Payment of filing fees that are not subject to waiver, such as bankruptcy filing fees, must be approved by both the Director of Litigation & Advocacy and Executive Director.
2. Payment of other case expenses \$500 or less must also be approved by both the Director of Litigation & Advocacy and Executive Director.
3. All approvals for payment of case expenses must be presented for approval by the case handler and Managing Attorney on the "Check Request – Litigation Expenses" form (Appendix C). One copy of the approval must be retained in the case file and one copy must be sent to the Finance Unit for processing.

State filing fees and other court costs are waived for legal services providers such as SJLS. SJLS will not pay any fee that is waived by Court Rule. All filings will include a reference to the court rule for waiver of filing fees.

The Court Rule does not cover recording fees specifically. Some registrars waive fees, other do not. If SJLS must record a deed or other document, SJLS will request waiver of fee.

No SJLS client shall be asked to pay for an interpreter, translation fees or disability accommodation services.

Corporate Credit Card Accounts:

South Jersey Legal Services Inc. maintains the following corporate credit cards:

Credit Card	Authorized User	Spending Limits
Bank of America (xxxx xxxx xxxx 3268)	Douglas E. Gershuny	\$20,000
Bank of America (xxxx xxxx xxxx 7903)	Ann M. Gorman	\$5,000
Staples (xxxx xxxx xxxx 3339)	Douglas E. Gershuny	\$7,350

All authorized SJLS employees who have use of a company credit card must agree to and sign the Credit Card Use Policy (see Appendix B). Credit card use is limited to business use only. Personal use of any SJLS credit card is prohibited. Prior authorization from the Executive Director must be obtained. A Credit Card Authorization Form (see Appendix B) must be completed for each purchase made with a SJLS credit card. Original receipts must be submitted with the Credit Card Authorization Form.

prepared in compliance with LSC regulations as well as the regulations of other funding organizations that require an independent audit.

SJLS' financial books of record are closed as of December 31st each year. The SJLS Finance Director prepares the annual unaudited financial statements, along with all necessary worksheets, prior to the arrival of the external auditor's staff. These statements will be subject to any audit adjustments. The external auditor will provide any adjusting journal entries to the SJLS Finance Director as soon as possible following the auditor's site visit. The Finance Director will enter the adjustments into the accounting system promptly and then prepare the SJLS year-end reports. The completed reports will be sent to the external auditor for inclusion in the final audit report. The final audit report and accompanying Management Letter, if any, will be distributed to SJLS' Management and Board of Trustees.

XIII. PRIVATE ATTORNEY INVOLVEMENT

SJLS will adhere to 45 CFR § 1614 pertaining to Private Attorney Involvement. SJLS will devote an amount equal to at least twelve and one-half percent (12½%) of the LSC annualized basic field award to the involvement of private attorneys in the delivery of legal services (this is referred to as the "PAI requirement").

Activities undertaken to meet this requirement will include the direct delivery of legal assistance to eligible clients through programs such as organized pro bono plans and private attorney contracts. Other activities may also include, but are not limited to:

- Support provided by private attorneys to SJLS in the delivery of legal assistance to eligible clients on a pro bono basis through the provision of community legal education, training, technical assistance, research, advice and counsel; co-counseling arrangements; or the use of private law firm facilities, libraries, computer-assisted legal research systems or other resources;
- Support provided by SJLS in furtherance of activities undertaken to meet the PAI requirement, including the provision of training, technical assistance, research, advice and counsel, or the use of recipient facilities, libraries, computer assisted legal research systems or other resources; and

SJLS will demonstrate compliance with the PAI requirement by accurately identifying and accounting for:

- SJLS's administrative, overhead, staff, and support costs related to PAI activities.
- Non-personnel costs shall be allocated on the basis of reasonable operating data. All methods of allocating common costs shall be clearly documented.
- Any direct time of staff attorneys or paralegals allocated as a cost to PAI must be documented by time sheets accounting for the time those employees have spent on PAI activities. The timekeeping requirement does not apply to non-legal staff.
- Personnel cost allocations for non-attorney or non-paralegal staff will be based on other reasonable operating data which is clearly documented.
- At year-end an aggregate time report is run from the case management system (Legal Server) for employees working on PAI program and if necessary, an adjusting journal entry is made into Abila MIP.

