



**FINAL REPORT  
LEGAL SERVICES CORPORATION  
Office of Compliance and Enforcement**

Legal Services of Northern California, Inc.  
Case Service Report/Case Management System Review  
March 19-22, 2012

Recipient No. 805240

## **I. EXECUTIVE SUMMARY**

**Finding 1:** Sampled cases evidenced that LSNC's automated case management system (ACMS) is generally sufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded.

**Finding 2:** LSNC's intake procedures and case management system generally support LSNC's compliance-related requirements. There were exceptions noted with respect to screening for group eligibility, and minor exceptions noted related to screening for conflicts, and assets, as well as the wording and dating of some citizenship attestations.

**Finding 3:** Sampled cases evidenced LSNC is in substantial compliance with the income eligibility documentation requirement under by 45 CFR §§ 1611.4 and 1611.5, CSR Handbook (2008 Ed., as amended 2011), § 5.3, and applicable LSC instructions for clients whose income exceed 125% of the Federal Poverty Guidelines (FPG). Additionally, LSNC's income eligibility policy is substantially compliant with 45 CFR Part 1611. LSNC's practice and procedure for documenting group financial eligibility under 45 CFR § 1611.6, however, does not fully comply with the requirements of that section.

**Finding 4:** Sampled cases evidenced that LSNC is in compliance with the requirement that it maintains the asset eligibility documentation as required by 45 CFR §§ 1611.3(c) and (d) and CSR Handbook (2008 Ed., as amended 2011), § 5.4. LSNC's asset eligibility policy is substantially compliant with 45 CFR §§ 1611.2(d) and 1611.3(d)(1) and (e).

**Finding 5:** LSNC is in compliance with the restrictions of 45 CFR Part 1626 (Restrictions on legal assistance to aliens. Case files also evidenced compliance with documentation requirements of 45 CFR § 1626.7, but evidenced noncompliance with the documentation requirements of 45 CFR § 1626.6.

**Finding 6:** Sampled cases evidenced substantial compliance with the retainer requirements of 45 CFR § 1611.9 (Retainer agreements).

**Finding 7:** With one (1) exception, sampled cases evidenced compliance with the requirements of 45 CFR Part 1636 (Client identity and statement of facts).

**Finding 8:** Sampled cases evidenced compliance with the requirements of 45 CFR § 1620.4 and § 1620.6(c) (Priorities in use of resources). A review of LSNC's policies evidenced substantial compliance with the requirements in 45 CFR Part 1620 that recipients have written policies and procedures relating to establishing priorities, accepting emergency cases, and reviewing priorities annually.

**Finding 9:** Sampled cases evidenced substantial compliance with CSR Handbook (2008 Ed., as amended 2011), § 5.6 (Description of legal assistance provided).

**Finding 10:** Sampled cases evidenced that LSNC's application of the CSR case closure categories is substantially consistent with Chapters VIII and IX, CSR Handbook (2008 Ed., as amended 2011).

**Finding 11:** Sampled cases evidenced substantial compliance with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 3.3 (Dormancy and untimely closure of cases).

**Finding 12:** Sample cases evidenced compliance with the requirements of CSR Handbook (2008 Ed.), § 3.2 regarding duplicate cases.

**Finding 13:** Interviews and a review of the list of attorneys who have engaged in the outside practice of law revealed that LSNC is in compliance with the general requirements of 45 CFR Part 1604 (Outside practice of law). However, a review of LSNC's policies evidenced noncompliance with the requirements of 45 CFR § 1604.3(a) (Written policies).

**Finding 14:** Sampled cases evidenced compliance with the requirements of 45 CFR Part 1608 (Prohibited political activities).

**Finding 15:** Sampled cases and interviews evidenced compliance with the requirements of 45 CFR Part 1609 (Fee-generating cases). A review of LSNC's policy, however, evidenced partial compliance with 45 CFR §§ 1609.6 (Written policies and procedures) where policies did not include the requirements of 45 CFR §§ 1609.4 and 1609.5 (Accounting and acceptance procedures).

**Finding 16:** A limited review of LSNC's accounting and financial records and interviews with staff indicated compliance with 45 CFR Part 1610 (Use of non-LSC funds, transfer of LSC funds, program integrity). LSNC's donor notification letters are also in compliance with 45 CFR Part 1610.5(a).

**Finding 17:** LSNC is in compliance with the general requirements of 45 CFR Part 1614. LSNC is in substantial compliance with 45 CFR § 1614.3(d)(3), which requires oversight and follow-up of the PAI cases. LSNC is not, however, in full compliance with 45 CFR § 1614.3(e)(1)(i) as a few concerns were identified relating to PAI case reporting and cost allocation methodology.

**Finding 18:** LSNC is in compliance with 45 CFR § 1627.4(a), which prohibits programs from utilizing LSC funds to pay membership fees or dues to any private or nonprofit organization. A review of LSNC's policies, however, evidenced partial compliance with 45 CFR § 1627.8 (Written policies and procedures).

**Finding 19:** LSNC is in compliance with 45 CFR Part 1635 (Timekeeping requirement).

**Finding 20:** Sampled cases evidenced compliance with the requirements of former 45 CFR Part 1642 (Attorneys' fees).

**Finding 21:** Sampled cases, interviews, and a review of LSNC's permissible legislative activities files, evidenced general compliance with the requirements of 45 CFR Part 1612 (Restrictions on lobbying and certain other activities). A review of LSNC's policies and files also evidenced substantial compliance with 45 CFR § 1612.11 (Written policies and procedures) and the requirements of 45 CFR § 1612.10 (Recordkeeping and accounting requirements).

**Finding 22:** Sampled cases evidenced 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:** Sampled cases evidenced compliance with the requirements of 45 CFR Part 1617 (Class actions).

**Finding 24:** Sampled cases evidenced compliance with the requirements of 45 CFR Part 1632 (Redistricting).

**Finding 25:** Sampled cases evidenced compliance with the requirements of 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings). A review of LSNC's policies indicated LSNC was substantially compliant with the requirement in 45 CFR § 1633.4 (Written policies and procedures).

**Finding 26:** Sampled cases evidenced compliance with the requirements of 45 CFR Part 1637 (Representation of prisoners).

**Finding 27:** Sampled cases evidenced compliance with the requirements of 45 CFR Part 1638 (Restriction on solicitation).

**Finding 28:** Sampled cases evidenced compliance with the requirements of 45 CFR Part 1643 (Restriction on assisted suicide, euthanasia, and mercy killing).

**Finding 29:** Sampled cases evidenced 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:** LSNC is in compliance with the requirements of 45 CFR § 1620.6.

**Finding 31:** Policies reviewed evidenced compliance with the requirements of 45 CFR Part 1644 (Disclosure of case information).

**Finding 32:** A limited review of LSNC's internal control policies and procedures demonstrated that the program's policies and procedures compare favorably to Chapter 3- the Internal Control/Fundamental Criteria of an Accounting and Financial Reporting System of LSC's Accounting Guide for LSC Recipients (2010 Edition) and LSC Program Letter 10-2.

## II. BACKGROUND OF REVIEW

During the week of March 19-22, 2012, staff of the Office of Compliance and Enforcement (OCE) conducted a Case Service Report/Case Management System (CSR/CMS) Review of Legal Services of Northern California, Inc. (LSNC). The purpose of the visit was to assess the program's compliance with the LSC Act, regulations, and other applicable guidance such as Program Letters, the LSC Accounting Guide for LSC Recipients (2010 Edition), and the Property Acquisition and Management Manual. The visit was conducted by a team of six (6) attorneys, two (2) fiscal analysts, and one (1) temporary employee. At LSNC's request, the fiscal compliance evaluation component of this CSR/CMS Review was bifurcated. An evaluation of case-related and regulatory fiscal compliance commenced on March 19-22, 2012. This assessment, and an evaluation of LSNC's internal controls, was completed on April 10-12, 2012.

The onsite review was designed and executed to assess program compliance with basic client eligibility, intake, case management, regulatory and statutory requirements, and to ensure that LSNC has correctly implemented the CSR Handbook (2008 Ed., as amended 2011). Specifically, the review team assessed LSNC 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 1614 (Private attorney involvement);<sup>1</sup> 45 CFR Part 1627 (Subgrants and membership fees or dues); 45 CFR Part 1635 (Timekeeping requirement); 45 CFR Part 1642 (Attorneys' fees);<sup>2</sup> 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); and 42 USC 2996f § 1007 (Abortion, school desegregation litigation and military selective service act or desertion).

The OCE team interviewed members of LSNC's upper and middle management, staff attorneys, and support staff. LSNC's case intake, case acceptance, case management, and case closure practices and policies in all of its offices were assessed. In addition to interviews, case file review was conducted. The sample case review period was from January 1, 2010 through January 31, 2012. Case file review relied upon randomly selected files as well as targeted files identified to test for compliance with LSC requirements, including eligibility, potential duplication, timely closing, and proper application of case closure categories. In the course of

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

<sup>2</sup> 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.

the onsite review, the OCE team selected and reviewed 786 cases, which included 141 targeted files.

LSNC currently provides legal services to eligible clients in the following counties in northern California: Amador, Butte, Calaveras, Colusa, Del Norte, El Dorado, Glenn, Humboldt, Lake, Lassen, Mendocino, Modoc, Nevada, Placer, Plumas, Sacramento, Shasta, Sierra, Siskiyou, Solano, Tehama, Trinity, and Yolo. LSNC provides client services at eight (8) offices located in the cities of Sacramento, Auburn, Chico, Eureka, Redding, Vallejo, Ukiah, and Woodland. The review team also visited the offices of the Voluntary Legal Services Program of Northern California (VLSP), a non-LSC funded volunteer-based legal service provider located in Sacramento. The administrative office of the program, as well as LSNC's central office, is located in Sacramento.

LSNC received grant awards from LSC in the amounts of \$4,679,570 for 2010, \$4,027,385 for 2011, and \$3,436,980 for 2012. In its 2011 CSR submission to LSC, the program reported 14,938 closed cases; in its 2010 CSR submission to LSC, the program reported 15,160 closed cases. LSNC's 2011 self-inspection certification revealed a 3.1% error rate in CSR reporting. LSNC's 2010 self-inspection certification revealed a 5.2% error rate in CSR reporting.

By letter dated January 19, 2012, OCE requested that LSNC provide a list of all cases reported to LSC in its 2010 CSR data submission (closed 2010 cases), a list of all cases reported in its 2011 CSR data submission (closed 2011 cases), a list of all cases closed between January 1, 2012 and January 31, 2012 (closed 2012 cases), and a list of all cases which remained open as of January 31, 2012 (open cases). OCE requested that the lists contain the client name, the file identification number, the name of the advocate assigned to the case, the opening and closing dates, the CSR case closing category assigned to the case, and the funding code assigned to the case. OCE requested that two sets of lists be compiled - one for cases handled by LSNC staff and the other for cases handled through LSNC's PAI component. LSNC was advised that OCE would seek access to such cases 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). LSNC was requested 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.

Thereafter, an effort was made to create a representative sample of cases that the team would review during the onsite visit. The sample was developed proportionately among 2010, 2011, and 2012 closed, and 2012 open cases. The sample consisted largely of randomly selected cases, but also included targeted cases.

During the visit, access to case-related information was provided through staff intermediaries. Pursuant to the OCE and LSNC agreement of March 6, 2012, LSNC staff maintained possession of the file and discussed with the team the nature of the client's legal problem and the nature of

the legal assistance rendered. In order to maintain confidentiality, in some instances, discussions were limited to the general nature of the problem and nature of the assistance provided.<sup>3</sup>

LSNC's management and staff cooperated fully in the course of the review process. As discussed more fully below, LSNC was made aware of compliance issues during the onsite visit. This was accomplished by informing intermediaries, as well as LSNC's Executive Director and Deputy Director, of any compliance issues uncovered during case review.

On March 27, 2012, OCE conducted a telephonic exit conference during which LSNC was provided with OCE's initial findings and was made aware of the areas in which compliance issues were found. OCE noted substantial compliance in the areas of 45 CFR Part 1611 (Financial eligibility - Income eligibility), CSR Handbook (2008 Ed., as amended 2011), § 5.6 (Description of legal assistance provided), 45 CFR § 1611.9 (Retainer agreements), CSR Handbook (2008 Ed., as amended 2011), Chapter VIII (Case closure codes), CSR Handbook (2008 Ed., as amended 2011), § 3.3 (Timely case closing), and 45 CFR § 1614.3(d)(3) (Oversight and follow-up of all PAI cases). OCE noted noncompliance with the documentation requirements of 45 CFR § 1626.6. OCE also noted that an evaluation of LSNC's written policies evidenced that several needed to be revised to reflect current LSC regulations. OCE fiscal analysts' initial findings and recommendations were also shared with LSNC over the course of the fiscal review completed on April 10–12, 2012. The program was very receptive to OCE's preliminary findings and recommendations.

By letter dated May 24, 2012, OCE issued a Draft Report (DR) detailing its findings, recommendations, and required corrective actions. LSNC was asked to review the DR and provide written comments. On June 22, LSNC requested, and received, an extension of the due date for their response to the DR. Pursuant to the extension, LSNC agreed to submit its response to the DR by June 29, 2012. On June 28, 2012, LSNC mailed OCE its comments to the DR. OCE has carefully considered LSNC's comments and has either accepted and incorporated them within the body of the report, or responded accordingly. LSNC's comments, in their entirety, are attached to this Final Report.

### III. FINDINGS

**Finding 1: Sampled cases evidenced that LSNC's automated case management system (ACMS) is generally sufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded.**

Recipients are required to utilize an automated case management system (ACMS) 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

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<sup>3</sup> In those instances where it was evident that the nature of the problem and/or the nature of the assistance provided had been disclosed to an unprivileged third party, such discussion was more detailed, as necessary to assess compliance.

the capacity to meet funding source reporting requirements. *See* CSR Handbook (2008 Ed., as amended 2011), § 3.1.

LSNC utilizes Pika, a website-based integrated system, as its ACMS. Interviews, case review, and an examination of LSNC's Pika system evidenced it is designed to ensure key compliance requirements are met before an electronic case file is opened. This is accomplished by requiring staff to input detailed data relating to, for example, citizenship, alien eligibility, income, and assets before the system will allow the user to create an electronic case file.

Based on a comparison of the information yielded by the ACMS to information contained in the sampled case files, LSNC's ACMS is generally sufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded. However, case review identified a limited number of instances where the information contained in the case file was not fully consistent with that in LSNC's Pika system. *See e.g.*, Case Nos. 30-10-17556, 20-10-20166, 10-11-10760, 70-11-01884, 70-11-01756 (closed cases where the closing or opening dates in the paper file and Pika file differed); 91-08-16156 (where case file indicated the case was closed on May 13, 2009 but case was listed as "open" on Pika); and 10-10-20038 (a closed case where the funding code in the paper file and Pika file differed).

LSNC has also implemented a method to ensure that non-reportable files are excluded from CSRs.<sup>4</sup> LSNC's Pika system also has a non-default "LSC Case" field. Interviews with intake staff and case review in each of LSNC's eight (8) offices evidenced that staff generally use this field effectively. A test of LSNC's ability to recreate its 2011 CSR numbers also evidenced the ability to recreate reliable CSR reporting numbers.

Interviews evidenced staff is well-trained on data entry, data management, and case oversight features. LSNC's Pika system also allows staff and management to run pre-programmed integrity reports on eligibility and other data contained in Pika. Interviews evidenced staff utilizes these pre-programmed data integrity reports for case management and oversight purposes.

There are no recommendations or corrective actions required.

In its response to the DR, LSNC did not offer any comment on this Finding.

**Finding 2: LSNC's intake procedures and case management system generally support LSNC's compliance-related requirements. There were exceptions noted with respect to screening for group eligibility, and minor exceptions noted related to screening for conflicts, and assets, as well as the wording and dating of some citizenship attestations.**

OCE staff evaluated intake procedures at all LSNC offices by interviewing primary intake staff. Managing Attorneys in all of LSNC's offices were also interviewed to evaluate LSNC's case management and oversight procedures. The interviews revealed that the two (2) predominant intake methods are walk-in and telephone. The recipient has emergency intake provisions to

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<sup>4</sup> The CSR Handbook (2008 Ed., as amended 2011), § 3.5 requires programs to establish a method in their case management systems that will de-select case files for CSR reporting purposes.

accommodate applicants with time-sensitive cases. In addition, although several of the offices have clinics, eligibility screening is usually done by intake staff in advance of the clinic. It can also be done at a clinic if required.

LSNC uses the same general intake model, with only minor variations, in each of the branch offices. Intake procedures performed by staff generally support the program's compliance-related requirements. This is corroborated by the limited number of compliance errors found in LSNC's case files. A review of the paper intake forms from all offices indicates that they contain sufficient fields required to conduct a full intake screening. Interviews also indicated that intake staff is also very knowledgeable, professional, and experienced. However, there were exceptions noted with respect to screening for group eligibility, and minor exceptions noted related to screening for conflicts and assets, as well as the wording and dating of some citizenship attestations. These exceptions and LSNC's general intake and cases management procedures are discussed in detail below.

#### *Walk-in (or In-Person) Intake Procedures*

All of LSNC's offices conduct walk-in intake. The general walk-in intake procedure is as follows: initially intake staff or a receptionist will provide an applicant with a paper intake form to complete. Although these forms have slight variations, they all, with the limited exceptions discussed below, include sufficient fields relating to the nature of the applicant's legal issue, income, assets, and citizenship that allow staff to do an effective pre-screen of the applicant. Once applicants have completed the form, intake staff will review it to determine whether the applicant might be eligible for services and to conduct a conflict check.

In LSNC's larger offices, if staff determines that there is no conflict, the applicant's income and assets are not so high to make them clearly ineligible, and they are a US citizen or eligible alien, staff will: 1) schedule the applicant to meet with the relevant case handler (a paralegal or staff attorney); and 2) ensure the applicant signs a citizenship attestation (which is on the paper intake form the applicant was asked to complete) or ensure staff documented the applicant's eligible alien status and reviewed any corresponding documentation. The LSNC case handler scheduled to meet with the applicant will conduct a full eligibility screening. They have authority to accept or reject applicants for advice or brief services, and to provide them with those services. Although timing varies from office to office, in most cases, a seemingly eligible applicant will be scheduled to meet with a paralegal or staff attorney on the day they come to the relevant LSNC office.

In LSNC's smaller offices, the intake staff, who greet walk-in applicants and provide them with a paper intake form to complete, will also conduct a full intake screening. In these offices, staff reviews the information the applicant provides on a paper intake form, and asks the applicant additional questions, as needed, to ensure the form is complete and the applicant understood the questions. Intake staff would then make an eligibility determination based on the applicant's answers on the form, and answers given in response to staff's questions. If the applicant is eligible, staff schedules them to meet with the relevant case handler and creates a case in LSNC's Pika system.

Interviews evidenced that intake staff and paralegal case handlers are very experienced, professional, and well supervised. If a case handler determines a client requires more extensive legal services, they present the case and all relevant information during the office's case acceptance meeting. Case acceptance meetings are held weekly in each of LSNC's offices. At these meetings, the Managing Attorney and relevant staff determine whether LSNC can provide the client with more extended services in light of the merits of the case and the available resources.

### *Telephone Intake Procedures*

Telephone intake is conducted in the same manner as walk-in or in-person intake, except that intake staff asks the applicant the questions listed on the paper intake form and completes it instead of having the applicant complete the form themselves. In LSNC's larger offices and in offices where intake staff prefers to use Pika, intake staff will enter the eligibility information directly into Pika. All of LSNC's offices do some degree of telephone intake.

Once intake staff has decided a telephone applicant is eligible for services, they will inform the relevant case handler (a paralegal or staff attorney) that they have a new applicant. The case handler will call the applicant back to get more information about their legal issue and to conduct a full eligibility screening. Case handlers will then accept or reject the applicant and provide them with legal advice or brief service, if appropriate. Interviews and case review confirmed that staff conducting telephone intake are familiar with LSC requirements, including the requirement that they verify a telephone applicant's citizenship or eligible alien status.

Just as with walk-in intake, if the case handler providing the client advice or brief services by phone determines the client requires more extensive legal assistance, the case and all relevant information is presented during the office's weekly case acceptance meeting.

### *Income Screening*

Interviews with intake staff revealed that staff are aware of LSNC's income ceilings. Intake staff expressed an understanding that an applicant will be considered eligible if their income is under 125% of the Federal Poverty Guidelines (FPG). Intake staff is also authorized to accept clients for advice or brief services if their income is over 125% of the FPGs, if they fall under an LSC-allowable over-income exception. If the applicant's income is between 125% and 200% of the FPG, intake staff may inquire as to the existence of exceptions (*e.g.*, medical expenses, child care expenses, etc.), and document those in the "Intake Notes" Pika field. They would then select a corresponding "Income Justification" to document the justification for allowing LSNC to provide the client with LSC-funded services or to report the case to LSC.