ATTACHMENT 4

Bank Reconciliations: All SJLS bank statements are delivered, unopened, to the Executive Director or his/her designee, who reviews the cancelled checks for unauthorized signatures, unusual endorsements, and other such matters as may come to his/her attention. The Fiscal Assistant has responsibility for the writing of checks and preparing the cash disbursements journal as well as the cash receipts journals. The Staff Accountant has responsibility for the preparation of the monthly bank reconciliation. The Deputy Director reviews the monthly bank reconciliation. Without this segregation of duties, errors or irregularities could go undetected.

The Staff Accountant reconciles all SJLS bank accounts to the General Ledger on a monthly basis as follows:

1. Receipt of bank statement and copies of cancelled checks (front and back), after review by the Executive Director.
2. Comparison of deposits per the bank statements to the cash receipts journal, noting that those deposits are made daily and intact.
3. Comparison of cancelled checks with the outstanding check list from the prior month, and the cash disbursements journal, noting:
 - a. Check number
 - b. Date
 - c. Payee
 - d. Amount
 - e. Endorsements

The magnetic ink imprint of the check amount in the lower right hand corner of the copy of the check is to be compared to the written amount in the journal to ascertain the bank charged the correct amount and that the check was properly recorded.

4. Examination of voided checks (all check numbers must be accounted for).
5. Listing of outstanding checks. All stale checks (i.e., checks that have been outstanding for more than six (6) months) must be researched and either a new check issued or the old check written off via general journal entry.
6. Preparation of reconciliation in Abila MIP of ending bank statement balance to general ledger. This computer generated reconciliation must be signed by both the Staff Accountant and the Deputy Director. Any unusual reconciliation items must be researched and brought to the attention of the Finance Director immediately.
7. The Staff Accountant must promptly record any necessary adjustments identified through the reconciliation procedure in the general journal. The Deputy Director, documented by his/her initials, must approve all entries. The Staff Accountant must then file the reconciliation by bank account and then by date for each account. Bank statements with the corresponding cancelled checks are also to be filed in this manner



SOUTH JERSEY LEGAL SERVICES, INC.

DOUGLAS E. GERSHUNY, ESQUIRE
Executive Director

ANN M. GORMAN, ESQUIRE
Deputy Director

KENNETH M. GOLDMAN, ESQUIRE
Director of Litigation & Advocacy

ADMINISTRATIVE OFFICE

745 Market Street
Camden, NJ 08102
Phone: (856) 964-2010
Fax: (856) 964-0228
Email: dgershuny@lsnj.org

April 15, 2015

Lora M. Rath, Director
Office of Compliance & Enforcement
Legal Services Corporation
3333 K Street NW, 3rd Floor
Washington, D.C. 20007-3522

Re: Compliance Review Visit, Recipient No. 331020

Dear Ms. Rath:

As a supplement to my letter dated March 3, 2015, attached please find the revised eligibility guidelines adopted at our March 25, 2015 Board meeting pursuant to RAC 2, 3 and 5, and 45 CFR Part 1611.

Please let me know if you need anything further.

SOUTH JERSEY LEGAL SERVICES

DOUGLAS E. GERSHUNY
Executive Director



SOUTH JERSEY LEGAL SERVICES, INC
South Jersey Legal Services, Inc., is a non-profit organization created to provide quality legal representation and advocacy to low-income individuals. Effective January 1, 2015, South Jersey Legal Services, Inc. serves Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Monmouth, Ocean and Salem Counties.



SOUTH JERSEY LEGAL SERVICES
FINANCIAL ELIGIBILITY STANDARDS

I. Purpose and Scope of Standards

The purpose of these standards is to fix maximum financial limitations on eligibility so as to focus our resources on the legal needs of those least able to obtain legal assistance. They apply to all clients who receive services supported by Legal Services Corporation funds.

In making financial eligibility determinations regarding individual applicants, SJLS must make reasonable inquiry regarding sources of the applicant's income, income prospects and assets.

The limitations govern financial eligibility only. Because South Jersey Legal Services, Inc. (SJLS) lack sufficient resources to meet all the legal needs of all financially eligible clients within its service area, the decision whether to provide ongoing representation will continue to be governed by case acceptance standards developed in accordance with the priorities established by the community. Thus, meeting financial eligibility guidelines alone does not confer a right to representation by SJLS.

II. Circumstances in which Financial Eligibility need not be verified.

A. Referral from another LSC Organization.

If a client is referred to SJLS from another organization that receives funds from the Legal Services Corporation, SJLS may rely on the referring organization's determination that the client is financially eligible. SJLS does not need to review or redetermine the client's financial eligibility unless there is a change in status or a substantial reason to doubt the validity of the original determination. SJLS must receive and retain a copy of the intake form from the referring organization documenting the financial eligibility of the client.