Intake interviews and a review of sample case files, however, revealed that in a limited number of cases, LSNC documented that an otherwise over-income applicant was accepted for service on the basis that they had "no other affordable alternative." *See* Case Nos. 40-10-16557, 40-10-16128, and 40-10-10477. LSNC's Pika system allows staff to select and document this justification as an allowable over-income exception; however this is not an acceptable justification under LSC regulations. Notably, many of the case files for which LSNC used the

over-income justification “no other affordable alternative,” contained other documented facts (e.g., fixed debts, medical expenses, etc.) that could have been used as an LSC-allowable basis to accept an over-income applicant for LSC-funded services.

Although 45 CFR § 1611.5 allows for certain over-income exceptions, they are specific to the applicant’s financial condition, regardless of whether affordable legal assistance is available. Financial eligibility is a threshold determination that focuses exclusively on the applicant’s economic situation. The relative merit of the applicant’s legal issue, the consequences to the applicant if legal assistance is denied, or the existence of other affordable legal assistance may be considerations for whether an LSC recipient accepts an eligible applicant’s case, but is not to be included in a recipient’s financial eligibility determination.

As such, in the DR, LSNC was required to ensure it identifies and documents an allowable over-income exception under 45 CFR § 1611.5 in the case files where one is required (if the case is LSC-funded or reported to LSC). OCE recommended LSNC do so by providing additional training to staff as to allowable over-income exceptions and/or by removing the income justification field for “no other affordable alternative” in its Pika system. This issue was also raised with LSNC in the exit conference and the program was receptive to OCE’s comments.

In response to the DR, LSNC informed OCE it had removed the “no other affordable alternative” option from the over-income justification field on Pika and replaced it with a selection named “other significant factors (MA approval)”. This field may only be used if LSNC’s case handlers have verified with Managing Attorneys that there are other significant factors that affect the applicant’s ability to afford legal assistance.

LSNC also instructed Managing Attorneys in each of its offices to review with their staff the financial eligibility section of its Case Management and Litigation Manual to ensure all case handlers are aware of the documentation requirements when accepting applicants whose income is over 125% of the FPGs. A review of this section, which was attached to LSNC’s response to the DR, evidences consistency with LSC requirements. In addition, LSNC issued an “all staff” email memorandum explaining the change and instructing staff members to ensure all of their open cases have correct documentation.

### *Asset Screening*

Interviews revealed that intake staff is generally familiar with LSNC’s asset limit and has an understanding of the categories of assets that should be included and excluded from asset eligibility determination. Two (2) exceptions were noted. One (1) intake staff member understood LSNC’s asset limit be a \$5,000 limit for a single person household and an \$8,000 limit for a household of (2) two or more, where interviews and LSNC’s Case Management and Litigation Manual indicate that its current limits asset limits are \$10,000 and \$15,000, respectively.<sup>5</sup> As such, in the DR, OCE recommended that LSNC provide staff with additional guidance as to its current asset ceilings.

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<sup>5</sup> Although LSNC’s latest financial eligibility policy adopted by its Board of Directors included a \$5,000 limit for a single person household and a \$8,000 limit for an household of (2) two or more, its Case Management and Litigation Manual provided for \$10,000 and \$15,000, respectively. This is discussed in more detail under Finding 4.

Secondly, interviews with intake staff also indicated that staff may not understand how to apply an asset exception included in LSNC's Financial Eligibility Policy for "assets which are exempt from attachment under State or Federal law." Although this exception is allowed under 45 CFR § 1611.3(d)(1), it was recommended that LSNC either specifically list those assets that would fall under this exception, or provide staff with other guidance regarding this asset exception.

OCE raised these recommendations with LSNC while onsite and LSNC was receptive to OCE's comments and recommendations.

In response to the DR, LSNC informed OCE it had issued an "all staff" email memorandum on June 27, 2012 in which it reminded staff of LSNC's asset ceiling amounts, provided examples of exempt assets, advised staff members to consult with their Managing Attorneys when questions about exemption arise, and circulated LSNC's latest Board-approved financial eligibility policy.

#### *Reasonable Income Prospects Screening*

The intake staff interviewed reported that they make proper inquiry into applicant's reasonable income prospects. LSNC's Pika system, and all but one (1) of LSNC's paper intake forms<sup>6</sup> used by its offices, includes a question about income prospects. It is also a mandatory field in LSNC's Pika system. As such, LSNC's intake practices and procedures support the requirement in 45 CFR § 1611.7(a)(1) that it make reasonable inquiry regarding income prospects.

#### *Conflict Checks*

With one (1) exception, intake interviews revealed that LSNC conducts conflict checks before it provides applicants with legal services and before it collects and stores (electronically or otherwise) information relating to the applicants income, assets, or legal problem. During the onsite review, OCE discussed with LSNC the one (1) circumstance where LSNC may have provided a small number of clients at an outreach event with limited legal services before a full conflict check was done. The LSC Act requires that LSC-funded activities "are carried out in a manner consistent with attorneys' professional responsibilities." See 42 U.S.C. § 2996(e)(b)(3). LSNC remedied the issue the same day it was raised. It now requires conflicts be checked at that event by telephone or by using remote access to LSNC's Pika program before staff provides legal services to the client.

#### *Citizenship and Eligible Alien Status Screening*

Intake staff demonstrated familiarity with the alien eligibility requirements of 45 CFR Part 1626. Intake staff verifies citizenship status during intake screening and, when necessary, requires documentation of eligible alien status before completing a walk-in intake.

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<sup>6</sup> Although this form was found not to include a field for prospective income, it did not have an impact on LSNC's compliance with the requirements of 45 CFR § 1611.7(a)(1). It is OCE's understanding that LSNC uses the form as a pre-screening tool and applicants are asked about income prospects when they undergo full eligibility screening.

LSNC uses a standard form on which staff notes the eligible immigrant category that applies to the applicant, and signs and dates a certification stating they verified the applicant's documentation of the category noted. Sample cases files evidenced that files included this form where it was required. If intake was done by telephone, the paralegal or attorney handling the client's case either requires the client to sign a citizenship attestation, or to provide documentation of the applicant's eligible immigration status at their first meeting. This is in compliance with 45 CFR § 1626.6(a) and CSR Handbook (2008 Ed., as amended 2011), § 5.5, which requires recipients obtain written citizenship attestations whenever program staff has in-person contact with the applicant.

However, not all citizenship attestation forms reviewed contained the wording and/or date field required under § 5.5. of the CSR Handbook (2008 Ed., as amended 2011) which states “[a] citizenship attestation shall be stated as follows: ‘I am a citizen of the Unites States: Signature of Applicant Date:\_\_\_\_\_.’” The citizenship attestation on LSNC's standard paper intake form (LSNC 11-01) does not contain a date field. The paper intake forms used for the Auburn Office's Senior Legal Clinic and VLSP's Criminal Records Expungement and Driver's License Reinstatement clinics also do not contain language consistent with § 5.5 of the CSR Handbook (2008 Ed., as amended 2011). As such, in the DR, OCE required that LSNC and VLSP revise these forms to make them consistent with LSC requirements.

In response to the DR, LSNC informed OCE it had directed all offices to discontinue use of any citizenship attestations that do not state “I am a citizen of the United States of America” immediately followed by a signature line and date to be completed by the applicant. LSNC also circulated the appropriately worded citizenship attestation form to each Managing Attorney and posted it on LSNC's internal web site for use by all staff.

### *Group Eligibility*

Although LSNC's written policy for group eligibility is compliant with 45 CFR § 1611.6, a review of LSNC's group eligibility procedures and form, interviews with intake staff, and case review evidenced that LSNC's group eligibility screening process is not sufficient to support LSC requirements. *See e.g.*, Case Nos. 60-10-15578 (a 2012 staff case which was accepted on the grounds that the group provided services to the low income population but where it was not clear that the assistance provided related to the services that the group provides) and 20-11-17513 (an open PAI case file accepted on the basis of the group's principal activity where the file did not contain documentation of the group's income, income prospects, assets, and obligations as required under 45 CFR § 1611.6(b)(1)).

LSNC's procedure for determining group financially eligibility is provided in LSNC's Case Management and Litigation Manual. To determine and document eligibility, staff is instructed to complete Form LSNC 11-04. That form contains fields for some, but not all, of the information needed to evaluate whether the group is financially eligible under 45 CFR § 1611.6. The form lacks, among other things, fields to document an evaluation of the group's income, income prospects, assets, and obligations as required by 45 CFR § 1611.6(b)(1). It also lacks a field to document the evaluation required by 45 CFR § 1611.6(b)(1)(ii) for those groups accepted on the basis of 45 CFR § 1611.6(a)(2).

As such, LSNC is required to ensure compliance with group eligibility screening requirements in 45 CFR § 1611.6. In the DR, OCE recommended that LSNC do this by: 1) revising its group eligibility form to include all the fields that staff would need to fully document an evaluation of a group's eligibility, 2) providing additional group-eligibility screening guidance to staff in LSNC's Case Management and Litigation Manual, and 3) re-training its staff on LSC's group eligibility requirements. OCE also provided LSNC with a version of a Group Eligible Form that contains the required fields to collect the information needed to conduct an LSC-compliant group eligibility screening.

In response to the DR, LSNC informed OCE it had adopted a group eligibility worksheet and instructed staff to begin using the form as of June 27, 2012. A review of this worksheet, which was attached to LSNC's response to the DR, indicates it is sufficient to document the information needed to make an effective group eligibility determination in accordance with LSC requirements.

LSNC also revised the relevant section of its Case Management and Litigation Manual to include instructions regarding the group eligibility worksheet and the need to document financial information for a group applicant. Finally, Managing Attorneys were asked to review the group eligibility work sheet with all staff members who handle cases, and an "all staff" email memorandum was issued circulating the new group eligibility work sheet and the relevant revised section of LSNC's Case Management and Litigation Manual.

#### *Eligibility Screening for Repeat Applicants*

As per 45 CFR § 1611.7(a)(1), "a recipient shall make reasonable inquiry regarding sources of income, income prospects and assets." The definition of income and assets include the requirement that they be "currently available" or "current." See 45 CFR § 1611.2(d) ("currently and actually available to the applicant"); and 45 CFR § 1611.2(i) ("[i]ncome" means actual current annual total cash receipts"). As such, recipients should either re-screen repeat applicants for financial eligibility at the time of the second or subsequent intake, or document that the applicant confirmed their income and asset numbers have not changed since the time of the first intake.

In a limited number of cases where a prior client returned to LSNC for additional legal services at some date after the client was initially screened and accepted, it was unclear from the case file whether the applicant's current income and assets levels were evaluated before they were accepted as a repeat client. In one case, for example, an applicant was screened for eligibility on January 10, 2011, accepted as a client, and provided services in May 2011. See Case No. 10-11-00686. On June 30, 2011, six months after the initial financial eligibility screening, the client returned for additional services and was again accepted as a client. See Case No. 10-11-10760. It is unclear from the case file, however, whether the applicant's current income and assets were evaluated in June 2011 to determine eligibility based on "current" income and asserts. Notably, the documented income and asset levels in Case No. 10-11-00686 are the same as those documented in Case No. 10-11-10760 and although it is possible, it is unlikely that an applicant would have an identical amount of available assets on January 10, 2011 as they would on June

30, 2011. *See also* Case No. 92-09-19284 (a 2010 PAI case where the eligibility information was not in the case file, but where staff indicated that in accepting the case, they relied on eligibility information from when the client was first accepted in 1999).

Shortly after OCE's review, LSNC informed OCE it had corrected this issue. Specifically, LSNC's Pika is now programed to require staff to re-enter the income and asset figures before opening a case for a repeat client. LSNC also reminded staff by email they are required to rescreen repeat clients for financial eligibility.

### *Clinics and Outreach*

Some of LSNC's offices conduct outreach and clinics at various locations. At a significant percentage of these outreach events, attendees only receive legal information. For those events where attendees receive legal advice or some other level of legal service, intake is usually done before the person is scheduled for the event through the walk-in or telephone intake procedure explained above. Attendees are required to sign a citizenship attestation, and any other required documentation at the event. For some clinics, however, intake is done by intake staff, paralegals, or staff attorneys staffing the clinic onsite. Interviews indicated that, with one (1) exception relating to conflict checks discussed above, the procedures by which applicants are screened for eligibility at these events are sufficient to support LSC requirements.

### *PAI Case Intake*

As also explained below under Finding 17, LSNC's PAI cases fall under three (3) main categories: 1) direct referrals from LSNC's offices or LSNC-organized clinics; 2) cases which are co-counseled in all, or in part, with a private attorney or where a private attorney consults on a case; and 3) VLSP cases, handled through either clinics or as a direct referral to a private attorney. The intake procedure for categories one (1) and two (2) are the same as for LSNC's walk-in, telephone, and clinic applicants. The intake procedures for category three (3) are described below.

OCE interviewed VLSP's intake staff and Managing Attorney. Interviews and a review of VLSP's intake forms evidenced that its intake procedures were generally sufficient to support LSC requirements, with one (1) exception discussed below. Interviews also evidenced that VLSP staff is knowledgeable with LSC eligibility requirements. VLSP conducts intake for all the cases it refers to private attorneys, either through direct referral or through its clinics. Applicants seeking assistance from VLSP, including those referred from LSNC, are instructed to call VLSP's main telephone number which directs callers to the appropriate voice mailbox depending on their legal issue. VLSP's staff then calls applicants back to conduct a pre-screen using a "Client Call Back Line Intake Form." A review of the form indicated it contained sufficient fields relating to income, income prospects, and assets to conduct an effective pre-screen. VLSP does not conduct walk-in intake.

VLSP rejects those callers who appear to be clearly ineligible by phone. Those applicants who appear eligible, are scheduled for one of VLSP's clinics in accordance with the nature of their legal problem. At the clinics, VLSP staff or a trained private attorney conducts a full eligibility

screening and applicants sign citizenship attestations or verify their alien eligibility before legal services are provided. A review of VLSP's intake forms evidenced that, as explain above, the citizenship attestation used at VLSP's Criminal Records Expungement and Driver's License Reinstatement clinics does not contain language consistent with § 5.5 of the CSR Handbook (2008 Ed., as amended 2011). VLSP is required to revise this form to make it consistent with LSC requirements.

Those applicants with legal issues not covered by one of VLSP's clinics are directed to VLSP's Managing Attorney who conducts a full eligibility screening. If the applicant is eligible, VLSP's Managing Attorney will attempt to refer the case to a private attorney.

The management and oversight of LSNC's PAI cases is detailed under Finding 17.

#### *Case Acceptance and Oversight*

As explained above, intake staff, paralegals, and staff attorneys have the authority to accept clients for advice or limited service. If staff determines that LSNC should provide a client with more extensive legal services, they present the case and all relevant information during their office's weekly case acceptance meeting. At these meetings, the Managing Attorney and relevant staff determine whether LSNC can provide the client with more extensive services in light of the merits of the case and the available resources.

The paralegal or attorney assigned to handle a case is responsible for determining the correct closing code and ensuring the case is properly closed in Pika. Interviews evidenced that, although the regularity and the process of the review differs by office, Managing Attorneys in all of LSNC's offices have a procedure for reviewing closed cases. In some offices which close large numbers of advice cases, the Managing Attorney will delegate the review of those cases to competent staff. Further, interviews with Managing Attorneys also confirmed that every office has a procedure for reviewing open cases. Although the frequency of these reviews differs by office, the limited number of compliance errors OCE found in case files indicates that the reviews are sufficient to support LSNC's compliance requirements.

**Finding 3: Sampled cases evidenced LSNC is in substantial compliance with the income eligibility documentation requirement under by 45 CFR §§ 1611.4 and 1611.5, CSR Handbook (2008 Ed., as amended 2011), § 5.3, and applicable LSC instructions for clients whose income exceed 125% of the Federal Poverty Guidelines (FPG). Additionally, LSNC's income eligibility policy is substantially compliant with 45 CFR Part 1611. LSNC's practice and procedure for documenting group financial eligibility under 45 CFR § 1611.6, however, does not fully comply with the requirements of that section.**

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.<sup>7</sup> See 45 CFR § 1611.3(c)(1) and CSR Handbook (2008 Ed., as amended 2011), § 5.3. For each case reported to LSC, recipients shall document that a 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 FPGs 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.

Case review evidenced that LSNC is in substantial compliance with the requirement that it maintain income eligibility documentation required by 45 CFR §§ 1611.4 and 1611.5, CSR Handbook (2008 Ed., as amended 2011) § 5.3, and applicable LSC instructions for clients whose income does not exceed 125% of the poverty guidelines. See Case Nos. 91-10-05796 (a 2010 PAI case file which did not contain sufficient documentation of financial eligibility but where the case was reported to LSC); 40-10-07842 (a 2010 PAI case where the applicant was over-income but no over-income justification was documented); and 70-10-01928 (a non-LSC funded 2010 VLSP case file which contained no documentation of an over-income exception but where the case was reported to LSC).

In the DR, OCE recommended that LSNC review all open and recently closed case files required to contain documentation of an over-income exception to verify they contain such documentation. Any cases missing such documentation should not be reported to LSC in future CSR data.

In response to the DR, LSNC informed OCE it had instructed all Managing Attorneys to undertake and complete a review of all open case files for over-income exception documentation and to correct any errors in documentation by June 30, 2012.

LSNC also confirmed that three (3) of the four (4) cases cited in the DR, as lacking documentation of an authorized over-income exception, were in fact missing that documentation. LSNC explained, however, that the OCE team erred in citing Case No. 92-10-05194 where the case contained documentation that the applicant's household's sole source of income was from SSI. As such, the LSC over-income exception under 45 CFR § 1611.4 (c) and LSNC's financial eligibility policy was properly documented. OCE removed the citation to this case in the Final

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<sup>7</sup> A numerical amount must be recorded, even if it is zero. See CSR Handbook (2008 Ed., as amended 2011), § 5.3.

Report, however, OCE's finding of substantial compliance with the income eligibility documentation requirements under by 45 CFR §§ 1611.4 and 1611.5, CSR Handbook (2008 Ed., as amended 2011), § 5.3, and applicable LSC instructions for clients whose income exceed 125% of the FPGs remains unchanged.

#### *"No Other Alternative" Over-Income Justification*

In a limited number of cases, LSNC documented that an otherwise over-income applicant was accepted for service because they had "no other affordable alternative." A full discussion of this issue and LSNC's actions to address it, is provided above under Finding 2.

#### *Group Financial Eligibility*

A review of LSNC's group eligibility procedures and form, interviews with intake staff, and case files evidenced that LSNC's group eligibility screening process is not sufficient to support LSC requirements. A full discussion of this issue and LSNC's actions to address it, is provided above under Finding 2.

#### *Financial Eligibility Policy*

LSNC provided its Board of Directors approved financial eligibility policy to OCE in advance of the review. It was reviewed and, while onsite, OCE informed LSNC that its policy was substantially compliant with 45 CFR Part 1611.

OCE noted, however, that the policy contains the LSC allowable exception under 45 CFR § 1611.4(c) whereby a program can accept an applicant without conducting income or asset screening, if that applicant's income is derived solely from a governmental program for low-income individuals. In order to adopt this exception, LSNC's Board of Directors is required to "take some identifiable action to recognize the asset test of the governmental benefit program being relied upon." See 70 Fed. Reg. 45545, 45553 (Aug. 8, 2005) (*available at* <http://www.lsc.gov/pdfs/2005-08-081611FinalRule.pdf>). The preamble to 45 CFR Part 1611 goes on to explain that "[t]his 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 *id.* Interviews evidenced that LSNC's Board of Directors had not done so. As such, OCE informed LSNC in the exit conference and in the DR, that it should: 1) demonstrate its Board of Director has taken this action, and 2) revise the language of its policy to exclusively list those governmental benefit program eligibility tests on which its Board of Directors chooses to rely.

In response to the DR, LSNC informed OCE that, on June 26, 2012, LSNC's Board of Directors specifically considered the sufficiency of the income and asset tests of two (2) governmental benefit programs for the poor and determined that both Supplemental Security Income (SSI) and CalWORKs eligibility should be accepted as a proxy for eligibility under LSNC's financial eligibility policy. The minutes documenting LSNC's Board decision will be adopted at its next meeting in October 2012.

LSNC also informed OCE that, on June 26, 2012, its Board of Directors adopted a revised financial eligibility policy that includes specific mention of SSI and CalWORKs as the governmental programs upon which the Board has determined LSNC may rely upon for determining financial eligibility. LSNC attached the new policy to its response to the DR and OCE's review of the policy indicates it is consistent with LSC requirements.

**Finding 4: Sampled cases evidenced that LSNC is in compliance with the requirement that it maintains the asset eligibility documentation as required by 45 CFR §§ 1611.3(c) and (d) and CSR Handbook (2008 Ed., as amended 2011), § 5.4. LSNC's asset eligibility policy is substantially compliant with 45 CFR §§ 1611.2(d) and 1611.3(d)(1) and (e).**

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-adopted asset eligibility policies.<sup>8</sup> *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 Executive Director. The revised version allows the Executive Director 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.

In addition to the few case files discussed above under Finding 2 that did not contain sufficient documentation to support a compliant financial eligibility screening, or where it was not clear whether a return applicant had been rescreened, only one (1) sampled case file lacked documentation of asset amounts. *See* Case No. 91-10-05796 (a PAI case that lacked documentation of asset screening but that was reported to LSC in 2010).

During the visit, OCE conducted a comparison of LSNC's financial eligibility policy to its Case Management and Litigation Manual. Although LSNC's latest financial eligibility policy adopted by its Board of Directors included a \$5,000 limit for a single person household and a \$8,000 limit for an household of (2) two or more, its Case Management and Litigation Manual provided for \$10,000 and \$15,000, respectively. This discrepancy was discussed with LSNC during the

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<sup>8</sup> 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.

review. In OCE's exit conference and in the DR, OCE required LSNC to revise its financial eligibility policy to include the new and correct asset limits and recommended LSNC re-train its staff on the new policy once it was approved.

In response to the DR, LSNC informed OCE that, on June 26, 2012, its Board of Directors adopted a revised a financial eligibility policy which included LSNC's new and correct asset limits. LSNC attached the new policy to its response to the DR and OCE's review of the policy indicates it is consistent with LSC requirements. LSNC also informed OCE it had issued an "all staff" email memorandum, on June 27, 2012, in which LSNC reminded staff of LSNC's correct asset limits.

**Finding 5: LSNC is in compliance with the restrictions of 45 CFR Part 1626 (Restrictions on legal assistance to aliens. Case files also evidenced compliance with documentation requirements of 45 CFR § 1626.7, but evidenced noncompliance with the documentation requirements of 45 CFR § 1626.6.**

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.<sup>9</sup> 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.

Sampled case files evidenced compliance with documentation requirements of 45 CFR § 1626.7. However, case file evidenced noncompliance with the documentation requirements of 45 CFR § 1626.6 where a limited number of case files reviewed did not contain required citizenship

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<sup>9</sup> *See* Kennedy Amendment at 45 CFR § 1626.4.

attestations. *See* Case Nos. 10-11-06870 and 10-11-02848 (two 2011 staff cases that lacked citizenship attestations and were closed as “G-Negotiated Settlement Without Litigation”); 91-08-16156 (a case file closed in 2009 that did not contain a citizenship attestation but where the client met the PAI attorney handling the case in person); 91-10-01435 (a 2011 case which contained no citizenship attestation where the case was closed as “H-Administrative Agency Decision”); and 30-10-15867 (a 2010 staff case that lacked the requisite attestation). None of the case files sampled, however, evidenced LSNC had provided legal assistance to applicants ineligible to receive services under 45 CFR Part 1626, as the files noted appropriate screening had taken place.

Section 5.5 of the CSR Handbook (2008 Ed., as amended 2011) provides recipients with guidance on wording and dating attestations. Moreover, “unless the only service being provided for a citizen is brief advice and consultation by telephone which does not include continuous representation,” the applicant is required to sign a citizenship attestation before they are accepted as a client. *See* 45 CFR § 1626.6 (requiring “applicants” to attest to their citizenship in writing). The only exception to this is that if intake and verbal citizenship verification is conducted by phone, the case can be accepted for extended service so long as the applicant’s completes at attestation when they are first seen in person. Notably, these requirements extend to all of LSNC’s cases, not only those case that are LSC-funded or CSR-reportable, except for those applicants covered under 45 CFR § 1626.4 and related exceptions. *See* 45 CFR Part 1626; LSC Advisory Opinion #AO-2009-1008, available at <http://www.lsc.gov/about/laws-regulations/office-legal-affairs-external-opinion> (“This restriction largely carried forward prior alienage restrictions and also extended them to grantees’ non-LSC funds (except for tribal funds)”).

A limited number of case files reviewed contained undated (*see* Case Nos. 50-12-01348, 50-10-12935, 50-11-00116, 40-09-22741, 10-10-03030, and 10-11-03516) or untimely citizenship attestations. *See* Case No. 50-11-07486 (a 2011 staff cases which was closed as “F-Negotiated Settlement without Litigation” where the client was seen in person on May 9, 2011 and the case was closed on May 27, 2011, but where the citizenship attestation in the file was signed on July 2, 2011).

A limited number of case files reviewed for repeat clients lacked citizenship attestations which were located during the review in the clients’ earlier case files. *See e.g.*, Case Nos. 10-11-01248, 10-11-13716, 10-11-19365, and 20-10-10432. LSC allows recipients to rely on a citizenship attestation signed by an applicant in connection to an earlier case if the attestation was obtained a few months prior to the former client’s new application. However, if a more substantial amount of time lapses between applications, recipients “need to inquire of the client if he or she is a citizen as citizenship status can (rarely) change.” *See* CSR Frequently Asked Questions (“CSR FAQs”) (July 2011), Section 5.5, Question 5, at 16, *available at* <http://grants.lsc.gov/rin/grantee-guidance/case-service-reporting-csr>. The FAQs also provide that recipients can meet the requirement by using a copy of the prior citizenship attestation and adding a notation that citizenship was verbally reconfirmed.

Section 5.5 of the CSR Handbook (2008 Ed., as amended 2011) specifies the format and phrasing of a compliant citizenship attestation. LSNC’s citizenship attestations are substantially consistent with this standard, with two (2) exceptions. As discussed in detail under Finding 2,

interviews, case review, and a review of VLSP's intake forms evidenced that VLSP's Criminal Records Expungement and Driver's License Reinstatement Legal clinics utilize a citizenship attestation phrased and formatted in a manner inconsistent with CSR Handbook § 5.5 (2008 Ed., as amended 2011). *See e.g.*, Case No. 70-11-01091, 70-11-01939, 70-11-01246, 70-12-00179, 70-10-00632, and 70-10-00888. Interviews and a review of intake forms also evidenced that the LSNC's Senior Legal Clinic utilizes a citizenship attestation formatted in a manner inconsistent with CSR Handbook (2008 Ed., amended 2011), § 5.5.

Lastly, LSNC's written policy to guide staff in complying with part 45 CFR Part 1626 was provided to OCE during the review. An evaluation of that policy indicated it is based on the language in the Interim Rule published on August 29, 1996 and not on the latest full version of the Final Rule published on April 21, 1997. Although the updated sections of the *policy* need to be updated to bring LSNC into full compliance with the requirements of 45 CFR § 1626.12, with only a few exceptions, case review and interviews evidenced that LSNC's *practices* when screening for and documenting citizenship and alien eligibility as per the requirements in 45 CFR Part 1626 are substantially effective.

As such, in the DR, OCE recommended that LSNC review all open and recently closed case files required to contain a dated citizenship attestation as per 45 CFR § 1626.6, to verify the files contain such documentation. OCE also required LSNC to document reconfirmation of citizenship of those repeat clients where a significant amount of time has lapsed between their applications, revise any of its citizenship attestation forms that are phrased in a manner consistent with CSR Handbook (2008 Ed., as amended 2011), § 5.5, and require VLSP to do the same.

In response to the DR, LSNC informed OCE it had instructed all Managing Attorneys to undertake and complete a review of all open and recently closed cases for citizenship attestations and to correct any errors in documentation, by June 30, 2012.

LSNC reported it had instructed all Managing Attorneys to ensure that citizenship attestations are obtained when required and kept in all open case files. LSNC staff was further instructed as follows: 1) where staff relied upon a prior citizenship attestation obtained within the previous 12 months, to note that continued citizenship was confirmed with the applicant; and 2) to obtain a new citizenship attestation from the applicant where their prior attestation was over 12 months old.

Lastly, LSNC informed OCE it has directed all offices and VLSP to discontinue use of any citizenship attestations that do not state "I am a citizen of the United States of America" immediately followed by a signature line and date to be completed by the applicant. LSNC also circulated the appropriately worded citizenship attestation form to each Managing Attorney and posted it on LSNC's internal web site for use by all staff. OCE's review of VLSP's revised citizenship attestations that LSNC provided by email on July 17, 2012 also confirmed they meet LSC requirements.

**Finding 6: Sampled cases evidenced substantial 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.<sup>10</sup> Cases without a retainer, if otherwise eligible and properly documented, should be reported to LSC.

Case files reviewed indicated that LSNC is in substantial compliance with the requirements of 45 CFR § 1611.9. Nine (9) case files reviewed did not contain a retainer agreement where one was required. *See* Case Nos. 10-10-10348 and 10-10-17188 (2010 staff files closed as "G-Negotiated Settlement With Litigation" but which contained no retainer agreements); 10-11-19365 (a 2012 staff case file that contained no retainer agreement but which was closed as "L-Extended Service"); 91-11-14233 (an open staff case where extended legal service was provided to the client but the case file contained no retainer agreement); 91-11-08384 and 91-11-107986 (2011 staff files that contained no retainer agreement but where all three cases were closed as "F-Negotiated Settlement Without Litigation"); 91-11-13391 and 91-10-01435 (2011 staff case files that contained no retainer agreement but where the cases were closed as "H-Administrative Agency Decision."); and 20-11-16821 (a 2012 staff case which contained no retainer agreement but which was closed as "L-Extensive Services").

As such, in the DR, OCE recommended that LSNC review all open files required to contain a retainer agreement pursuant to 45 CFR §§ 1611.9(a) and (c) to verify they contain such documentation.

In response to the DR, LSNC informed OCE it had instructed all Managing Attorneys to undertake and complete a review of all open cases for required retainer agreements, and to correct any errors in documentation, by June 30, 2012.

LSNC also stated that three (3) of the original 12 cases OCE cited in the DR as missing required retainer agreements, were cited in error as LSNC found retainers in those files. As such, OCE excluded those citations in this Final Report, however, OCE's overall finding that sampled cases evidenced substantial compliance with the retainer requirements of 45 CFR § 1611.9 remains unchanged.

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<sup>10</sup> 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.

**Finding 7: With one (1) exception, sampled cases evidenced compliance with the requirements of 45 CFR Part 1636 (Client identity and statement of facts).**

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).

With one (1) exception, case files reviewed indicated that LSNC is in compliance with the requirements of 45 CFR Part 1636. *See* Case No. 30-09-11908. A review of LSNC's 45 CFR Part 1636 policy also evidenced substantial compliance with the requirement in 45 CFR § 1636.5, however, the policy was based on the Interim Rule version of 45 CFR Part 1636 instead of the Final Rule. As such, in the DR, OCE required LSNC to complete the revision, adoption, and implementation of its 45 CFR Part 1636 policy.

In response to the DR, LSNC informed OCE that, on June 26, 2012, LSNC's Board of Directors adopted a revised policy implementing 45 CFR Part 1636. OCE's review of the revised policy attached to LSNC's response to the DR indicates it is consistent with LSC requirements.

**Finding 8: Sampled cases evidenced compliance with the requirements of 45 CFR § 1620.4 and § 1620.6(c) (Priorities in use of resources). A review of LSNC's policies evidenced substantial compliance with the requirements in 45 CFR Part 1620 that recipients have written policies and procedures relating to establishing priorities, accepting emergency cases, and reviewing priorities annually.**

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.

Sampled case files reviewed evidenced compliance with 45 CFR Part 1620. Prior to the visit, OCE was provided a list of LSNC's priorities. LSNC identifies the following types of cases as within their priorities: preservation of housing, health care, enhancing economic stability, support for families, family safety and stability, civil rights, and serving populations with special vulnerabilities.

A review of LSNC's policies evidenced that, although LSNC has policies relating to emergency cases, its annual review of priorities, and also has annual statements of priorities, it does not have

written “procedures for establishing priorities” required by 45 CFR § 1620.3(a). LSNC was made aware of this shortly after the review, and was receptive to OCE’s comments. In the DR, OCE also required LSNC to complete the revision, adoption, and implementation of its 45 CFR Part 1620 policy.

In response to the DR, LSNC informed OCE that, on June 26, 2012, LSNC’s Board of Directors adopted a revised policy implementing 45 CFR Part 1620. OCE’s review of the revised policy attached to LSNC’s response to the DR indicates it is consistent with LSC requirements.

**Finding 9: Sampled cases evidenced substantial compliance with CSR Handbook (2008 Ed., as amended 2011), § 5.6 (Description of legal assistance provided).**

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.), § 5.6.

Case files reviewed indicated that LSNC is in substantial compliance with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 5.6. There were a very limited number of samples cases that did not contain documentation of legal advice. *See* Case Nos. 91-11-12589 and 91-10-12462 (two (2) PAI case files reviewed which only contained evidence that general legal information had been provided to the provided to the client, but not legal advice). In another case, the full intake interview could not be completed due to the poor health of the applicant and it appeared from the case file that no legal assistance was provided. *See* Case No. 10-11-12397 (a 2011 staff case closed as a “K-Other.”).

There are no recommendations or corrective actions required.

In its response to the DR, LSNC did not offer any comment on this Finding.

**Finding 10: Sampled cases evidenced that LSNC's application of the CSR case closure categories is substantially consistent with Chapters VIII and IX, 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 files reviewed demonstrated LSNC's application of the CSR case closing categories is substantially consistent with Chapters VIII and IX, CSR Handbook (2008 Ed., as amended 2011). However, a number of case files were found to have been closed with incorrect closing codes. *See e.g.*, Case Nos. 50-10-08189, 50-10-17262, 50-10-02916, 40-10-10477, 91-10-15286, and 10-11-05368 (cases were closed as "A-Counsel and Advice" where the level of assistance evidenced in the by the files was more consistent with "B-Limited Action"); 30-11-18909, 30-10-10377, 30-11-06360, 92-11-15892, 92-10-17237, 92-11-19519, and 10-11-03110 (cases were closed as "B-Limited Action" where the level of assistance evidenced in the file was more consistent with "A-Counsel and Advice"); 91-11-11271 (a 2011 staff case closed as "Ia-Uncontested Court Decision" where the level of assistance evidenced by the file was more consistent with "B-Limited Action" where the client was not represented in court); 91-11-00040 (a 2011 staff case closed as "B-Limited Action" where the level of assistance evidenced by the file was more consistent with "A-Counsel and Advice"); 91-08-06614 (a 2010 staff case closed as "Ib-Contested Court Decision" where the level of assistance evidenced in the file was more consistent with "G-Negotiated Settlement With Litigation"); 10-06-03640 (a 2010 case closed as "Ia-Uncontested Court Decision" but where the level of assistance evidenced in the case file was more consistent with "L-Extensive Service" where LSNC withdrew from the case after losing contact with the client); 95-10-08879 (a 2012 case closed as "Ib-Contested Court Decision" where the level of service evidenced in the file was more consistent with "Ic-Appeal"); and 10-11-13716 (where case was closed as "K-Other" but where the case file evidenced a level of legal assistance was more consistent with "A-Counsel and Advice," where the client was provided legal advice before LSNC lost touch with the client). Case review also evidenced a limited number of closing code category errors in VLSP's case files. *See* Case No. 70-11-01043, 70-11-01782, 70-12-00135, 70-10-01058, and 70-10-00220 (cases were closed as "B-Limited Action" where the level of assistance evidenced in the file was more consistent with "A-Counsel and Advice").

As such, in the DR, OCE recommended that LSNC review all open, and recently closed case files, upon closing to ensure they are closed with the proper closing code.

In response to the DR, LSNC informed OCE it has reminded all Managing Attorneys of their responsibility to review cases for proper application of closing codes and directed them to review the current CSR Handbook for additional guidance on the proper use of LSC closing codes.

**Finding 11: Sampled cases evidenced substantial compliance with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 3.3 (Dormancy and untimely closure of cases).**

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).<sup>11</sup> There is, however, an exception for limited service cases opened 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, CSR Handbook (2008 Ed., as amended 2011)) 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).

Sampled cases reviewed evidenced that LSNC is in substantial compliance with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 3.3. Case review evidenced one (1) case that was not closed in a timely manner. *See* Case No. 91-09-05944 (case file indicated that the PAI attorney likely closed the case in September, 2009, but LSNC did not close it until January 30, 2012, and where there was no explanation for the delay documented in the case file).

There are no recommendations or corrective actions required.

In its response to the DR, LSNC did not offer any comment on this Finding.

**Finding 12: Sample cases evidenced compliance with the requirements of CSR Handbook (2008 Ed.), § 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.

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.

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<sup>11</sup> 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 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 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.

In the DR, OCE reported that sampled cases evidenced substantial compliance with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 3.2, because case review found, what was thought to be, one (1) group of duplicate cases. *See* Case Nos. 90-11-07153, 90-11-04507, and 90-11-08847. In LSNC's response to the DR, LSNC informed OCE that the cited group of cases involved different unlawful detainer (eviction) actions, each had their own Civil Action Number, and as such, were not duplicates for CSR purposes. LSNC also requested OCE revise Finding 12 to a finding of "compliance." In light of this additional information, OCE agrees that these files are not duplicates and has made the requested revision to Finding No. 12.

There are no recommendations or corrective actions required.

**Finding 13: Interviews and a review of the list of attorneys who have engaged in the outside practice of law revealed that LSNC is in compliance with the general requirements of 45 CFR Part 1604 (Outside practice of law). However, a review of LSNC's policies evidenced noncompliance with the requirements of 45 CFR § 1604.3(a) (Written policies).**

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 this part, 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 the Executive Director, the Deputy Director, and the one (1) attorney on the list provided by LSNC of staff who have engaged in outside practice of law, evidenced that LSNC is in compliance with the general requirements of 45 CFR Part 1604. LSNC is not, however, in compliance with the requirement in 45 CFR § 1604.3(a) that it adopt written policies consistent with 45 CFR Part 1604. LSNC's policy is based on a version of 45 CFR Part 1604 published on May 5, 1976. As such, the policy does not reflect the changes made to the regulation since then and the version as published on December 2, 2003. *See* 68 Fed. Reg. 67372 (Dec. 2, 2003), available at <http://www.lsc.gov/about/regulations-rules/regulations-publication-history>. At the exit conference and in the DR, OCE informed LSNC that it is required to update its 45 CFR Part 1604 policy.

In response to the DR, LSNC informed OCE that, on June 26, 2012, LSNC's Board of Directors adopted a revised policy implementing 45 CFR Part 1604. OCE's review of the revised policy attached to LSNC's response to the DR indicates it is consistent with LSC requirements.

**Finding 14: Sampled cases 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.

The limited review of various accounting files and supporting documentation for the period of January 1, 2010 through January 31, 2012, as well as interviews with the Executive Director, Deputy Director, and Director of Finance, revealed that LSNC has not expended any grant funds, or used personnel or equipment for prohibited political activities in violation of 45 CFR §§ 1608.3(b) and 1608.4(b).

Sampled files reviewed, interviews with the Executive Director and Deputy Director, a review of the recipient's policies, and a review of a sampling of pages from LSNC's websites, indicate LSNC is not involved in such activity. A comprehensive review of LSNC's pamphlets, brochures, flyers, etc. for any prohibited political message, expression, symbol, image, or allusion, also evidenced compliance with 45 CFR Part 1608.

There are no recommendations or corrective actions required.

In its response to the DR, LSNC did not offer any comment on this Finding.

**Finding 15: Sampled cases and interviews evidenced compliance with the requirements of 45 CFR Part 1609 (Fee-generating cases). A review of LSNC's policy, however, evidenced partial compliance with 45 CFR §§ 1609.6 (Written policies and procedures) where policies did not include the requirements of 45 CFR §§ 1609.4 and 1609.5 (Accounting and acceptance procedures).**

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 private attorneys; neither the referral service nor two 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 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).

Sampled cases and interviews with the Executive Director and Deputy Director, and a limited review of the allocation of fees received by LSNC, evidenced compliance with the requirements of 45 CFR Part 1609. A review of LSNC's policies, however, evidenced noncompliance with the requirements of 45 CFR § 1609.6. At the time of the review, LSNC's 45 CFR Part 1609 policy was based on the Interim Rule issued in 1996 and did not reflect the changes in the Final Rule published on April 21, 1997, or the addition of 45 CFR §§ 1609.4 and 1609.5, published on February 11, 2010. *See* 75 Fed. Reg. 6816 (Feb. 11, 2010), *available at* <http://www.lsc.gov/about/regulations-rules/regulations-publication-history>.

During the visit and in the DR, OCE informed LSNC it was required to revise its 45 CFR Part 1609 policy to reflect the requirements in 45 CFR §§ 1609.4 and 1609.5.

In response to the DR, LSNC informed OCE that, on June 26, 2012, LSNC's Board of Directors adopted a revised policy implementing 45 CFR Part 1609. OCE's review of the revised policy attached to LSNC's response to the DR indicates it is consistent with LSC requirements.

**Finding 16: A limited review of LSNC's accounting and financial records and interviews with staff indicated compliance with 45 CFR Part 1610 (Use of non-LSC funds, transfer of LSC funds, program integrity). LSNC's donor notification letters are also in compliance with 45 CFR Part 1610.5(a).**

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, 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 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).

From a limited review of LSNC's accounting and financial records, including a chart of accounts and detailed general ledger for specific accounts from January 1, 2010 through January 31, 2012, observations in each of LSNC's offices that were visited by team members during the onsite visit, and interviews with staff, LSNC appears to have objective integrity and independence from organizations that engage in restricted activities.