B. Sole Income is from Government Benefits

If a prospective client's sole income is derived from a Temporary Assistance for Needy Families (TANF), General Assistance (GA) or Supplemental Security Income (SSI) that applicant may be determined to be financially eligible without an independent review of the applicant's income or assets. Note that this provision does not apply, and an independent review of the applicant's income and assets is necessary, if the applicant has a source of income in addition to the specific governmental program.

III. Verifying Financial Eligibility for Domestic Violence Victims

In considering the financial eligibility of an applicant who is a victim of domestic violence, consider only the assets and income of the applicant and members of the

applicant's household. Exclude from consideration any income or assets held by the alleged perpetrator of the domestic violence, including any assets jointly held by the alleged perpetrator and the applicant or any member of the applicant's household.

IV. Maximum Income Level

A. Standard Limitation.

Having given the consideration to the resources of the Program, the local client population, the availability and cost of private attorneys in the area, and the local cost of living, the Program adopts 125% of the poverty level as the level of countable income over which eligibility for services provided with LSC funding is generally not established. **The eligibility level for services provided with IOLTA and State funding is set at 150% of the poverty level.**

LSC ELIGIBLE 125 % POVERTY

FAMILY	WEEKLY	MONTHLY	ANNUAL
1	\$283	\$1,226	\$14,713
2	\$383	\$1,659	\$19,913
3	\$483	\$2,092	\$25,113
4	\$583	\$2,526	\$30,313
5	\$683	\$2,959	\$35,513
6	\$783	\$3,393	\$40,713
7	\$883	\$3,826	\$45,913
8	\$983	\$4,259	\$51,113

For family units with more than 8 members, add \$5,200 to annual income (\$433 per month) for each additional member

In order to be eligible for services, a person's current annual gross income may not exceed **150%** of the current official Federal Poverty Guidelines. Income includes all cash receipts before taxes of all persons who are resident members of, and contribute to, the support of the household. It does not include in-kind contributions, money withdrawn from a bank, tax refunds, gifts, compensation and/or one-time insurance payments for injuries sustained, non-cash benefits, and up to \$2,000 per year of funds

received by individual Native Americans that is derived from Indian trust income or other distributions exempt by statute.

A “household” shall be defined as the prospective client and anyone with whom the client lives and who is legally dependant on the client or for whom client provides a share of all major living expenses. Where a client is wholly supported by a member of the household, that member’s income will be considered for eligibility. The totality of the circumstances will still be considered.

“Income” means actual current annual total cash receipts before taxes of all persons who are resident members and contribute to the support of an applicant's household, as that term is defined by the recipient. Total cash receipts include, but are not limited to, wages and salaries before any deduction; income from self-employment after deductions for business or farm expenses; regular payments from governmental programs for low income persons or persons with disabilities; social security payments; unemployment and worker's compensation payments; strike benefits from union funds; veterans benefits; training stipends; alimony; child support payments; military family allotments; public or private employee pension benefits; regular insurance or annuity payments; income from dividends, interest, rents, royalties or from estates and trusts; and other regular or recurring sources of financial support that are currently and actually available to the applicant. Total cash receipts do not include the value of food or rent received by the applicant in lieu of wages; money withdrawn from a bank; tax refunds; gifts; compensation and/or one-time insurance payments for injuries sustained; non-cash benefits; and up to \$2,000 per year of funds received by individual Native Americans that is derived from Indian trust income or other distributions exempt by statute.

“Current annual income” shall be based upon income received in the twelve months preceding the request for services, unless a change in circumstances in the preceding twelve months would render a different base period more appropriate (e.g., a prospective client who has suffered a disabling injury of permanent of long-term duration in the twelve months preceding the request for services should have his or her current annual income determined based upon income available subsequent to the disabling injury).

The guidelines currently in effect are set forth below. For convenience, monthly income levels corresponding to the annual income level are also listed.

Number of Persons In Family	Annual Income	Monthly Income
1	\$17,656	\$1,471
2	23,896	1,991
3	30,136	2,522
4	36,376	3,031
5	42,616	3,551
6	48,856	4,071
7	55,096	4,591
8	61,226	5,111

For family units with more than 8 members, add \$6,240 to annual income (\$520 per month) for each additional member.