LSNC does allocate to its PAI requirement non-LSC funds transferred to the VLSP. No LSC funds are transferred and interviews with VLSP staff and case review evidence that VLSP does not engage in restricted activities.

LSC regulation 45 CFR § 1610.5(a) provides that "...no recipient may accept funds 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." A review of a random sampling of donations made to LSNC ranging from \$500 to \$1,000 identified through the

general ledger evidenced LSNC is in compliance with 45 CFR § 1610.5(a), where sampled donor notification letters stated “you should be aware that our activities are regulated under federal law by the Legal Services Corporation guaranteeing that your contribution may not be expended for any purpose prohibited by the Legal Service Act or regulations.”

There are no recommendations or corrective actions required.

In its response to the DR, LSNC did not offer any comment on this Finding.

**Finding 17: LSNC is in compliance with the general requirements of 45 CFR Part 1614. LSNC is in substantial compliance with 45 CFR § 1614.3(d)(3), which requires oversight and follow-up of the PAI cases. LSNC is not, however, in full compliance with 45 CFR § 1614.3(e)(1)(i) as a few concerns were identified relating to PAI case reporting and cost allocation methodology.**

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 Part 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 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).

### *PAI Overview*

LSNC's PAI cases fall under three (3) main categories: 1) direct referrals from LSNC's offices or LSNC-organized clinics; 2) cases which are co-counseled in all, or in part, with a private attorney or where a private attorney consults on a case; and 3) VLSP cases, handled through either clinics or as a direct referral to a private attorney. The overwhelming majority of LSNC's PAI cases fall under category three (3). In 2011, approximately 1,905 of LSNC's total 2,417 PAI cases reported to LSC were referred and overseen by VLSP.

The intake procedure for LSNC's PAI cases is discussed in detail under Finding 2. In sum, interviews with LSNC and VLSP's intake staff, VLSP's Managing Attorney, and a review of LSNC and VLSP's intake forms, evidenced that the intake practices and procedures are generally sufficient to support LSC requirements. A discussion of LSNC and VLSP's PAI oversight procedures, and LSNC's PAI 12.5% requirement and case reporting is below.

### *PAI Case Management and Oversight*

LSNC is in substantial compliance with 45 CFR § 1614.3(d)(3), which requires oversight and follow-up of PAI cases. Managing Attorneys in each of LSNC's offices serve as PAI coordinators. PAI oversight varied from office to office, as did the number of PAI cases handled by each office. In LSNC's larger offices, PAI case management and oversight procedures track those of the office's staff cases which are described in detail under Finding 2. In LSNC's smaller offices, PAI oversight procedures are less standardized and based on the type of case and private attorney handling it, especially in those offices which have only between one (1) and 10 open PAI cases at any time.

Interviews with Managing Attorneys in all of LSNC's offices and a review of sample PAI cases evidenced that LSNC's oversight procedures are generally sufficient to support LSC requirements, with limited exceptions. Interviews and case review evidenced that a limited number of PAI cases demonstrated some weaknesses in LSNC's procedures. Case review evidenced that LSNC did not follow up on some PAI cases for a year after they had been referred to a PAI attorney. *See* Case Nos. 91-11-07447, 91-11-07818, and 91-11-07128 (cases opened in 2011 but containing no information post-dating their referral).

Although LSC does not require recipients have a specific level of oversight and follow-up procedures in place for PAI cases, 45 CFR § 1614.3(d)(3) requires programs to implement case oversight and follow-up procedures to ensure the timely disposition of cases. As such, LSNC is required to improve upon its PAI oversight procedures in offices where PAI cases may have been found less than fully compliant with LSC requirements relating to the timely disposition of cases. *See e.g.*, Case Nos. 91-09-05944 (case file indicated that the PAI attorney closed it on September 17, 2009, but LSNC did not close the case until January 30, 2012, and where there was no explanation for the delay documented in the case file).

Interviews evidenced that one (1) PAI attorney to which LSNC refers cases has been provided access to LSNC's Pika system. This attorney updates the cases they handle directly into Pika. Although this is not a violation of any LSC regulation, it raised potential concerns relating to this

attorney's access to other LSNC client information. As mentioned above, the LSC Act requires that LSC-funded activities "are carried out in a manner consistent with attorneys' professional responsibilities." *See* 42 U.S.C. § 2996(e)(b)(3). As such, in the DR, OCE asked LSNC to provide it with information as to how this access is consistent with the California Rules of Professional Conduct or other applicable ethical rules.

In response to the DR, LSNC promptly provided OCE with additional information regarding this contract attorney's work with LSNC. OCE is evaluating the information provided and will advise LSNC of its assessment, or make any needed additional requests for information, under separate cover.

### *PAI Requirement and Case Reporting*

LSNC is in general compliance with the fiscal requirements of 45 CFR Part 1614 in that it has devoted over 12.5% of an amount equal to its annual basic field grant to PAI. OCE confirmed onsite that LSNC has developed an annual PAI Plan and budget to meet its requirements under 45 CFR § 1614.4(a). LSNC has also established PAI as a cost center in its accounting system (SAGE MIP) and as a "Time Use" designation in Pika, which the program uses to identify and accumulate costs related to PAI activity.

45 CFR § 1614.3(e)(1)(i) also requires that "[a]ll methods of allocating common costs shall be clearly documented." A review of LSNC's written procedures indicates, however, that some of LSNC's PAI accounting procedures are not documented in either LSNC's policies or in its Accounting Manual. Further, it was found that the methodology LSNC uses to calculate some PAI costs do not conform with its PAI Plan. For instance, LSNC's 2011 PAI Plan notes that "[a]ll invoices, travel claims, etc. ..." would be expensed to PAI directly, however, LSNC allocates most non-personnel costs, including some travel expenses, by office, based on the percentage of direct charged personnel costs in that office. *See* Legal Services of Northern California 2011 Plan for Private Bar Involvement, at 2.

As such, while the its costs related to PAI activities are well documented in practice, LSNC is required to fully and accurately document its methodology for doing so in its policies, Accounting Manual, and/or PAI Plan in order to fully comply with the requirement in 45 CFR § 1614.3(e)(1)(i).

Sampled cases reviewed and interviews indicated that overall cases reported to LSC as PAI cases are properly designated. Case review, however, evidenced a few exceptions where a PAI attorney consulted on a part of a case, but the highest level of service was provided by a staff attorney. As such, those cases should have been reported as staff cases, not PAI, in accordance with § 10.1(b) of the CSR Handbook (2008 Ed., as amended 2011). *See* Case Nos. 30-09-11064, 30-09-1190, 30-10-02180, 30-09-02996, 30-11-14178, 30-11-1890-9, 30-11-06230, 30-11-05279, 30-10-04680, 30-11-06360, and 30-11-09736. Interviews also indicated that not all staff members are familiar with the PAI reporting requirements in the CSR Handbook. *See* CSR Handbook (2008 Ed., as amended 2011), § 10.1(b).

Interviews with VLSP's staff and Managing Attorney also evidenced that a subset of the cases VLSP oversees, and which LSNC reports (the cost of which are allocated to LSNC's PAI requirement), may not be PAI cases. In interviews with VLSP's staff and Managing Attorney, OCE learned that VLSP's Criminal Records Expungement and Driver's License Reinstatement clinics are staffed by VLSP paralegals. It is OCE's understanding that the paralegals conduct intake, provide advice, and close these clinic cases independent of involvement by a private attorney or a VLSP attorney.

LSC External Opinion # EX-2005-1001 is instructive on this issue. In that Opinion, LSC evaluated whether the cost of staff time spent supervising cases handled by law students was a PAI expense. As explained in that Opinion:

The term "attorney" is not defined in Part 1614, but is defined in Part 1600, the general definitions portion of the regulations. Under 45 CFR §1600.1, "[a]ttorney means a person who provides legal assistance to eligible clients and who is authorized to practice law in the jurisdiction where the assistance is rendered."

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"[u]nder the terms of §1600.1, law student volunteers at [Utah Legal Services] are not "attorneys" and cannot, under the terms of §1614.1(d), be considered "private attorneys" for the purpose of the PAI requirement. LSC External Opinion # EX-2005-1001, at 4.

The Opinion concludes that "where, as here, the proposed activity does not involve current private attorneys in any way, the activity cannot be considered a PAI activity." LSC External Opinion # EX-2005-1001, at 6. As such, although OCE understands that paralegals are allowed to give the type of legal services provided during VLSP's Criminal Records Expungement and Driver's License Reinstatement clinics under the applicable California ethical rules, these services cannot be considered "private attorney" cases under 45 CFR Part 1614 where there is no "private attorney" involvement.

As such, in the DR, OCE required LSNC to refrain from reporting the cases handled at VLSP's Criminal Records Expungement and Driver's License Reinstatement clinics to LSC and from allocating the cost of these cases as a part of its 12.5% PAI allocation. OCE also required LSNC to fully and accurately document its methodologies for accounting its PAI costs in LSNC's policies, Accounting Manual, and/or PAI Plan in order to fully comply with the requirement in 45 CFR § 1614.3(e)(1)(i). Lastly, OCE recommended that LSNC review all PAI case files at the time of closing to determine whether they should be closed as staff or PAI cases in accordance with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 10.1(b), and provide staff with additional guidance on complying with this section.

In response to the DR, LSNC agreed that a volunteer attorney has not worked on site at VLSP's Criminal Records Expungement and Driver's License Reinstatement clinics on an ongoing basis, though volunteer attorneys have helped to staff the clinics from time to time. It also recognized OCE's concerns regarding eligibility of only private *attorney* work, as opposed to paralegal work, as qualified private attorney involvement. As such, LSNC reported it has begun staffing

those clinics with a private attorney on an ongoing basis and that attorney will review clinic cases promptly and will work onsite regularly. When not on site, the attorney will be available via telephone and email during clinic hours to advise and supervise clinic operations and will review all cases as soon as possible upon return to the clinic site. LSNC also noted that the expenses for these two (2) clinics have never been part of the 12.5% PAI allocation that LSNC reports to LSC, but that these expenses are paid with other VLSP funds and will continue to be paid with those funds.

In response to the DR, LSNC informed OCE it had revised its Accounting Manual Section II to describe the methodology for accounting PAI costs. A review of the relevant excerpt of the Manual indicates the methodology is consistent with the requirements in 45 CFR § 1614.3(e)(1)(i) and with LSNC's PAI Plan.

Lastly, LSNC informed OCE it has reminded all Managing Attorneys of their responsibility to review cases at closing to ensure they are properly closed, and directed them to review the current CSR Handbook for additional guidance on correctly designating cases as PAI or staff for CSR reporting purposes.

**Finding 18: LSNC is in compliance with 45 CFR § 1627.4(a), which prohibits programs from utilizing LSC funds to pay membership fees or dues to any private or nonprofit organization. A review of LSNC's policies, however, evidenced partial compliance with 45 CFR § 1627.8 (Written policies and procedures).**

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.<sup>12</sup> 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 \$25,000.00 or less for the direct provision of legal assistance to eligible clients. *See* 45 CFR §§ 1627.2(b)(1) and (b)(2).

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%. Minor changes of work program, or changes in funding less than 10% do not require LSC approval, but LSC must be notified in writing. *See* 45 CFR §§ 1627.3(a)(1) and (b)(3).

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<sup>12</sup> 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 \$25,000.00 is included.

Subgrants may not be for a period longer than one 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 45 CFR Part 1627 and shall maintain records sufficient to document the recipient's compliance with 45 CFR Part 1627. *See* 45 CFR § 1627.8.

Interviews with LSNC's Director of Finance indicated LSNC pays non-mandatory membership fees or dues with non-LSC funds. This verbal assurance was corroborated with supporting documentation. The review of accounting records and detailed general ledger for 2010 through 2011 evidenced that State Bar Membership fees were charged to LSC funding and local and minority bar dues were all charged to non-LSC funding. As such, LSNC is in compliance with 45 CFR § 1627.4(a).

A review of accounting records did not reveal any LSC-funded subgrants. Interviews with the Executive Director and Deputy Director corroborated this finding. A review of LSNC's policies evidenced, however, that although it has a policy on the payment of fees and dues, LSNC did not appear to have a written policy on subgrants. In the DR, LSNC was required to revise its 45 CFR Part 1627 policy to include parts relating to subgrants.

In response to the DR, LSNC informed OCE that, on June 26, 2012, LSNC's Board of Directors adopted a revised 45 CFR Part 1627 policy. OCE's review of the revised policy attached to LSNC's response to the DR indicates it is consistent with LSC requirements and includes parts relating to subgrants.

**Finding 19: LSNC 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. Time spent by attorneys and paralegals must be documented by time records which record the amount of time spent on each case, matter, or supporting activity. Time records must be created contemporaneously and account for time by date and in increments not greater than one-quarter of an hour which comprise all of the efforts of the attorneys and paralegals for which compensation is paid by the recipient. Each record of time spent must contain: for a case, a unique client name or case number; for matters or supporting activities, an identification of the category of action on which the time was spent.

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.

LSNC's attorneys and paralegals use Pika as a timekeeping system. The LSNC Timekeeping Policy requires each staff member to record 100% of time, including time on leave and holidays, and all time worked beyond regularly scheduled hours. Time is entered by the employee using an on-screen "Time Slip." An "Individual Pay Period Time Report" is generated from the Pika system for payroll purposes twice monthly. This report reflects daily time by activity and summarizes time by funding code and PAI time. The form is reviewed and signed by the employee, approved by their supervisor, and forwarded to accounting for payroll processing.

A limited review and comparison of 16 case files against their corresponding timekeeping records, evidenced compliance with the timekeeping requirement in 45 CFR § 1635.3(b). Interviews with the Executive Director and Deputy Director also indicated LSNC is in compliance with 45 CFR § 1635.3(d).

There are no recommendations or corrective actions required.

In its response to the DR, LSNC did not offer any comment on this Finding.

**Finding 20: Sampled cases 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 collect and retain attorneys' fees in any case undertaken on behalf of a client of the recipient. *See* 45 CFR § 1642.3.<sup>13</sup> However, with the enactment of LSC's FY 2010 consolidated appropriation, the statutory restriction on claiming, collecting or retaining attorneys' fees was lifted. Thereafter, at its January 30, 2010 meeting, the LSC Board of Directors took action to

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<sup>13</sup> The regulations define "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* 45 CFR § 1642.2(a).

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. Enforcement action will not be taken 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. *See* LSC Program Letter10-1 (February 18, 2010).<sup>14</sup>

A limited review of LSNC's fiscal records, its 2009 and 2010 Audited Financial Statements, and interviews, evidenced that no attorneys' fees were awarded, collected, or retained for cases serviced directly by LSNC that would violate former 45 CFR Part 1642. The sampled files reviewed did not contain prayers for attorneys' fees prior to March 15, 2010. As such, LSNC is in compliance with the requirements of 45 CFR Part 1642.

There are no recommendations or corrective actions required.

In its response to the DR, LSNC did not offer any comment on this Finding.

**Finding 21: Sampled cases, interviews, and a review of LSNC's permissible legislative activities files, evidenced general compliance with the requirements of 45 CFR Part 1612 (Restrictions on lobbying and certain other activities). A review of LSNC's policies and files also evidenced substantial compliance with 45 CFR § 1612.11 (Written policies and procedures) and the requirements of 45 CFR § 1612.10 (Recordkeeping and accounting requirements).**

The purpose of this part 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.

None of the sampled files and documents reviewed, including the program's legislative activity reports, evidenced any lobbying with LSC funds or that LSNC engaged in prohibited legislative activities. Interviews with the Executive Director, Deputy Director, and one (1) Managing Attorney, and a review of the supporting documentation LSNC is required to maintain as per 45 CFR § 1612.10(c) and fiscal records, further corroborated this finding. Notably, LSNC's staff do a significant amount of permissible work under 45 CFR §§ 1612.5 and 1612.6. Interviews and a review of instructions to LSNC's staff in LSNC's Case Management and Litigation Manual, also evidenced that staff are well informed as to the restrictions in 45 CFR Part 1612 and LSNC has a

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<sup>14</sup> Recipients are reminded that the regulatory provisions regarding fee-generating cases, 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.

procedure and practice in place to evaluate and approve permissible activity before it is undertaken to ensure compliance with LSC requirements.

A review of sampled timekeeping, financial and/or accounting records also evidenced that activities permissible under 45 CFR § 1612.6 are properly funded with non-LSC funds as required by that section. Interviews and a review of LSNC's permissible legislative activity files also evidences compliance with reporting requirements in 45 CFR § 1612.10(c).

The record keeping and accounting requirements for funds used for permissible legislative activities is set forth in 45 CFR § 1612.10. It requires, among other things, that recipients "shall maintain separate records documenting the legislative and rulemaking activities permitted by §1612.6." *See* 45 CFR § 1612.10(b). A review of LSNC's accounting procedures and practices, and interviews with staff, however, indicated LSNC does not have a system for maintaining separate records for these expenses. It instead allocates these costs to other general non-LSC sources.

As mentioned above under Finding 14, OCE conducted a comprehensive review of LSNC's pamphlets, brochures, flyers, etc. Among the documents evaluated was a copy of a PowerPoint presentation drafted by the Health Insurance Counseling & Advocacy Program (HICAP) titled "Facts About Prescription Drug Discount Programs." It includes one (1) slide that states: "How To Contact Your Elected Officials" along with the phone numbers of the White House and the U.S. House of Representatives. A careful review of the presentation indicates this contact information is provided along with the contact information of a number of other entities that have information about state, federal, and private, prescription drug programs (*e.g.*, Pharmaceutical Research and Manufacturers of America, NeedyMeds, Glaxo SmithKline, Merck Patient Assistance Program, Health Alliance America, etc.). It makes no mention of prospective laws or regulations. As such, OCE does not find it poses a 45 CFR Part 1612 compliance risk. Regardless, in order to avoid any perceived compliance risk, LSNC ceased all use of the document on the same day LSNC became aware of it.

LSNC provided OCE with its policy on legislative and administrative advocacy during the review. A review of that policy indicated that it was substantially compliant with the requirement in 45 CFR § 1612.11 that LSNC "adopt written policies and procedures to guide its staff in complying with this part." At the time of the review, LSNC's policy was based on the language of the Interim Rule published on August 29, 1996. *See* 61 Fed. Reg. 45741 (Aug. 29, 1996). Although the subsequent changes to the rule are not substantial, LSNC was informed that it should adopt a policy reflective of the current 45 CFR Part 1612. *See* 45 CFR § 1612.11, 62 Fed. Reg. 19400 (Apr. 21, 2007), *available at* <http://www.lsc.gov/about/regulations-rules/regulations-publication-history>. LSNC was very receptive to OCE's suggestion.

In the DR, OCE requested LSNC adopt a revised policy implementing 45 CFR Part 1612. It was also required to adopt and document a mechanism to "maintain separate records documenting the legislative and rulemaking activities permitted by § 1612.6" to bring it into compliance with 45 CFR § 1612.10(b).

In response to the DR, LSNC informed OCE that, on June 26, 2012, LSNC's Board of Directors adopted a revised 45 CFR Part 1612 policy. OCE's review of the revised policy attached to LSNC's response to the DR indicates it is consistent with LSC requirements. On July 18, 2012, LSNC also informed OCE that it had adopted and documented a mechanism for maintaining separate records documenting the legislative and rulemaking activities permitted by 45 CFR Part 1612. LSNC will use a new funding code to track all time and expenses spent for these activities and has inserted language into its Accounting Manual and Legislative/Administrative Advocacy Request approval form to guide staff in complying with this requirement.

**Finding 22: Sampled cases evidenced 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 files reviewed involved legal assistance relating to a criminal proceeding, or a collateral attack in a criminal conviction. Interviews with the Executive Director and Deputy Director, and review of the recipient's policies and manuals, also confirmed that LSNC is not involved in these prohibited activities.

There are no recommendations or corrective actions required.

In its response to the DR, LSNC did not offer any comment on this Finding.

**Finding 23: Sampled cases evidenced 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 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).<sup>15</sup>

None of the sampled case files reviewed involved initiation or participation in a class action. Interviews with the Executive Director and Deputy Director, and review of the recipient's policies and manuals, also confirmed that LSNC is not involved in this prohibited activity.

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<sup>15</sup> 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).

There are no recommendations or corrective actions required.

In its response to the DR, LSNC did not offer any comment on this Finding.

**Finding 24: Sampled cases evidenced 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 files reviewed revealed participation in litigation related to redistricting. Interviews with the Executive Director and Deputy Director, and review of the recipient's policies and manuals, also confirmed that LSNC is not involved in these prohibited activities.

There are no recommendations or corrective actions required.

In its response to the DR, LSNC did not offer any comment on this Finding.

**Finding 25: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings). A review of LSNC's policies indicated LSNC was substantially compliant with the requirement in 45 CFR § 1633.4 (Written policies and procedures).**

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.

None of the sampled files reviewed evidenced LSNC involvement in any such eviction proceeding. Interviews with the Executive Director and Deputy Director also confirmed that LSNC is not involved in these prohibited activities.

A review of LSNC's policy on representation in certain eviction proceedings policy indicated that it was not fully compliant with the requirement in 45 CFR § 1633.4. Although LSNC has a 45 CFR Part 1633 policy, and discusses this restriction in its Case Management and Litigation Manual, the policy and manual do not reflect the current language of 45 CFR § 1633.3(a), which gives the restriction a broader scope than the language contained in the Interim Rule upon which LSNC's policy was based. *See* 45 CFR § 1633.3(a), 61 Fed. Reg. 63756 (Dec. 2, 1996), available at <http://www.lsc.gov/about/regulations-rules/regulations-publication-history>. As such, in the DR, OCE required LSNC to revise its 45 CFR Part 1633 policy.

In response to the DR, LSNC informed OCE that on June 26, 2012, LSNC's Board of Directors adopted a revised 45 CFR Part 1633 policy. OCE's review of the revised policy attached to LSNC's response to the DR indicates it is consistent with LSC requirements.

**Finding 26: Sampled cases evidenced 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.

None of the sampled files reviewed involved LSNC participation in civil litigation, or administrative proceedings, on behalf of an incarcerated person. Interviews with the Executive Director and Deputy Director, and review of the recipient's policies and manuals, also confirmed that LSNC is not involved in these prohibited activities.

There are no recommendations or corrective actions required.

In its response to the DR, LSNC did not offer any comment on this Finding.

**Finding 27: Sampled cases evidenced 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.<sup>16</sup> This restriction has been contained in all subsequent appropriations acts.<sup>17</sup> This new 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: "This part is designed to ensure that recipients and their employees do not solicit clients."

None of the sampled files or reviewed program literature indicated LSNC involvement in such activity. Interviews with the Executive Director and Deputy Director, and review of the recipient's policies and manuals, also confirmed that LSNC is not involved in these prohibited activities.

There are no recommendations or corrective actions required.

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<sup>16</sup> *See* Section 504(a)(18).

<sup>17</sup> *See* Pub. L. 108-7, 117 Stat. 11 (2003) (FY 2003), Pub. L. 108-199, 118 Stat. 3 (2004) (FY 2004), Pub. L. 108-447, 118 Stat. 2809 (2005) (FY 2005), and Pub. L. 109-108, 119 Stat. 2290 (2006) (FY 2006).

In its response to the DR, LSNC did not offer any comment on this Finding.

**Finding 28: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1643 (Restriction on assisted suicide, euthanasia, and mercy killing).**

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. No may LSC funds be used to bring suit to assert, or advocate, a legal right to suicide, euthanasia, or mercy killing, or advocate, or any other form of legal assistance for such purpose. *See* 45 CFR § 1643.3.

None of the sampled files reviewed involved such activity. Interviews with the Executive Director and Deputy Director, and a review of the recipient's policies and manuals, also confirmed that LSNC is not involved in these prohibited activities.

There are no recommendations or corrective actions required.

In its response to the DR, LSNC did not offer any comment on this Finding.

**Finding 29: Sampled cases evidenced 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.

All of the sampled files reviewed demonstrated compliance with the above LSC statutory prohibitions. Interviews with the Executive Director and Deputy Director also confirmed that LSNC is not involved in any litigation which would be in violation of Section 1007(b) (8) of the LSC Act, Section 1007(b) (9) of the LSC Act, or Section 1007(b) (10) of the LSC Act.

There are no recommendations or corrective actions required.

In its response to the DR, LSNC did not offer any comment on this Finding.

**Finding 30: LSNC is in compliance with the requirements of 45 CFR § 1620.6.**

Interviews with the Executive Director and Deputy Director evidenced that LSNC is in compliance with the requirements of 45 CFR § 1620.6, which requires staff who handle cases or matters, or make case acceptance decisions, to 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. A sampling of signed agreements was reviewed during the onsite visit.

There are no recommendations or corrective actions required.

In its response to the DR, LSNC did not offer any comment on this Finding.

**Finding 31: Policies reviewed evidenced compliance with the requirements of 45 CFR Part 1644 (Disclosure of case information).**

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. 45 CFR § 1644.3 requires that the following information 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.

LSNC did not have a policy on case disclosure as required in 45 CFR § 1644.5 at the time the review commenced. However, LSNC drafted a policy that reflected the requirements of 45 CFR Part 1644 while OCE was onsite. As such, in the DR, LSNC was required to complete the revision, adoption, and implementation of its 45 CFR Part 1644 policy.

In response to the DR, LSNC informed OCE that, on June 26, 2012, LSNC's Board of Directors adopted LSNC's revised 45 CFR Part 1644 policy. OCE's review of the revised policy attached to LSNC's response to the DR confirmed it is consistent with LSC requirements.

**Finding 32: A limited review of LSNC's internal control policies and procedures demonstrated that the program's policies and procedures compare favorably to Chapter 3- the Internal Control/Fundamental Criteria of an Accounting and Financial Reporting System of LSC's Accounting Guide for LSC Recipients (2010 Edition) and LSC Program Letter 10-2.**

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.), the CSR Handbook (2008 Ed., as amended 2011), the LSC Property Acquisition and Management Manual, and any amendments to the foregoing. Applicants agree to comply with both substantive and procedural requirements, including recordkeeping and reporting requirements.

An 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* Chapter 3 of the Accounting Guide for LSC Recipients (2010 Ed.).

The Accounting Guide for LSC Recipients 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.

A limited review of LSNC's internal control policies and procedures evidenced that LSNC has a sufficient degree of internal controls and segregation of duties. LSNC's Finance Department is composed of 10 staff members. Interviews evidenced that staff appeared competent and professional. During the review, OCE completed an Internal Control Worksheet as a tool to evaluate LSNC's internal controls practices. The information collected conformed with LSNC's written policies and job descriptions of LSNC's finance and accounting staff. LSNC ensures that at least two (2) staff members are involved in all cash receipt, payroll, cash disbursement, and

purchasing transactions. It further requires that staff members responsible for incurring an expense or receiving cash are not responsible for processing the transaction in LSNC's accounting system.

Full computer system backups are executed daily and backup files are stored offsite. All accounting computer files are kept on a separate secured server and in a password protected network to which only Finance Department staff are allowed access.

Bank reconciliations of all of LSNC's bank accounts for a period of December 2011 through February 2012 were reviewed and found to be performed in a timely and accurate manner.

A review of LSNC's salary advance policy indicates that advances will only be given in emergency situations, and only equal to the amount of vacation leave available and/or time worked but not paid, if less than a full pay period. Such requests must be submitted on a Salary Advance Form to the Director of Finance for approval and must state the justification for the advance. No more than two (2) salary advances will be given per employee per year except in unusual circumstances. A limited review of documentation relating to salary advances, for the period of January 2011 through February 2012, evidenced that LSNC's practice conforms with its Salary Advance Policy.

There are no recommendations or corrective actions required.

In its response to the DR, LSNC did not offer any comment on this Finding.

#### IV. RECOMMENDATIONS<sup>18</sup>

Consistent with the findings of this report, it was recommended that LSNC:

1. Provide staff with additional guidance as to its current asset ceilings, and the application of LSNC's asset exception for "assets which are exempt from attachment under State or Federal law."

In response to the DR, LSNC informed OCE it had issued an "all staff" email memorandum on June 27, 2012, in which it reminded staff of LSNC's correct asset limits, provided examples of exempt assets, advised staff members to consult with their Managing Attorneys when questions about exemption arise, and circulated LSNC's latest Board-approved financial eligibility policy.

OCE finds LSNC's comments and actions responsive and no further action appears warranted at this time.

2. Review all open case files required to contain documentation of an over-income exception to verify they contain such documentation, if necessary.

In response to the DR, LSNC informed OCE it had instructed all Managing Attorneys to undertake and complete a review of all open case files for over-income exception documentation, and to correct any errors in documentation, by June 30, 2012.

OCE finds LSNC's comments and actions responsive and no further action appears warranted at this time.

3. Review all open and recently closed case files required to contain a dated citizenship attestation as per 45 CFR § 1626.6 to verify they contain such documentation, if necessary.

In response to the DR, LSNC informed OCE it had instructed all Managing Attorneys to undertake and complete a review of all open and recently closed cases for citizenship attestations, and to correct any errors in documentation, by June 30, 2012.

OCE finds LSNC's comments and actions responsive and no further action appears warranted at this time.

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<sup>18</sup> 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. Often recommendations address potential issues and may assist a program to avoid future compliance errors.

By contrast, the items listed in "Required Corrective Actions" must be addressed by the program, and will be enforced by LSC.

4. Review all open case files required to contain a retainer agreement pursuant to 45 CFR §§ 1611.9(a) and (c) to verify they contain such documentation, if necessary.

In response to the DR, LSNC informed OCE it had instructed all Managing Attorneys to undertake and complete a review of all open cases for required retainer agreements, and to correct any errors in documentation, by June 30, 2012.

OCE finds LSNC's comments and actions responsive and no further action appears warranted at this time.

5. Review all case files at the time of closing to ensure they are closed with the proper closing code in accordance with the CSR Handbook (2008 Ed., as amended 2011), § 8.2.

In response to the DR, LSNC informed OCE it has reminded all Managing Attorneys of their responsibility to do so and directed them to review the current CSR Handbook for additional guidance on the proper use of LSC closing codes.

OCE finds LSNC's comments and actions responsive and no further action appears warranted at this time.

6. Review all PAI case files at the time of closing to determine whether they should be closed as staff or PAI cases in accordance with the requirements in the CSR Handbook (2008 Ed., as amended 2011), § 10.1(b), and provide staff with additional guidance on complying with this section.

In response to the DR, LSNC informed OCE it has reminded all Managing Attorneys of their responsibility to do so and directed them to review the current CSR Handbook for additional guidance on correctly designating cases as PAI or staff for CSR reporting purposes.

OCE finds LSNC's comments and actions responsive and no further action appears warranted at this time.

## V. REQUIRED CORRECTIVE ACTIONS

Consistent with the findings of this report, LSNC is required to take the following corrective actions:

1. Ensure that it identifies and documents an allowable over-income exception under 45 CFR § 1611.5 where required. It is recommended that LSNC do so by providing additional training to staff regarding allowable over-income exceptions and/or by removing the income justification field for “no other affordable alternative” in its Pika system.

In response to the DR, LSNC informed OCE it had removed the “no other affordable alternative” option from the over-income justification field on Pika and replaced it with a selection named “other significant factors (MA approval).” This field may only be used if LSNC’s case handlers have verified with Managing Attorneys that there are other significant factors that affect the applicant’s ability to afford legal assistance.

LSNC also instructed Managing Attorneys in each of its office to review with their staff the financial eligibility section of its Case Management and Litigation Manual to ensure all case handlers are aware of the documentation requirements when accepting applicants whose income is over 125% of the FPGs. A review of this section, which was attached to LSNC’s response to the DR, evidences consistency with LSC requirements. In addition, LSNC issued an “all staff” email memorandum explaining the change and instructing staff members to ensure all of their open cases have correct documentation.

OCE finds LSNC’s comments and actions responsive and considers Corrective Action No. 1 to be closed.

2. Ensure compliance with group eligibility screening requirements in 45 CFR § 1611.6. It is recommended that LSNC do this by: 1) revising its group eligibility form to include all the fields staff would need to fully document a group’s eligibility; 2) providing additional guidance regarding group-eligibility to staff in LSNC’s Case Management and Litigation Manual; and 3) re-training staff on group eligibility requirements.

In response to the DR, LSNC informed OCE it had adopted a group eligibility worksheet and instructed staff to begin using the form as of June 27, 2012. A review of this worksheet, which was attached to LSNC’s response to the DR, indicates it is sufficient to document the information needed to make an effective group eligibility determination in accordance with LSC requirements.

LSNC also revised the relevant section of its Case Management and Litigation Manual to include instructions regarding the group eligibility worksheet and the need to document financial information for a group applicant. Finally, Managing Attorneys were asked to review the group eligibility work sheet with all staff members who handle cases, and an “all staff” email memorandum was issued circulating the new group eligibility work sheet and the relevant revised section of LSNC’s Case Management and Litigation Manual.

OCE finds LSNC's comments and actions responsive and considers Corrective Action No. 2 to be closed.

3. Provide minutes showing that LSNC's Board of Directors took some identifiable action to recognize the sufficiency of the asset test of certain governmental benefit program upon which LSNC's is relying, as discussed under Finding 3.

In response to the DR, LSNC informed OCE that, on June 26, 2012, LSNC's Board of Directors specifically considered the sufficiency of the income and asset tests of two governmental benefit programs for the poor and determined that both Supplemental Security Income (SSI) and CalWORKs eligibility should be accepted as a proxy for eligibility under LSNC's financial eligibility policies. The minutes for the Board meeting will be adopted its next meeting in October 2012.

OCE finds LSNC's comments and actions responsive and requests LSNC provide OCE with a copy of the above-mentioned Board meeting meetings when they are adopted so OCE can then close out Corrective Action No. 3.

4. Revise and adopt a new 45 CFR Part 1611 policy that: 1) exclusively lists those governmental benefit program eligibility tests on which its Board of Directors chooses to rely as allowed under 45 CFR § 1611.4(c); and 2) includes LSNC's current asset limits.

In response to the DR, LSNC informed OCE that, on June 26, 2012, its Board of Directors adopted a 45 CFR Part 1611 policy that includes: 1) specific mention of SSI and CALWORKs as the governmental programs upon which the Board has determined LSNC may rely for determining client financial eligibility and, 2) LSNC's current and correct asset limits. LSNC attached the new policy to its response to the DR and OCE's review of the policy indicates it is consistent with LSC requirements.

OCE finds LSNC's comments and actions responsive and considers Corrective Action No. 4 to be closed.

5. Revise those citizenship attestations that contain language inconsistent with the CSR Handbook (2008 Ed., as amended 2011), § 5.5, as discussed under Findings 2.

In response to the DR, LSNC informed OCE it has directed all offices and VLSP to discontinue use of any citizenship attestations that do not state "I am a citizen of the United States of America" immediately followed by a signature line and date to be completed by the applicant. LSNC also circulated the appropriately worded citizenship attestation form to each Managing Attorney and posted it on LSNC's internal web site for use by all staff. OCE's review of VLSP's revised citizenship attestations that LSNC provided by email on July 17, 2012 also confirmed they meet LSC requirements.

OCE finds LSNC's comments and actions responsive and considers Corrective Action No. 5 to be closed.

6. Document reconfirmation of citizenship of those repeat clients where a significant amount of time has lapsed between their applications.

In response to the DR, LSNC instructed all Managing Attorneys to ensure that citizenship attestations are obtained when required and kept in all open case files. LSNC staff was further instructed as follows: 1) where staff relied upon a prior citizenship attestation obtained within the previous 12 months, to note that continued citizenship was confirmed with the applicant; and 2) to obtain a new citizenship attestation from the applicant where their prior attestation was over 12 months old.

OCE finds LSNC's comments and actions responsive and considers Corrective Action No. 6 to be closed.

7. Improve upon its PAI oversight procedures in any offices where PAI cases may have been found less than fully compliant with LSC requirements relating to the timely disposition of cases.

In response to the DR, LSNC instructed all Managing Attorneys to review all PAI cases by no later than June 30, 2012 to ensure that the current status of the case is recorded in the Pika case notes and to "tickle" each of those cases for the next review within the next three (3) months, and in three (3) month intervals thereafter, to ensure that the cases are pursued and disposed of in accordance with LSC rules and the rules of professional responsibility.

OCE finds LSNC's comments and actions responsive and considers Corrective Action No. 7 to be closed.

8. Provide OCE with information to confirm that a private attorney's access to LSNC's Pika system and records discussed under Finding 17 is consistent with the California Rules of Professional Conduct or other applicable ethical rules with its comments to the Draft Report.

In response to the DR, LSNC provided OCE with additional information regarding this contract attorney's work with LSNC. OCE is evaluating the information provided and will advise LSNC of its assessment, or make any needed additional requests for information, under separate cover.

9. Cease reporting cases handled at VLSP's Criminal Records Expungement and Driver's License Reinstatement clinics to LSC as PAI cases and cease allocating the cost of these cases as a part of its 12.5% PAI allocation in future years.

In response to the DR, LSNC agreed that a volunteer attorney has not worked on site at VLSP's Criminal Records Expungement and Driver's License Reinstatement clinics on an ongoing basis, though volunteer attorneys have helped to staff the clinics from time to

time. It also recognized OCE's concerns regarding eligibility of only private *attorney* work, as opposed to paralegal work, as qualified private attorney involvement.

As such, LSNC reported it has begun staffing those clinics with a private attorney on an ongoing basis and that attorney will review the clinic cases promptly and will work on site regularly. When not on site, the attorney will be available via telephone and email during clinic hours to advise and supervise clinic operations and will review all cases as soon as possible upon return to the clinic site.

LSNC also noted that the expenses for these two clinics have never been part of the 12.5% PAI allocation that LSNC reports to LSC, but that these expenses are paid with other VLSP funds and will continue to be paid with those funds.

OCE finds LSNC's comments and actions responsive and considers Corrective Action No. 9 to be closed.

10. Document its methodology for accounting its PAI costs in LSNC's policies, Accounting Manual, and/or PAI Plan to fully comply with the requirements in 45 CFR § 1614.3(e)(1)(i).

In response to the DR, LSNC informed OCE it had revised its Accounting Manual Section II to describe the methodology for accounting PAI costs. A review of the relevant except of the Manual indicates the methodology it is consistent with the requirements in 45 CFR § 1614.3(e)(1)(i) and with LSNC's PAI Plan.

OCE finds LSNC's comments and actions responsive and considers Corrective Action No. 10 to be closed.

11. Complete the revision, adoption, and implementation, of LSNC's policies relating to the following LSC regulations: 45 CFR Part 1636; 45 CFR Part 1620; 45 CFR Part 1604; 45 CFR Part 1609; 45 CFR Part 1633; 45 CFR Part 1612; 45 CFR Part 1627; and 45 CFR Part 1644.

In response to the DR, LSNC informed OCE that, on June 26, 2012, LSNC's Board of Directors adopted new and revised policies which have now been implemented via email notification to staff and follow-up training by Managing Attorneys in each office. The new policies include those implementing 45 CFR Part 1636; 45 CFR Part 1620; 45 CFR Part 1604; 45 CFR Part 1609; 45 CFR Part 1633; 45 CFR Part 1612; 45 CFR Part 1627; and 45 CFR Part 16444. OCE's review of the revised policies attached to LSNC's response to the DR indicate they are consistent with LSC requirements.

OCE finds LSNC's comments and actions responsive and considers Corrective Action No. 11 to be closed.

12. Adopt and document a mechanism to “maintain separate records documenting the legislative and rulemaking activities permitted by § 1612.6” to bring it into compliance with 45 CFR § 1612.10(b).

In response to the DR, on July 18, 2012, LSNC informed OCE that while the OCE team was still onsite, LSNC adopted and documented a mechanism for maintaining separate records documenting the legislative and rulemaking activities permitted by 45 CFR Part 1612. LSNC now uses a new funding code to track all time and expenses spent for these activities and has inserted language into its Accounting Manual and Legislative/Administrative Advocacy Request approval form to guide staff in complying with this requirement.

OCE finds LSNC’s comments and actions responsive and considers Corrective Action No. 12 to be closed.

## **Legal Services of Northern California's Comments**

7/27/12 A 9:43 June 28, 2012

LEGAL SERVICES CORP

Ms. Lora Rath  
Acting Director  
Office of Compliance and Enforcement  
Legal Services Corporation  
3333 K Street, NW 3<sup>rd</sup> Floor  
Washington, D.C. 20007-3522

Re: Case Service Report / Case Management System Review Visit  
Recipient No. 805240 (Legal Services of Northern California)

Dear Ms. Rath:

I am writing in response to the Draft Report issued by your office on May 24, 2012 following the March/April 2012 Review Visit. We were very pleased with the overall findings of the Review Visit team, particularly in light of the large number of cases which were selected for review, and we are grateful for the guidance and assistance with regard to necessary updates of our policies. We have already implemented the recommendations and corrective actions noted in the draft report. In addition, we have improved some of our policies and procedures as your team recommended. Finally, we note a few errors in the draft report findings, which we request OCE to correct in the final report.

### REVIEW TEAM RECOMMENDATIONS

#### ***Recommendation 1***

The review team recommended that we provide staff with additional guidance regarding current asset ceilings and application of LSNC's asset exception. LSNC issued an all staff email memorandum on June 27, 2012 that reminded staff about the asset ceiling amounts, provided examples of exempt assets, advised staff members to consult with their Managing Attorneys when questions about exemption arise, and included the new Board-approved policy (No. 1611).

#### ***Recommendations 2, 3 and 4***

The review team recommended review of all open case files for over-income exception documentation, review of all open and recently closed cases for citizenship attestation and all open cases for required retainer agreements. LSNC has instructed all Managing Attorneys to undertake these reviews, to complete them no later than June 30, 2012 and to correct any errors in documentation found during the reviews.