B. Authorized Exceptions.

Assistance may be provided to a person whose gross income exceeds the Standard Limitation, but does not exceed **200%** of Federal Poverty Guidelines if:

- (1) The person is seeking legal assistance to secure benefits provided by a governmental program for low-income individuals or families;
- (2) The person is seeking legal assistance to secure or maintain benefits provided by a governmental program for individuals with disabilities; or
- (3) One or more of the following factors renders assistance appropriate:
 - (a) Current income prospects, taking into account seasonal variations in income;
 - (b) Unreimbursed medical expenses;
 - (c) Child care, transportation and other expenses necessary for employment;
 - (d) Non-medical expenses associated with age or physical infirmity of a resident family member or members;
 - (e) Fixed debts and obligations, including mortgages, rent (not including utilities) and unpaid federal, state and local taxes from prior years;
 - (f) Current taxes, including payroll, local, state and/or federal taxes; or

- (g) Other significant factors related to financial inability to afford legal assistance.

Whenever eligibility is established under this section, the decision shall be documented and included in the client's file.

The maximum income figures for cases within the Authorized Exceptions category are set forth in the table below.

Number of Persons In Family	Annual Income	Monthly Income
1	\$23,540	\$1,961
2	31,860	2,655
3	40,180	3,348
4	48,500	4,042
5	56,820	4,735
6	65,140	5,428
7	73,460	6,122
8	81,780	6,815

For family units with more than 8 members, add \$8,320 to annual income (\$693 per month) for each additional member.

C. Extraordinary Medical Expenses Exception. (Above **150%** FPL)

In exceptional instances, a person may receive services, despite having income above both the Standard Income Limitation and Authorized Exception, if the person's gross income is primarily committed to medical or nursing home expenses and the person would be otherwise financially eligible after disregarding the income committed to medical or nursing home expenses. Before a person may be assisted under this exception, prior written authorization based upon written documentation must be obtained from the Executive Director of his/her designee (as of 1/1/05, Supervising and Managing attorneys).

Whenever eligibility is established under this section, the decision shall be documented and kept in the client's file in the form of a Supplemental Application.

D. Maintaining Governmental Benefits Exception. (Above **150%** FPL)

A person may receive services, despite having income above both the Standard Income Limitation and Authorized Exception, if the applicant is

seeking legal assistance to maintain benefits provided by a governmental program for low-income individuals or families. Written documentation **need not** be obtained from the Executive Director before a person may be assisted under this exception.

V. Additional Eligibility Factors

- A. After it is determined that a person meets either the Standard Limitation or the Authorized Exception, the following factors shall be considered before the final determination of financial eligibility is made:
- (1) Current income prospects, taking into account seasonal variations in income;
 - (2) Unreimbursed medical expenses and medical insurance premiums;
 - (3) Fixed debts and obligations;
 - (4) Expenses such as dependent care, transportation, clothing and equipment expenses necessary for employment, job training, or educational activities in preparation for employment;
 - (5) Non-medical expenses associated with age or disability;
 - (6) Current taxes; or
 - (7) Other significant factors that the recipient has determined affect the applicant's ability to afford legal assistance.
- B. Before a person who meets the Standard Limitation may be determined ineligible on the basis of these factors, the factors listed under the Authorized Exceptions II.B. must also be considered before reaching a final determination.

VI. Asset Ceilings

A. Definition.

Assets are all cash or other resources that are readily convertible to cash which are currently and actually available to the individual seeking services and which could be utilized to obtain private representation.

B. Standard Asset Limitation.

The Standard Asset Limitation shall be \$5,000 for a household of one and \$10,000 for a household of two or more.

C. Exclusions from Standard Asset Limitations.

The following assets shall be excluded:

- (1) The person's principal residence;
- (2) Reasonable equity value in work-related equipment, providing the equipment is presently being used or can reasonably be expected to be used in the future for the purpose of generating income consistent with its market value;
- (3) All vehicles owned by the family unit used for transportation;
- (4) Trust funds held on behalf of a minor child in the family unit, provided that the trust has not been created primarily for the purpose of establishing eligibility for services;
- (5) The cash surrender value of any life insurance policy, burial trust, Income Retirement Account (IRA) Keogh or other Pension Plan;
- (6) Income-producing property, disposition of which is reasonably likely to render the owner dependent upon public welfare;
- (7) Personal and household items;
- (8) One burial plot per person;
- (9) Trust funds held for educational and medical purposes
- (10) Health aids; and
- (11) Any non-liquid assets excluded under the SSI, Food Stamp, AFDC or General Relief programs.