## ***Recommendations 5 and 6***

The review team recommended that case closure codes be verified upon case closing and that cases be correctly identified as PAI or staff cases upon closure. LSNC reminded all Managing Attorneys of these responsibilities and directed them to review the current CSR Handbook.

### **REQUIRED CORRECTIVE ACTIONS**

#### ***Corrective Action 1***

LSNC has removed the "no other affordable alternative" option from the over-income justification field on Pika and replaced it with a selection named "other significant factors (MA approval)". This field may only be used if the case handler has verified with the Managing Attorney that there are other significant factors that affect the applicant's ability to afford legal assistance. We also instructed the Managing Attorneys of each office to review with their staff the revised financial eligibility section of the Case Management and Litigation manual to ensure all case handlers are aware of the appropriate documentation necessary on the eligibility page for over-125% cases. The relevant revised section is included at **Attachment A**. In addition, we issued an "all staff" email memorandum explaining the change and instructing staff members to ensure all of their open cases have correct documentation.

#### ***Corrective Action 2***

LSNC adapted a group eligibility work sheet form provided by the review team and instructed staff to begin using the form effective June 27, 2012. That form is included at **Attachment B**. The relevant section of the Case Management and Litigation Manual was also revised to include instructions regarding the group eligibility worksheet and need to document financial information regarding the group. That revised section is included at **Attachment C**. Finally, Managing Attorneys were asked to review the group eligibility work sheet with all case handling staff members and an "all staff" email memorandum was issued sharing the new work sheet and the relevant manual section.

#### ***Corrective Action 3***

At its meeting on June 26, 2012, LSNC's Board of Directors specifically considered the sufficiency of the income and asset tests of two governmental benefit programs for the poor and determined that both Supplemental Security Income (SSI) and CalWORKs eligibility should be accepted as a proxy for eligibility under LSNC's financial eligibility policies. The minutes for the Board meeting will not be adopted until its next meeting in October 2012, however, the memorandum upon which the Board relied is attached.

***Corrective Action 4***

At its meeting on June 26, 2012, LSNC's Board of Directors adopted a revised Policy No. 1611 that includes the governmental programs the Board has determined have eligibility requirements LSNC may rely upon for determining client financial eligibility and includes the current LSNC asset limits. That new policy is included at **Attachment D**.

***Corrective Action 5***

All offices have been directed to discontinue use of any citizenship attestations that do not state, "I am a citizen of the United States of America" immediately followed by a signature line and date to be completed by the applicant. The appropriate citizenship attestation form was provided to each Managing Attorney and remains posted on our internal web site for use by all staff.

***Corrective Action 6***

All Managing Attorneys were instructed to ensure that a citizenship attestation obtained in the course of the current case exists in all open case files. To the extent the office relied upon a prior citizenship attestation, the office was asked to confirm continued citizenship and obtain a new attestation form unless the form relied upon was obtained within the last twelve (12) months, in which case the case handler may simply note that continued citizenship was confirmed with the client.

***Corrective Action 7***

All Managing Attorneys were instructed to review all PAI cases no later than June 30, 2012 to ensure that the current status of the case is recorded in the Pika case notes and to "tickle" each of those cases for the next review within the next three (3) months and thereafter at the same interval to ensure that the cases are pursued and disposed of in accordance with LSC rules and the rules of professional responsibility.

***Corrective Action 8***

At page 30 of the draft report, the review team raised vague concerns regarding the access to Pika permitted to a PAI contract attorney, Andy Rossoff. Mr. Rossoff has contracted with LSNC for more than ten years and with its predecessor organization in Lake County-Redwood Legal Services - for several years prior. He has access to Pika for purposes of providing legal services to our eligible clients in that county pursuant to his contract. His use of the system allows him to check for conflicts prior to initiating representation and permits us to track the progress on any of his cases on an ongoing and real time basis.

Mr. Rossoff's practice consists solely of PAI cases from LSNC, and senior legal services clients funded by the local Area Agency on Aging. He restricts his senior practice in such a way as to nearly eliminate any possibility of conflicts between his senior clients and LSNC

clients (for example, by not accepting landlords as clients) and uses Pika to check for conflicts in each matter he handles for LSNC. I have reviewed the California Rules of Professional Conduct Sections 3-100 "Confidentiality of Information of a Client" and 3-310 "Avoiding the Representation of Adverse Interests" in light of this arrangement. Those rules do not appear to prevent us from permitting Mr. Rossoff access to Pika given his practice of checking for conflicts prior to initiating representation. Our duty, as a law practice, to keep client confidences also binds Mr. Rossoff. Furthermore, Mr. Rossoff's contract includes the following provision:

*"6. Contractor agrees to refuse to accept any private client whose interest conflicts with that of a client served pursuant to this contract. In the event a potential conflict of interest should arise, the Contractor shall disclose such potential conflict to LSNC and refer the eligible client back to LSNC or to another private attorney who agrees to take the client's case on a pro bono basis."*

This PAI contract relationship with Mr. Rossoff is unique and would not be duplicated by LSNC in the future. Incidentally, Mr. Rossoff intends to retire from practice by the end of this calendar year. At that time, LSNC will no longer have any similar arrangements whereby private attorneys who maintain another practice will have access to Pika outside the direct supervision of LSNC staff.

I consulted with our information technology staff regarding the feasibility of modifying Pika to permit Mr. Rossoff access only to check conflicts and to work on his own assigned cases. While that re-configuration is technically possible, it would require a significant and costly allocation of technology staff resources that is impractical and, as described above, unnecessary. LSNC does not plan to take any further action with regard to this arrangement with Mr. Rossoff at this time.

### **Corrective Action 9**

At page 31, the review team discusses the work of VLSP's Criminal Records Expungement and Driver's License Reinstatement clinics. A volunteer attorney has not worked on site at that clinic on an ongoing basis, though volunteer attorneys have helped to staff the clinics from time to time. LSNC recognizes the concerns of the review team regarding eligibility of only private *attorney* work, as opposed to paralegal work, as qualified private attorney involvement. We have begun staffing those clinics with a private attorney on an ongoing basis and that attorney will review the clinic cases promptly and will work on site regularly. When not on site, the attorney will be available via telephone and email during clinic hours to advise and supervise the clinic operations.

Please note that the expenses for these two clinics have never been part of the 12.5% PAI allocation that LSNC reports to LSC. These expenses are paid with other VLSP funds and will continue to be paid with those funds.

### **Corrective Action 10**

LSNC has drafted a revision of its Accounting Manual Section II that describes the methodology for accounting PAI costs. A copy of that addition to Section II is included at **Attachment E**.

### **Corrective Action 11**

At its June 26, 2012 meeting, LSNC's Board of Directors adopted new and revised policies which have now been implemented via email notification to staff and follow-up training by Managing Attorneys in each office. The new policies include those implementing 45 C.F.R. §§ 1604, 1609, 1612, 1620, 1627, 1633, 1636 and 1644 and they are included at **Attachment F**.

## **RESPONSE TO FINDINGS**

### **Finding 3**

The review team found substantial compliance with income eligibility documentation under 45 C.F.R. §1611 *et seq.*, but did find that 4 of the 786 cases reviewed did not comply with the requirements of that section. Three of the 4 were actual errors, but the review team was incorrect in its finding that Case No. 92-10-05194 lacked documentation of an authorized over-income exception. That case involved a client who lived in a 2-person household in which both individuals receive the full individual SSI rate, but SSI is the only income for the household. Ordinarily, a married couple or domestic partners "holding out" as married would have their SSI benefits reduced to the couples rate, which is less than 125% of poverty. Since the client and the other household member are a same-sex couple, the SSI "holding out" rules do not apply to them since the federal Social Security Administration is bound by the Defense of Marriage Act. The household's income was 146% of FPL, however the client was eligible under the exception for households wherein all income is derived from a government program for low-income individuals that has an income and asset test. No further documentation should have been necessary to demonstrate eligibility under that exception.

### **Finding 6**

The review team found LSNC in substantial compliance with the retainer requirements of 45 C.F.R. §1611.9 with 12 of the 786 cases reviewed missing retainers where one was required. Three of those were actually compliant. One (Case No. 91-10-01789) had a regular LSNC form retainer in the file signed on 5/13/2010. Two others (Case Nos. 91-10-10835 and 91-10-07927) had signed and contemporaneously dated In Pro Per Assistance agreements with the clients, a copy of that format is included at **Attachment G**. Those agreements serve as retainer agreements and comply with the applicable rules of professional responsibility and

practices among legal services organizations in California. The agreements include a description of the legal problem and the nature of the legal service to be provided.

### **Finding 12**

The review team found substantial compliance with the prohibition on duplicate cases. The team found three cases for the same client they determined to be duplicates. The team was incorrect in its determination. Case Nos. 90-11-07153, 90-11-04507 and 90-11-08847 all involved services for the same client, however, they were three separate and distinct cases. Each of these cases was a different unlawful detainer (eviction) action filed by the landlord against our client. Each case had a different Civil Action Number. In accordance with the CSR Handbook (2008 Ed., as amended 2011), §6.4(b), the cases were reported separately. Since this was not an error, LSNC should be found in compliance with the prohibition on duplicate cases.

We would appreciate revisions to the report that more accurately note case exceptions the team noted in these areas. In particular, we hope for a finding of compliance with regard to the prohibition on duplicate cases.

Please do not hesitate to contact me at (916) 551-2111 or via email at [gsmith@lsnc.net](mailto:gsmith@lsnc.net) or Julie Aguilar Rogado at (916) 551-2179 or via email at [jaquilar@lsnc.net](mailto:jaquilar@lsnc.net) if you have any questions. Please express our appreciation to the review team, and Ms. Smith in particular, for the time and effort they put forth during the review and subsequently to discuss ways in which our program can improve in terms of compliance with LSC regulations and policies.

Very truly yours,



Gary F. Smith  
Executive Director

Encl.

## **Attachment A**

- the applicant is seeking legal assistance to obtain governmental benefits for low income individuals and families; or
- the applicant is seeking legal assistance to obtain or maintain governmental benefits for persons with disabilities; or
- one or more of the following factors is considered: (a) the applicant's income prospects are limited or the applicant experiences seasonal variations in income; (b) the applicant has unreimbursed medical expenses, including medical insurance premiums and copays; (c) the applicant has fixed debts or obligations, including but not limited to unpaid taxes, mortgage payments, rent, child and spousal support, and business equipment loan payments. It does not include expenses for food or utilities, or credit card debt; (d) the applicant has expenses such as for dependent care, transportation or equipment necessary for employment, job training or educational activities in preparation for employment; (e) the applicant has non-medical expenses associated with age or disability; (f) the applicant is responsible for paying current taxes - such taxes include all federal, state and local taxes on income and wages, and property taxes, but not sales taxes; (g) other significant factors that affect the applicant's ability to afford legal assistance.

The specific facts and factors for providing an exception to an applicant under this section shall be recorded in the client's file on the Pika eligibility page notes field, including the source and amount of expenses, if applicable. When using (g) above as an exception, the Managing Attorney must be informed of the factors considered and approve the use of that exception.

(3) Notwithstanding the above, if an applicant's household income is derived solely from a governmental program for low income individuals or families that have an assets test and have income standards that are at or below 125% of the current federal poverty level, the applicant is eligible for LSC-funded legal assistance without an independent determination of the applicant's income and assets. These programs include Supplemental Security Income (SSI) and CalWORKs. Legal assistance in such cases may be provided on any matter within LSNC's stated priorities.

(4) If an applicant has identified himself or herself as a victim of domestic violence, in determining financial eligibility for LSC-funded services, LSNC shall consider only the assets and income of the applicant and those members of the applicant's household other than the alleged perpetrator of domestic violence, and shall not include any of the assets held by the alleged perpetrator of domestic violence, jointly held by the applicant and the alleged perpetrator or jointly held by any member of the applicant's household and the alleged perpetrator.

#### c. Asset Ceilings

The following shall be excluded from calculation of an applicant's assets:

- the value of the household's principal residence;
- assets used in producing income;
- any vehicle used for transportation; and,
- other assets which are exempt from attachment under state or federal law.

To be eligible to receive legal assistance from LSNC with LSC funds, the aggregate value of an applicant's non-excludable assets shall not exceed \$10,000 for a single person household or \$15,000 for a household of two or more, unless waived. The executive director shall have the authority to waive the asset ceiling

## **Attachment B**

# Legal Services of Northern California

## Group Eligibility Form

45 C.F.R. §1611.6 sets for the group eligibility guidelines of the Legal Services Corporation. When completed, this form collects the data necessary to appropriately determine group eligibility under LSNC and LSC rules. *The eligibility of an organization for LSC-funded legal assistance is a question of judgment given all the facts and circumstances of the organization, its activities and the service to be provided.*

Date: \_\_\_\_\_ Case handler: \_\_\_\_\_ Case No: \_\_\_\_\_

Name of Group: \_\_\_\_\_

Contact Person (Name & Title): \_\_\_\_\_

Telephone: \_\_\_\_\_

Address: \_\_\_\_\_

Executive Director: \_\_\_\_\_ Telephone: \_\_\_\_\_

Nature of Organization:

501(c)(3) Corporation  Group Seeking Incorporation  Unincorporated Ass'n

### A. Financial Eligibility:

*Has the group provided financial information that it lacks, and has no practical means of obtaining, funds to retain private counsel?*  Yes  No

If "No" the group is not eligible. If "Yes" the group must answer "Yes" to either question "B" or "C" below and provide the following information:

Approximate annual revenue: \$ \_\_\_\_\_

Approximate annual expenses: \$ \_\_\_\_\_

Approximate annual surplus or deficit: \$ \_\_\_\_\_

Funds currently budgeted for legal representation: \$ \_\_\_\_\_

Assets: \_\_\_\_\_

Expenses or liabilities: \_\_\_\_\_

Prospects for increased or decreased income: \_\_\_\_\_

Other considerations: \_\_\_\_\_

Source of Financial Data (Provided by officer, taken from annual audit, financial statement, Form 990, Form 1023, etc.): \_\_\_\_\_

**B. Is the group's membership, or if not a membership organization, its operating body, primarily composed of individuals who would be financially eligible for LSC-funded legal assistance?**

Yes       No

If "No" go to question "C" below. If "Yes" answer the following questions:

Number of Members: \_\_\_\_\_ Membership qualifications: \_\_\_\_\_

State financial or other socioeconomic characteristics showing that members may be considered as persons who would be financially eligible for LSC-funded legal assistance, such as average income or other factors: \_\_\_\_\_

**C. Does the group have as a principal activity the delivery of services to those persons in the community who would be financially eligible for LSC-funded legal assistance and does the assistance sought relate to such activity?**     Yes     No.

If "Yes" answer questions "i," "ii" and "iii" below:

i. Activities: \_\_\_\_\_

ii. Indicators that the financial or other socioeconomic characteristics of the persons served are consistent with those of persons who are financially eligible for LSC-funded legal assistance:

iii. Indicators that the assistance sought relates to the activities on behalf of eligible persons:

REVIEWED AND APPROVED: \_\_\_\_\_  
Managing Attorney

\_\_\_\_\_ Date

## **Attachment C**

in unusual or extremely meritorious situations. If a waiver is granted, that decision and the reasoning for granting the waiver shall be recorded in the client's file on the Pika eligibility page notes field.

### 3. Group Eligibility

LSNC may provide legal assistance to a group, corporation, or association or other entity using LSC funds if the applicant group provides information showing that it lacks, and has no practical means of obtaining, funds to retain private counsel and either:

- a. The applicant group or its operating body is primarily composed of individuals who would be financially eligible for LSC-funded legal assistance; or
- b. The applicant group's principal activity is delivery of services to people in the community who would be financially eligible for LSC-funded legal assistance and the legal assistance sought relates to such activity.

LSNC shall consider and document the applicant group's revenue, revenue prospects, assets and obligations and, for groups seeking eligibility under (a.), whether the financial or other socioeconomic characteristics of the group members are consistent with those of people financially eligible for LSC-funded legal assistance; or, for groups seeking eligibility under (b.), whether the financial or other socioeconomic characteristics of the people served by the group are consistent with those of people who are financially eligible for LSC-funded legal assistance and the assistance sought relates to such activity of the group. The Group Eligibility Worksheet shall be completed for group cases.

#### D. Cases Prohibited Due to Subject Matter

In determining whether or not to accept or reject a case, LSNC shall comply with all LSNC Board Policies and all applicable federal statutes and regulations, including the following: §1613 (certain criminal proceedings); §1615 (habeas corpus); §1617 (class actions); §1632 (redistricting); §1637 (litigation on behalf of prisoners); §1639 (welfare reform); and 45 C.F.R. §1610 (abortion). Specific restrictions with respect to prisoners and certain evictions are explained below. If any doubt exists as to whether a proposed case might fall within any of the prohibitions or restrictions embodied in any of the above policies (or any other LSNC Board Policy), the director of litigation shall be consulted prior to acceptance of the case.

##### 1. Representation of Prisoners

Pursuant to 45 C.F.R. §1637.5, and pursuant to LSNC Board of Directors' Policy 1637, LSNC shall not participate in any civil litigation on behalf of a person who is incarcerated in a federal, state or local prison, whether as a plaintiff or a defendant, nor may LSNC participate on behalf of such an incarcerated person in any administrative proceedings challenging the conditions of confinement. If LSNC becomes aware that a client has been incarcerated after litigation has commenced, LSNC will use its best efforts to withdraw from the litigation, unless the period of incarceration is anticipated to be brief and the litigation is likely to continue beyond the period of incarceration.

LSNC staff shall promptly report in writing to the director of litigation any cases where a client becomes incarcerated after litigation has commenced, along with documentation evidencing the date LSNC became aware of the incarceration, and LSNC's efforts to withdraw from the litigation, or a statement detailing the reasons why the period of incarceration is anticipated to be brief and the litigation is likely to continue beyond the period of incarceration.

## **Attachment D**

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## 1611 - Client Financial Eligibility

### 1. Purpose

LSNC adopts the following financial eligibility policy for individuals and groups who are provided legal assistance supported in whole or in part with funds received from LSC. The Board of Directors shall review this policy within three years of the date of adoption and make any necessary adjustments at that time.

Only individuals and groups determined to be financially eligible under these policies and 45 C.F.R. §1611 of the LSC regulations may receive legal assistance supported in whole or in part with LSC funds. These policies do not apply to individuals or groups for whom service is wholly supported by funds from sources other than LSC.

Eligibility under these policies does not create an entitlement to legal assistance. LSNC shall determine whether or not to provide service to an eligible individual or group based on the merits of the particular case and the application of LSNC's priorities and case acceptance criteria.

Financial eligibility for legal assistance shall be determined in a manner conducive to the development of an effective attorney-client relationship, and information from applicants and groups shall be obtained in a manner that promotes the development of trust between attorney and client.

### 2. Definitions

- a. An "Applicant" is an individual who is seeking legal assistance supported with LSC funds.
- b. "Assets" are cash or other resources of the applicant or members of the applicant's household that are readily convertible to cash and which are currently and actually available to the applicant. Examples of countable assets are cash, stocks, bonds, moneys in bank accounts, cash surrender value of life insurance policies, money market certificates, annuities, treasury bills and other commercial paper, equity value of real property other than the applicant's home, vehicles not used for transportation, promissory notes, deeds of trust, livestock and art.
- c. "Government program for low income individuals or families" means any Federal, State or local program that provides benefits of any kind to persons whose eligibility is determined on the basis of financial need.
- d. "Government program for persons with disabilities" is any Federal, State or local

program that provides benefits of any kind to persons whose eligibility is determined on the basis of mental and/or physical disability.

- e. A "household" is all persons in the applicant's residence upon whom the applicant substantially relies for support and/or who substantially relies on the applicant for financial support.
- f. "Income" means actual current annual total cash receipts before taxes of all persons who are resident members of, and contribute to, the support of an applicant's household. Income does not include the value of food or rent received in lieu of wages, tax refunds, gifts, student loans and grants, one-time payments for injuries sustained, non-cash benefits and \$2,000 or less per year received by individual Native Americans derived from Indian trust income or other distributions exempt by statute.
- g. "Total cash receipts" includes wages and salaries before any deduction, income from self employment after deductions for business or farm expenses, regular payments from public benefit programs, worker's compensation, strike benefits from union funds, veterans benefits, training stipends, alimony, child support, military family allotments, public or private employee pensions, 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.

### 3. Maximum Income Level

- a. The maximum annual income level for persons to be eligible to receive legal assistance with LSC funds shall not exceed one hundred and twenty-five percent (125%) of the current official federal poverty income guidelines. The maximum annual income levels are set forth in Appendix A of 45 C.F.R. §1611.
- b. Unless authorized by 45 C.F.R. §1611.4 and set forth as an authorized exception in paragraph 4 of this policy, no person whose income exceeds the maximum annual income level established by LSNC shall be eligible for legal assistance under the Act.
- c. This policy does not prohibit LSNC from providing legal assistance to a client whose annual income exceeds the maximum income level established here, if the assistance provided the client is supported by funds from a source other than the LSC.

### 4. Authorized Exceptions to the Maximum Income Level

- a. An applicant may be determined to be financially eligible without 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 as long as the Board has determined that the income standards of the governmental program are at or below

125% of the federal poverty income guidelines amounts and that the program also has eligibility standards that include an asset test. Currently, the Supplemental Security Income (SSI) and CalWORKs programs have been determined by the Board to qualify under this exception. LSNC staff members must still record income and assets information for applicants eligible under this exception.

- b. An applicant may be determined financially eligible as long as he or she meets the asset requirements set forth below and is seeking legal assistance to maintain benefits provided by a governmental program for low income individuals or families.
- c. An applicant may be determined financially eligible as long as he or she meets the asset requirements set forth below and the Executive Director determines, based upon documentation received by the recipient, that the applicant's income is primarily committed to medical or nursing home expenses and that, excluding that dedicated income, the applicant would otherwise be financially eligible for service. Eligibility determined using this exception, including the nature of the documentation and the cost of medical or nursing home expenses, shall be noted specifically in the case file.
- d. An applicant whose gross income exceeds the maximum income level established by LSNC but does not exceed two hundred (200%) percent of the federal poverty income guidelines (125% of poverty guidelines listed in 45 C.F.R. §1611, Appendix A) may be provided legal assistance using LSC funds as long as he or she meets the asset requirements set forth below and if :
  - (1) The applicant is seeking legal assistance to obtain governmental benefits for low income individuals and families; or
  - (2) The applicant is seeking legal assistance to obtain or maintain governmental benefits for persons with disabilities; or
  - (3) One or more of the following factors is applicable to the applicant or members of the applicant's household and justifies a finding that the applicant should be considered financially eligible:
    - (a) current income prospects, taking into account seasonal variations in income;
    - (b) unreimbursed medical expenses and medical insurance premiums;
    - (c) fixed debts and obligations;
    - (d) expenses such as dependent care, transportation, clothing and equipment expenses necessary for employment, job training or educational activities in preparation for employment;
    - (e) non-medical expenses associated with age or disability;
    - (f) current taxes;
    - (g) other significant factors that the recipient has determined affect the applicant's ability to afford legal assistance.

When an applicant is found eligible under (3), the case file must include a notation on the basis for the eligibility determination including specific facts and factors relied upon to make the eligibility determination.

## 5. Determination of Eligibility for Groups

LSNC may provide legal assistance to a group, corporation, or association or other entity if the applicant group provides information showing that it lacks, and has no practical means of obtaining, funds to retain private counsel and either:

- a. The applicant group or its operating body is primarily composed of individuals who would be financially eligible for LSC-funded legal assistance; or
- b. The applicant group's principal activity is delivery of services to people in the community who would be financially eligible for LSC-funded legal assistance and the legal assistance sought relates to such activity.

LSNC shall consider and document the applicant group's revenue, revenue prospects, assets and obligations and, for groups seeking eligibility under (a.), whether the financial or other socioeconomic characteristics of the group members are consistent with those of people financially eligible for LSC-funded legal assistance; or, for groups seeking eligibility under (b.), whether the financial or other socioeconomic characteristics of the people served by the group are consistent with those of people who are financially eligible for LSC-funded legal assistance and the assistance sought relates to such activity of the group. The Group Eligibility Worksheet shall be completed for group cases.

## 6. Asset Ceilings

- a. The following shall be excluded from calculation of an applicant's assets:
  - The value of the household's principal residence;
  - Any asset used in producing income for the household;
  - Any vehicle used for transportation by the household;
  - Any assets which are exempt from attachment under State or Federal law.
- b. To be eligible to receive legal assistance from LSNC with LSC funds, the aggregate value of an applicant's non-excludable assets shall not exceed \$10,000 for a single-person household and \$15,000 for a household of two or more, unless waived pursuant to section (d.) of this policy.
- c. In establishing the asset ceiling, the Board took into consideration the cost-of-living in the LSNC service area, the number of persons who can be served by available program resources, the population that would be eligible for assistance at alternative

income levels, and the availability and cost of legal services provided by the private bar.

- d. The Executive Director shall have the authority to waive the asset ceilings in section (b.) in unusual or extremely meritorious situations. The Executive Director may delegate to the Managing Attorneys the authority to waive asset ceilings pursuant to this section. If a waiver is granted, that decision shall be documented and included in the client file. LSNC shall keep such records as are necessary to inform LSC of the reason for any such waiver.

#### 7. Applicants who Report Domestic Violence

If an applicant has identified her or himself as a victim of domestic violence, LSNC shall consider only the assets and income of the applicant and those members of the applicant's household other than the alleged perpetrator of domestic violence, and shall not include any assets held by the alleged perpetrator of domestic violence, jointly held by the applicant with the alleged perpetrator, or jointly held by any member of the applicant's household with the alleged perpetrator.

#### 8. Financial Eligibility Information and Status

LSNC shall make reasonable inquiry regarding the sources of an applicant's income prospects and the applicant's assets, and shall record information to document the applicant's income and assets. If there is substantial reason to doubt the accuracy of financial eligibility information provided to LSNC by an applicant or group, LSNC staff shall make reasonable inquiry to verify the information in a manner consistent with the attorney-client relationship. If, after making a determination of financial eligibility and accepting a client for LSC-funded service, LSNC staff become aware that the client has become financially ineligible for LSC-funded services through a change in circumstances or later disclosed information, LSNC shall discontinue representation supported with LSC funds and conclude representation using other funds consistent with the rules of professional responsibility.

#### 9. Retainer Agreement

LSNC shall execute a written retainer agreement that identifies the legal problem for which representation is sought, the nature of legal services to be provided and the rights and responsibilities of the attorney and client upon commencement of extended legal services for a client or as soon as practicable thereafter. Extended services are those that involve assistance at a higher level than advice and counsel or brief services. LSNC shall retain the executed retainer agreement as part of the client's file.

**Corresponding LSC Regulation:** 45 C.F.R. §1611.

**Date Adopted by the LSNC Board of Directors:** June 26, 2012

## **Attachment E**

## **Amendment to Section II. Reporting and Record Keeping of the LSNC Accounting Manual:**

### **Methodology for Accounting Private Attorney Involvement Costs**

In accordance with 45 C.F.R. §1614 *et seq.*, financial reporting of PAI activity, support and expenses related to the effort shall be reported separately in LSNC's annual financial statements. Consistent with 45 C.F.R. §1614(e)(1)(i), LSNC shall accurately account for administrative, overhead, staff and support costs related to PAI activities.

### **Personnel**

A monthly timesheet recapitulation sheet by location is given to the Accountant to calculate the monthly PAI for non-personnel expenses. The Accountant prints out a trial balance by location of all eligible PAI expenses for the month. The location's total PAI percentage reflected on the monthly recap sheet is used to calculate the non-personnel expense by eligible fund. The entry is given to the Director of Finance for approval and then posted to the general ledger as an electronic journal voucher.

Upon submission of timesheets, Grant Accountants enter the time data into the payroll system for each employee including the time each employee worked on PAI. This time is recorded as a percentage of time worked rather than a number of hours. If any direct or indirect time of staff attorneys or paralegals is to be allocated as a cost to PAI, such costs must be documented by time sheets accounting for the time those employees have spent on PAI activities. All staff members shall select the PAI box on Pika for time slips recorded on PAI activities.

Personnel cost allocations for non-attorney or non-paralegal staff are also tracked based upon selection of the PAI box on Pika to note actual time expended.

### **Non-Personnel**

Non-personnel costs shall be allocated on the basis of reasonable operating data. All methods of allocating common costs shall be clearly documented.

## **Attachment F**



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### **1604 - Outside Practice of Law**

Attorneys employed by LSNC full time may not engage in outside practice of law without prior written consent of the Executive Director.

Outside practice on individual cases or matters may be permitted if the Executive Director determines that the attorney's representation in that case or matter is consistent with the attorney's responsibilities to the recipient's clients and the attorney does not intentionally identify the case or matter with LSC or LSNC and:

- 1) The attorney is newly employed and has a professional responsibility to conclude representation from a previous law practice and does so on the attorney's own time as expeditiously as possible; or
- 2) The attorney is representing him or herself, a close friend or family member; or
- 3) The attorney is acting on behalf of a religious community or charitable group; or
- 4) The attorney is participating in a voluntary pro bono or legal referral program affiliated with or sponsored by a bar association, other legal organization or religious, community or charitable group; or
- 5) The attorney has received a court appointment by a court or administrative agency under a statute, rule or practice applied generally to attorneys practicing in the court or before the agency where the appointment is made.

Attorneys approved to engage in outside practice pursuant to category 1 above may seek and receive personal compensation for work performed pursuant to that section. Attorneys providing representation pursuant to a court appointment must seek compensation for the court appointment under the same terms and conditions as are applied generally to attorneys practicing in the court where the appointment is made and must remit that compensation to LSNC upon receipt.

LSNC resources cannot be used in any compensated outside practice, except in court appointed cases. Very limited and incidental use of LSNC resources is permitted for uncompensated outside practice if necessary to fulfill the attorney's professional responsibilities and as long as the activities involved would not be prohibited by LSC.

**Corresponding LSC Regulation:** 45 C.F.R. 1604

**Date Adopted by LSNC Board of Directors:** June 26, 2012

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### 1609 – Fee-Generating Cases

This policy is designed to ensure that LSNC does not use scarce legal services resources when private attorneys are available to provide effective representation and to assist eligible clients to obtain appropriate and effective legal assistance.

A fee-generating case is a case or matter which, if undertaken on behalf of an eligible client by an attorney in private practice, may reasonably be expected to result in a fee award to a client for legal services from public funds or the opposing party. A case is not a fee-generating case when a court has appointed LSNC or one of its attorneys to provide representation in a case pursuant to a statute, court rule or practice equally applicable to all attorneys in the jurisdiction or when LSNC undertakes representation under a contract with a government agency or other entity.

LSNC may not provide legal assistance on fee-generating cases with LSC funds unless:

- 1) The case has been rejected by the local lawyer referral service or by two private attorneys; or
- 2) Neither the referral service nor two private attorneys will consider the case without payment of a consultation fee.

LSNC may provide legal assistance in a fee-generating case without first attempting to refer the case pursuant to paragraph (a) of this section only when an eligible client is seeking benefits under Subchapter II of the Social Security Act, 42 U.S.C. 401 *et seq.*, as amended, Federal Old Age, Survivors, and disability Insurance Benefits; or Subchapter XVI of the Social Security Act, 42 U.S.C. 1381 *et seq.*, as amended, Supplemental Security Income for Aged, Blind, and Disabled; and

- (a) LSNC, after consultation with appropriate representatives of the private bar, has determined that the type of case is one that private attorneys in the area served by the recipient ordinarily do not accept, or do not accept without prepayment of a fee; or
- (b) LSNC's Executive Director has determined that referral of the case to the private bar is not possible because:
  - (i) Documented attempts to refer similar cases in the past generally have been futile;
  - (ii) Emergency circumstances compel immediate action before referral can be made, but the client is advised that, if appropriate and consistent with professional responsibility, referral will be attempted at a later time; or
  - (iii) Recovery of damages is not the principal object of LSNC's client's case and substantial statutory attorneys' fees are not likely to be available.

When LSNC is able to undertake a fee-generating case in accordance with this policy and utilizes any LSC funds in the representation, attorney fees received for the representation shall be allocated to the fund to which LSC funds are recorded in proportion to the amount of LSC funds expended to support the representation. Such fees shall be recorded during the accounting period during which the fee award is actually received by LSNC and may be expended for any purpose permitted under law at the time of receipt.

If the retainer agreement in a case requires the client to pay court costs or other out-of-pocket expenses incurred in connection with the case, LSNC shall accept reimbursement from the client from any recovery of damages or statutory benefits.

Attorneys shall document compliance with this policy using LSNC's Litigation Approval Form and shall comply with the procedures set forth in LSNC's Case Management and Litigation Manual.

**Corresponding LSC Regulation:** 45 C.F.R. 1609, 42 U.S.C. § § 2996f (b)(1) and 2996e (c)(6)

**Date Adopted by LSNC Board or Directors:** June 26, 2012



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### 1612 – Restrictions on Lobbying and Certain Other Activities

Except as otherwise permitted under this policy, LSNC shall not attempt to influence:

- (1) The passage or defeat of any legislation or constitutional amendment;
- (2) Any initiative, or any referendum or any similar procedure of the Congress, any State legislature, any local council, or any similar governing body acting in any legislative capacity;
- (3) Any provision in a legislative measure appropriating funds to or defining or limiting the functions or authority of LSNC or LSC; or
- (4) The conduct of oversight proceedings concerning LSNC or LSC.

Except as otherwise permitted under this policy, LSNC shall not participate in or attempt to influence any rulemaking, or attempt to influence the issuance, amendment or revocation of any executive order.

Recipients shall not use any funds to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, administrative expense, or related expense, associated with an activity prohibited in this policy.

#### Definitions

- (a) “Grassroots lobbying”
  - (1) means any oral, written or electronically transmitted communication or any advertisement, telegram, letter, article, newsletter, or other printed or written matter or device which contains a direct suggestion to the public to contact public officials in support of or in opposition to pending or proposed legislation, regulations, executive decisions, or any decision by the electorate on a measure submitted to it for a vote. It also includes the provision of financial contributions by recipients to or participation by recipients in any demonstration, march, rally, fund raising drive, lobbying campaign, letter writing or telephone campaign for the purpose of influencing the course of such legislation, regulations, decisions by administrative bodies, or any decision by the electorate on a measure submitted to it for a vote.
  - (2) does not include communications which are limited solely to reporting the content of or status of, or explaining pending or proposed legislation or regulations.

- (b) "Legislation"
- (1) means any action or proposal for action by Congress or by a State or local legislative body which is intended to prescribe law or public policy. The term includes, but is not limited to, action on bills, constitutional amendments; the ratification of treaties and intergovernmental agreements, approval of appointments and budgets, and approval or disapproval of actions of the executive.
  - (2) does not include those actions of a legislative body which adjudicate the rights of individuals under existing laws; nor does it include legislation adopted by an Indian Tribal Council.
- (c) "Public policy" means an overall plan embracing the general goals and procedures of any governmental body and pending or proposed statutes, rules and regulations.
- (d) "Rulemaking"
- (1) means any agency process for formulating, amending or repealing rules, regulations or guidelines of general applicability and future effect issued by the agency pursuant to Federal, State or local rulemaking procedures, including the customary procedures that are used by an agency to formulate and adopt proposals for the issuance, amendment or revocation of regulations or other statements of general applicability and future effect, such as negotiated rulemaking and "notice and comment" rulemaking procedures under the Federal Administrative Procedure Act or similar procedures used by State or local government agencies; and adjudicatory proceedings that are formal adversarial proceedings to formulate or modify an agency policy of general applicability and future effect.
  - (2) does not include administrative proceedings that produce determinations that are of particular, rather than general applicability and affect only the private rights, benefits or interests of individuals, such as Social Security hearings, welfare fair hearings, or granting or withholding of licenses; communication with agency personnel for the purpose of obtaining information, clarification, or interpretation of the agency's rules, regulations, guidelines, policies or practices.
- (e) "Public rulemaking" means any rulemaking proceeding or portion of such proceeding or procedure that is open to the public through notices of proposed rulemaking published in the Federal Register or similar State or local journals, announcements of public hearings on proposed rules or notices of proposed rulemaking including those

that are routinely sent to interested members of the public, or other similar notifications to members of the public.

- (f) "Similar procedure" means a legislative process by which matters must be determined by a vote of the electorate.

### **Grassroots Lobbying**

LSNC shall not engage in any grassroots lobbying activity.

### **Permissible Activities Using Any Funds**

- (a) LSNC may provide administrative representation for an eligible client in a proceeding that adjudicates the particular rights or interests of such eligible client or in negotiations directly involving that client's legal rights or responsibilities, including pre-litigation negotiation and negotiation in the course of litigation.
- (b) LSNC may initiate or participate in litigation challenging agency rules, regulations, guidelines or policies, unless such litigation is otherwise prohibited by law or LSC regulations.
- (c) LSNC may:
  - (1) Apply for governmental grants or contracts;
  - (2) Communicate with a governmental agency for the purpose of obtaining information, clarification, or interpretation of the agency's rules, regulations, practices, or policies;
  - (3) Inform clients, other recipients, or attorneys representing eligible clients, about new or proposed statutes, executive orders, or administrative regulations;
  - (4) Communicate directly or indirectly with LSC for any purpose including commenting upon existing or proposed LSC rules, regulations, guidelines, instructions and policies;
  - (5) Participate in bar association activities, as long as LSNC resources are not used to support and LSNC is not identified with activities that are devoted to activities prohibited by this policy;
  - (6) Advise a client of the client's right to communicate directly with an elected official; or
  - (7) Participate in activity related to the judiciary, including the promulgation of court rules, rules of professional responsibility and disciplinary rules.

### **Permissible Activities Using Non-LSC Funds**

- (1) LSNC and its employees may use non-LSC funds to respond to a written request from a governmental agency or official thereof, elected official, legislative body, committee, or member thereof made to the employee, or to a recipient to:
  - Testify orally or in writing; or
  - Provide information which may include analysis of or comments upon existing or proposed rules, regulations or legislation, or drafts of proposed rules, regulations or legislation; or
  - Participate in negotiated rulemaking under the Negotiated Rulemaking Act of 1990, 5 U.S.C. 561, *et seq.*, or comparable State or local laws, as long as
    - (a) communications made in response to such requests may be distributed only to the party or parties that made the request and to other persons or entities only to the extent that such distribution is required to comply with the request; and
    - (b) no employee of the recipient solicits or arranges for a request from any official to testify or otherwise provide information in connection with legislation or rulemaking.

LSNC's Executive Director shall maintain copies of all written requests received by the recipient and written responses made in response thereto and make such requests and written responses available to monitors and other representatives LSC upon request.

- (2) LSNC may use non-LSC funds to provide oral or written comment to an agency and its staff in a public rulemaking proceeding.
- (3) LSNC may use non-LSC funds to contact or communicate with or respond to a request from a State or local government agency, a State or local legislative body or committee, or a member thereof, regarding funding for the recipient, including a pending or proposed legislative or agency proposal to fund such recipient.

#### **Public Demonstrations and Activities**

- (a) During working hours, while providing legal assistance or representation to the LSNC clients or while using resources provided by LSC or by private entities, no employee of LSNC shall:
  - (1) Participate in any public demonstration, picketing, boycott, or strike, except as permitted by law in connection with the employee's own employment situation; or
  - (2) Encourage, direct, or coerce others to engage in such activities.
- (b) No employee of LSNC shall at any time engage in or encourage others to engage in any:

- (1) Rioting or civil disturbance;
  - (2) Activity determined by a court to be in violation of an outstanding injunction of any court of competent jurisdiction; or
  - (3) Other illegal activity that is inconsistent with an employee's responsibilities under applicable law, LSC regulations, or the rules of professional responsibility of the jurisdiction where LSNC is located or the employee practices law.
- (c) Nothing in this section shall prohibit an attorney from:
- (1) Informing and advising a client about legal alternatives to litigation or the lawful conduct thereof; or
  - (2) Taking such action on behalf of a client as may be required by professional responsibilities or applicable law of any State or other jurisdiction.

### **Training**

LSNC may not support or conduct training programs that:

- Advocate particular public policies; or
- Encourage or facilitate political activities, labor or anti-labor activities, boycotts, picketing, strikes or demonstrations, or the development of strategies to influence legislation or rulemaking; or
- Disseminate information about such policies or activities; or
- Train participants to engage in activities prohibited by the LSC Act, other applicable law or LSC regulations, guidelines or instructions.

Nothing in this policy shall be construed to prohibit training of any attorneys or paralegals, clients, lay advocates, or others involved in the representation of eligible clients necessary for preparing them to provide adequate legal assistance to eligible clients or to provide advice to any eligible client as to the legal rights of the client.

### **Organizing**

LSNC shall not use LSC funds or by private entities to initiate the formation, or the act as an organizer, of any association, federation, labor union, coalition, network, alliance, or any similar entity.

This prohibition shall not be construed to apply to:

- (1) Informational meetings attended by persons engaged in the delivery of legal services at which information about new developments in law and pending cases or matters are discussed; or
- (2) Organizations composed exclusively of eligible clients formed for the purpose of advising a legal services program about the delivery of legal services.

LSNC and its employees may provide legal advice or assistance to eligible clients who desire to plan, establish or operate organizations, such as by preparing articles of incorporation and bylaws.

**Recordkeeping and Accounting for Activities Funded with Non-LSC Funds**

LSC funds shall not be used to pay for administrative overhead or related costs associated with any permissible activities using non-LSC funds. LSNC shall maintain separate records documenting the expenditure of non-LSC funds for legislative and rulemaking activities permitted with non-LSC funds. LSNC shall submit semi-annual reports to LSC describing its legislative activities with non-LSC funds conducted pursuant to 45 C.F.R. §1612.6, together with such supporting documentation as specified by LSC.