D. Special Asset Limitation for the elderly institutionalized and handicapped.

Because of their special needs, greater dependency and more limited earning potential, the Asset Limitation for the elderly (50 and older), institutionalized or handicapped shall be \$12,000 for a one person unit and \$16,000 for family units containing two or more members. The special Asset Limitation shall apply only when the elderly, institutionalized or handicapped person is applying for services. However, in determining the financial eligibility of a person living in a family unit with an elderly, institutionalized or handicapped person, assets owned wholly, or in part, by the elderly, institutionalized or handicapped person shall not be considered unless they exceed the Special Asset Limitation.

E. Special Asset Limitation Exclusions.

In addition to the Exclusions from the Standard Asset Limitation, persons subject to the Special Asset Limitation may also claim as exempt any assets reasonably necessary for medical or therapeutic reasons related to their age or handicap and, in the case of institutionalized persons, assets which, if disposed of, would significantly decrease the possibility of the person being able to return to an independent or semi-independent living arrangement.

F. Asset Eligibility Determination.

After determining that a person's assets do not exceed the applicable Asset Limitation, before a final asset eligibility determination is made, consideration shall be given to whether the person has sufficient assets that are convertible to cash available to obtain the type of services requested without causing substantial hardship. Substantial hardship shall be presumed when the person, or a family unit member, is currently or will shortly be dependent upon such liquid assets to meet the basic needs of food, clothing and shelter. Substantial hardship shall also be presumed when the reasonable cost of the services requested would reduce available liquid assets below one-half the applicable Asset Limitation.

G. Waiver of Asset Limitation.

The Executive Director or his/her designee may waive the Standard or Special Asset Limitation in unusual situations. The existence of one or more of the factors listed in Section IV B shall suffice to support a waiver. Such a waiver must be documented and included in the person's file and in a file maintained by the Executive Director.

VII. Other Factors

A group, corporation or association may be financially eligible for services if it is primarily composed of persons eligible under these standards and if it provides information showing that it lacks, and has no practical means of obtaining funds to retain private counsel. In making the determination that the group cannot retain private counsel, SJLS must consider the resources available to the group, including the group's income and income prospects, assets and obligations.

A group, corporation or association may also be financially eligible for services if it has as one of its principal activities the delivery of services to community members who would be financially eligible for LSC services. These groups may be assisted if the legal assistance sought relates to the activity of delivery services to eligible community members (for example, a group running a food bank might seek assistance with tax-exempt status, leasing property for food storage or other services that do not immediately result in the group engaging in the activity of serving the community, as long as the legal assistance is necessary in order to provide the service to the community).

SJLS must collect information that reasonably demonstrates that the group meets the eligibility criteria. In determining whether the group is primarily composed of eligible individuals or the service if provided to eligible community members, SJLS need not verify the financial circumstances of each member but may consider the financial or other socioeconomic characteristics of the persons comprising the group to determine if

those characteristics are consistent with those persons who are financially eligible (e.g. receipt of government benefits or eligibility for public housing).

VIII. Retainer Agreement.

SJLS shall execute a written retainer agreement with each client who receives extended service. A retainer is not required for clients who receive counsel and advice or brief services. This retainer agreement shall be executed when representation commences (or, in emergency situations, as soon thereafter as is practicable) and shall clearly identify the relationship between the client and SJLS, the matter of which assistance is sought, the nature and extent of legal services to be provided and the mutual rights and responsibilities of SJLS and the client. Signature of Managing Attorney is required on retainer agreements. The retainer agreement shall be kept in the client file.

IX. Change in Circumstances.

If an eligible client becomes ineligible through a change in circumstances, SJLS shall discontinue representation if the change will enable the client to afford private legal assistance and discontinuation is not inconsistent with the attorney's or programs professional responsibility. This policy shall also be followed if a client initially determined to be financially eligible is later found not to have been eligible for services.

X. Verification.

If SJLS has substantial reason to doubt the accuracy of eligibility information, it shall make an appropriate inquiry to verify eligibility in a manner consistent with the attorney-client relationship.

No third parties shall be contacted for the purpose of confirming eligibility unless the client has given his consent for such contacts in advance. However, a client's refusal without good cause to permit such inquiries, when necessary to confirm financial eligibility, may constitute grounds for finding the client ineligible.