**Corresponding LSC Regulation:** 45 C.F.R. 1612 *et seq.*

**Date Adopted by LSNC Board of Directors:** June 26, 2012

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### 1620 – Priorities in Use of Resources

On an annual basis, LSNC's Board of Directors shall review and adopt priorities for case acceptance, matters and general use of resources. In setting program priorities annually, the Board shall consider:

1. The extent to which the objectives of the recipient's priorities have been accomplished;
2. Changes in the resources of the recipient;
3. Changes in the size, distribution, or needs of the eligible client population; and
4. The volume of non-priority emergency cases or matters in a particular legal area since priorities were last reviewed.

In order to inform the Board's consideration of the factors listed above, LSNC shall every three (3) years conduct an in-depth appraisal of the needs of eligible clients in LSNC's service area and the relative importance of those needs based upon information received from potential or current eligible clients that is solicited in a manner reasonably calculated to obtain the views of all significant segments of the client population. The appraisal shall also include information obtained from LSNC's employees, LSNC's Board, the private bar, and other interested persons. The appraisal shall address the need for outreach, training of LSNC employees and support services. LSNC shall offer the Board proposed priorities considering the following factors:

- a. The suggested priorities promulgated by LSC;
- b. The appraisal of needs;
- c. The population of eligible clients in LSNC's service area, including all significant segments of that population with special legal problems or special difficulties of access to legal services;
- d. The resources available to LSNC;
- e. The availability of another source of free or low-cost legal assistance in a particular category of cases or matters;
- f. The availability of other sources of training, support, and outreach services;
- g. The relative importance of particularly legal problems to LSNC's individual clients;
- h. The susceptibility of particular problems to solution through legal processes;
- i. Whether legal efforts by the recipient will complement other efforts to solve particular problems in the area served;
- j. Whether legal efforts result in efficient and economic delivery of legal services; and,
- k. Whether there is a need to establish different priorities in different parts of LSNC's service area.

The priorities adopted by the Board shall be set forth in a Statement of Priorities document that shall summarize the priorities, state the date of the most recent appraisal, the timetable for the future appraisal of needs and evaluation of priorities, mechanisms which will be utilized to ensure effective client participation in priority-setting and any changes in priorities. LSNC shall submit the Statement of Priorities to LSC annually and make it available to the public.

The Statement of Priorities shall also include the policies and procedures for undertaking emergency cases or matters not within LSNC's established priorities, including those non-priority cases or matters that require immediate legal action to secure or preserve the necessities of life, protect against or eliminate a significant risk to the health or safety of the client or immediate family members, or address other significant legal issues that arise because of new and unforeseen circumstances.

Every LSNC staff member who handles cases or matters or who makes decisions about case acceptance must read the Statement of Priorities upon adoption by the Board each year and sign the annual "Agreement to Abide by LSNC Priorities" form, affirming that he or she has read and is familiar with the priorities and the definition of an emergency situation and the procedure for dealing with emergencies, and that he or she will not undertake an case or matter for LSNC that is not a priority or an emergency. The signed Statement of Priorities forms shall be maintained by the Executive Office.

**Corresponding LSC Regulation:** 45 C.F.R. §1620 *et seq.*

**Date Adopted by LSNC Board of Directors:** June 26, 2012

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### **1627 – Subgrants and Membership Fees or Dues**

LSNC shall submit the terms, conditions and amounts of any proposed subgrants of LSC funds to LSC for written approval prior to issuance or contracting for those funds. Subgrants shall be for a period not to exceed one year and the terms of the subgrant agreement shall contain a provision providing for termination and suspension of activities in the event LSNC's funding is terminated. Changes in subgrant amounts or performance exceeding 10% shall be submitted to LSC for approval. LSNC shall supervise subrecipients of LSC funds to ensure compliance with financial and audit provisions of LSC regulations, including 45 C.F.R. §1627.3.

LSNC shall not use LSC funds to pay membership fees or dues to any private or nonprofit organization, whether on behalf of LSNC or an individual, except that LSNC may pay dues mandated as a requirement of practice by a governmental organization to engage in a profession. LSNC may make payments on behalf of its employees for the purpose of contributing to or funding a tax sheltered annuity, retirement account, or pension fund. LSNC may pay membership fees and dues from non-LSC funds.

LSNC's Finance unit shall maintain records sufficient to document LSNC's compliance with this regulation.

**Corresponding LSC Regulation:** 45 C.F.R. 1627

**Date Adopted by LSNC Board of Directors:** June 26, 2012

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**1633 - Restriction on Representation in Certain Eviction Proceedings**

LSNC staff shall not defend any person in a proceeding to evict that person from a public housing project if:

1. The person has been charged with or convicted of the illegal sale, distribution or manufacture of a controlled substance, or possession of a controlled substance with the intent to sell or distribute; and
2. The eviction proceeding is brought by a public housing agency on the basis that such illegal drug activity for which the person has been charged or convicted threatens the health or safety of other tenants residing in the public housing project or employees of the public housing agency.

**Definitions:**

- (a) "Controlled substance" has the meaning given that term in § 102 of the Controlled Substances Act (21 U.S.C. §802);
- (b) "Public housing project" has the meaning given that terms in §3 of the United States Housing Act of 1937 (42 U.S.C. §1437a); and
- (c) "Charged with" means that a person is subject to a pending criminal proceeding instituted by a governmental entity with authority to initiate such proceeding against that person for engaging in illegal drug activity.

**Recordkeeping:**

LSNC staff shall maintain a record of all instances in which representation is declined under this part.

**Corresponding LSC Regulation:** 45 CFR 1633 *et seq.*

**Date Adopted by LSNC Board of Directors:** June 26, 2012

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### 1636 - Client Identity and Statement of Facts

When LSNC files a complaint in a court of law or otherwise initiates or participates in litigation against a defendant, or before LSNC engages in pre-complaint settlement negotiations on behalf of a client who has authorized it to file suit in the event that the settlement negotiations are unsuccessful, it shall identify the plaintiff it represents to the defendant and ensure that the plaintiff has a colorable claim. This policy applies to staff cases and those for which private attorneys are compensated by LSNC.

LSNC shall:

- (1) identify each plaintiff it represents by name in any complaint it files or in a separate notice provided to the defendant against whom the complaint is filed where disclosure in the complaint would be contrary to law or court rules of practice, and identify each plaintiff it represents to prospective defendants in pre-litigation settlement negotiations, unless a court of competent jurisdiction has entered an order protecting the client from such disclosure based on a finding, after notice and an opportunity for a hearing on the matter, of probable, serious harm to the plaintiff if the disclosure is not prevented; and
- (2) prepare a dated written statement in English and, if the client is not proficient in English in a language the client understands, signed by each plaintiff it represents, enumerating the particular facts supporting the complaint, insofar as they are known to the plaintiff when the settlement is signed.

In the event of an emergency, where LSNC reasonably believes that delay is likely to cause harm to a significant safety, property or liberty interest of the client, LSNC may proceed with the litigation or negotiation without a signed statement of facts provided that the statement is signed as soon as possible thereafter.

Written statements of fact prepared in accordance with this policy shall be kept on file by LSNC and made available to LSC or to any Federal department or agency auditing or monitoring the activities of the recipients of LSC funding or to any auditor or monitor receiving Federal funds to audit or monitor on behalf of a Federal department or agency or on behalf of LSC.

This regulation does not give any other party any right of access to the plaintiff's written statement of facts, either in the lawsuit or through any other procedure. Access by other parties to the statement of facts is governed solely by the discovery rules of the court in which the action is brought.

The case file for any case to which this policy applies shall include documentation of compliance with this policy. Each client statement of facts shall be submitted to and maintained by the Director of Litigation.

**Corresponding LSC Regulation:** 45 CFR §1936 *et seq.*

**Date Adopted by LSNC Board of Directors:** June 26, 2012

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### 1644 – Disclosure of Case Information

Upon filing an affirmative case in any State or Federal court on behalf of a client, LSNC shall disclose to LSC and, upon request, to the public:

- The name and full address of each party to the case (unless the information is protected by an order or rule of the court or by state or federal law, or the attorney believes revealing such information would put the client at risk of physical harm)
- The cause(s) of action sufficiently to indicate the principal nature of the case;
- The name and full address of the court where the case is filed; and,
- The case number assigned to the case by the court.

Prior to filing and disclosure, LSNC must inform all clients who will be parties in the case of this disclosure and must affirm that the clients were so informed.

This policy applies only to:

1. The original filing of a case on behalf of a plaintiff or petitioners who are clients of LSNC, except for appeals filed in appellate courts by a recipient if the recipient was not the attorney of record in the case below and the recipient's client is the appellant;
2. A request filed on behalf of a client of LSNC in a court of competent jurisdiction for judicial review of an administrative action; and
3. To cases filed pursuant to subgrants under 45 C.F.R. §1627 for the representation of eligible clients, except for subgrants for private attorney involvement activities.

**Corresponding LSC Regulation:** 45 C.F.R. §1644 *et seq.*

**Date Adopted by LSNC Board of Directors:** June 26, 2012

## **Attachment G**

IN PRO PER ASSISTANCE AGREEMENT

I, \_\_\_\_\_ of \_\_\_\_\_, California, \_\_\_\_\_,  
telephone number \_\_\_\_\_,

Client requests IN PRO PER assistance from LEGAL SERVICES OF NORTHERN CALIFORNIA (LSNC) in the following matter:

\_\_\_\_\_

\_\_\_\_\_

LSNC, P.O. Box 1017, Eureka, CA 95502 (707) 445-0866 agrees to assist the client in this matter on the following terms and conditions:

1. LSNC will provide all IN PRO PER assistance to Client without any fee or charge to Client.
2. Client understands and agrees that s/he is being assisted and advised by LSNC, but (1) that s/he is personally responsible for pursuing this matter alone. (2) that s/he is representing herself or himself (IN PRO PER), and (3) that LSNC is not representing Client and is not "Client's attorney."
3. Client is responsible for appearing, meeting deadlines, and all other actions on his or her own behalf.
4. Client is responsible for any costs and expenses such as medical records, service of process, filing fees etc.
5. LSNC will offer the Client limited advice and assistance as requested. Client realizes that the quality of the advice and assistance depends on client providing LSNC with all relevant documents and accurate facts. Failure to provide LSNC with accurate information concerning that status of case, documents received or facts may result in erroneous advice.
6. LSNC offers no guarantee as to the result of the IN PRO PER assistance to Client, and client agrees to be responsible for and to comply with any judgment against Client.
7. Client understands that LSNC's Client Grievance Procedure allows any complaint to be brought to the Directing Attorney by filing a simple written statement.

Signed on (date): \_\_\_\_\_ at (city) \_\_\_\_\_, CA.

\_\_\_\_\_  
(Client) By \_\_\_\_\_  
LEGAL SERVICES OF NORTHERN CALIFORNIA

## **M. Megan Smith**

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**From:** Julie Aguilar Rogado <jaguilar@lsnc.net>  
**Sent:** Tuesday, July 17, 2012 4:22 PM  
**To:** M. Megan Smith  
**Cc:** Gary Smith; Sharon Hulett  
**Subject:** Corrective Action Number 10  
**Attachments:** Second Accounting for PAI Revision to Accounting Manual.doc

Hello Megan,

Please accept this amendment to our comment letter of June 28, 2012, for Corrective Action 10:

### ***Corrective Action 10***

LSNC has drafted a revision of its Accounting Manual, Section II, that describes the methodology for accounting for PAI costs. The revision states and includes more detail on the PAI direct, indirect and personnel cost accounting information included in the 2012 PAI Plan at page 2. A copy of that addition to Section II of the Accounting Manual is attached.

Thank you.

Julie

**Julie Aguilar Rogado**  
Deputy Director  
**Legal Services of Northern California**  
517 12th Street  
Sacramento, CA 95814  
phone: (916) 551-2179  
fax: (916) 551-2196

## **Methodology for Accounting Private Attorney Involvement Costs**

In accordance with 45 C.F.R. §1614 et seq., financial reporting of PAI activity, support and expenses related to the effort shall be reported separately in LSNC's annual financial statements. Consistent with 45 C.F.R. §1614(e)(1)(i), LSNC shall accurately account for administrative, overhead, staff and support costs related to PAI activities. Accounting for PAI

### Personnel – Direct Expense

Timesheets include the time each employee worked on PAI. All staff members including attorneys and non-attorneys record their PAI time into the PIKA timekeeping system by checking a box on their time slips for PAI activity. After timesheets have been signed by the employee and approved by their supervisor they are sent to the Finance Department for accounting of activities and funds worked. The HR Specialist enters the timesheet data into an individualized Excel spreadsheet for each employee. Each timesheet is stamped posted and dated once it is entered. This task is completed by the end of the fifth working day after payday. After all timesheets are entered into Excel, the Accounting Manager prints out the semi-monthly payroll recapitulation sheet by location and gives it to the Grant Accountants for entry into the SAGE Fund Accounting Payroll system. The Grant Accountants enter the time data into the payroll system for each employee including the time that they worked on PAI. This time is recorded as a percentage of time worked rather than the number of hours. The Grant Accountant initials and dates the recap sheet after the information is entered. It is then given to another Grant Accountant to review. After payroll has been checked, the Payroll Specialist transfers the payroll file to the SAGE Fund Accounting system and gives it to the Director of Finance for final review and approval before it is posted to the general ledger.

### Non-Personnel - Direct Expenses

Any invoice for travel, training or other expense which can be attributable directly towards PAI will be annotated as such by the Office Manager or Managing Attorney on the invoice. They will approve the invoice for payment and transmit it to the Finance Department for payment. The Bookkeeper will code the invoice directly to PAI upon payment.

### Non-Personnel - Indirect Expenses

A monthly timesheet recapitulation sheet by location is given to the Accountant to calculate the monthly PAI for non-personnel expenses. The Accountant prints out a trial balance by location of all eligible PAI expenses for the month. The location's total PAI percentage reflected on the monthly recap sheet is used to calculate the non-personnel expense by eligible fund. The entry is given to the Director of Finance for approval and then posted to the general ledger as an electronic journal voucher.

**M. Megan Smith**

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**From:** Julie Aguilar Rogado <jaguilar@lsnc.net>  
**Sent:** Tuesday, July 17, 2012 4:48 PM  
**To:** M. Megan Smith  
**Cc:** Gary Smith  
**Subject:** Corrective Action Number 5  
**Attachments:** LSNC Cit Dec.pdf; VLSP Cit Dec.pdf

Hello Megan,

Please accept this amendment to our June 28, 2012 comment letter regarding Corrective Action Number 5:

***Corrective Action 5***

All LSNC offices and VLSP have been directed to discontinue use of any citizenship attestations that do not state, "I am a citizen of the United States of America" immediately followed by a signature line and date to be completed by the applicant. The appropriate citizenship attestation form was provided to each LSNC Managing Attorney, remains posted on our internal web site for use by all staff and is attached. We have also attached a copy of the new intake form adopted for use by VLSP at two of its off-site clinics, which includes a revised citizenship attestation. The VLSP in-house forms were previously determined compliant by the on-site reviewer during the site visit.

Thank you.

Julie

**Julie Aguilar Rogado**  
Deputy Director  
**Legal Services of Northern California**  
517 12th Street  
Sacramento, CA 95814  
phone: (916) 551-2179  
fax: (916) 551-2196

**DECLARATION OF CITIZENSHIP  
DECLARACION DE CIUDADANIA**

Client Name/Nombre del Cliente: \_\_\_\_\_

Date of Intake/Fecha de la Entrevista: \_\_\_\_\_

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**U.S. CITIZEN CIUDADANO DE LOS EE.UU**

1. Oral Attestation (telephone intake only)

2. Declaration of Citizenship

I declare that I am a citizen of the United States of America.  
Yó declaro que soy ciudadano de los Estados Unidos.

Signature/Firma: \_\_\_\_\_

Date/Fecha: \_\_\_\_\_

**Criminal Records & DMV Intake**

Name: \_\_\_\_\_

Street: \_\_\_\_\_

City: \_\_\_\_\_ Zip Code: \_\_\_\_\_ Phone #: \_\_\_\_\_

SS# \_\_\_\_\_ D.O.B. \_\_\_\_\_ M F AA / W / H / A / NA / O

#Adults: \_\_\_\_\_ #Children (minor): \_\_\_\_\_ Own / Rent / Other L/A \_\_\_\_\_ M/S \_\_\_\_\_

Education: K-8 / 9-12 (non-graduate) / Grad or GED / College / AA / BA / PG

Has any member of your household served in the military, including the Reserves or the National Guard? YES NO

Monthly Income: \_\_\_\_\_ Assets: \_\_\_\_\_ Health Ins. \_\_\_\_\_

Assistance Received: CalWORKs: \_\_\_\_\_ G.A.: \_\_\_\_\_ F.S.: \_\_\_\_\_

SSI: \_\_\_\_\_ SSEC: \_\_\_\_\_ Unempl: \_\_\_\_\_ Pension: \_\_\_\_\_ Employ: \_\_\_\_\_

Other Source of Income: \_\_\_\_\_ Income Prospects? No Yes Dom. Vio. Y N

*I AFFIRM THE INFORMATION I PROVIDED HEREIN IS TRUE AND ACCURATE TO THE*

*BEST OF MY KNOWLEDGE: X \_\_\_\_\_ Date: \_\_\_\_\_*

VLSP staff comments: \_\_\_\_\_

Choose the following and only sign and date on the appropriate line:

A. I hereby declare that I am not a United States citizen, but I am authorized to be here by the following documentation:

Alien Registration Receipt Card/Green Card # \_\_\_\_\_

Work Visa # \_\_\_\_\_

Dated: \_\_\_\_\_ Signed: \_\_\_\_\_

B. I hereby declare that I am a citizen of the United States of America.

Dated: \_\_\_\_\_ Signed: \_\_\_\_\_

**Clinic Use Only**

**Legal Services Provided:**

1. Drivers License Reinstatement: Information Form Preparation

2. Criminal Record Clearance: Information Form Preparation

Staff comments: \_\_\_\_\_

Funding: DHA SETA SCBA Other: \_\_\_\_\_

VLSP Staff: \_\_\_\_\_

## **M. Megan Smith**

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**From:** Julie Aguilar Rogado <jaguilar@lsnc.net>  
**Sent:** Wednesday, July 18, 2012 11:48 AM  
**To:** M. Megan Smith  
**Cc:** Gary Smith; Sharon Hulett  
**Subject:** Additional Corrective Action (Finding 21)  
**Attachments:** Accounting for Approved Legislative Activities.pdf; Leg & Admin Advocacy Approval Request.pdf

Hello Megan,

Thank you for your call yesterday advising us that there is an additional corrective action related to Finding 21 regarding our written policies on separate accounting for legislative advocacy. As our Finance Director Sharon Hulett explained, we adjusted our record-keeping system to add a special non-LSC fund code for tracking expenses related to legislative advocacy while your fiscal review team was on-site in April. They indicated that change was sufficient in terms of compliance. Please find attached an amendment to our Accounting Manual describing our accounting procedure for legislative activity expenses. Also, I have attached the revised Legislative/Administrative Advocacy Request form that was amended in May. That form directs advocates to code time to fund code 9910.

Please do not hesitate to contact me if you have any questions or concerns. Thank you.

Julie

**Julie Aguilar Rogado**  
Deputy Director  
**Legal Services of Northern California**  
517 12th Street  
Sacramento, CA 95814  
phone: (916) 551-2179  
fax: (916) 551-2196

## **Accounting for Approved Legislative Activities**

### **Personnel – Direct Expense**

Timesheets include the time each employee worked on approved Legislative Advocacy. All staff members will record any time worked on Legislative Advocacy to fund code 9910 in the Pika timekeeping system. Fund code 9910 expenses are paid with non-LSC funds. After timesheets have been signed by the employee and approved by his or her supervisor, they are sent to the Finance Department for accounting of activities and funds worked. The HR Specialist enters the timesheet data into an individualized Excel spreadsheet for each employee. Each timesheet is stamped posted and dated once it is entered. This task is completed by the end of the fifth working day after payday. After all timesheets are entered into Excel, the Accounting Manager prints out the semi-monthly payroll recapitulation sheet by location and gives it to the Grant Accountants for entry into the SAGE Fund Accounting Payroll system. The Grant Accountants enter the time data into the payroll system for each employee including the time that they worked on Legislative Advocacy. The Grant Accountant initials and dates the recap sheet after the information is entered. It is then given to another Grant Accountant to review. After payroll has been checked, the Payroll Specialist transfers the payroll file to the SAGE Fund Accounting system and gives it to the Director of Finance for final review and approval before it is posted to the general ledger.

### **Non-Personnel - Direct Expenses**

Any invoice for travel or other expense which can be attributable directly towards approved Legislative Advocacy will be annotated as such by the Office Manager or Managing Attorney on the invoice, using the fund code 9910 designation. They will approve the invoice for payment and transmit it to the Finance Department for payment. The Bookkeeper will code the invoice directly to the Legislative Advocacy fund code 9910 upon payment.

**LEGISLATIVE/ADMINISTRATIVE ADVOCACY REQUEST  
(By Official)**

Name of LSNC Advocate: \_\_\_\_\_

Name of Official making request: \_\_\_\_\_

Date of written request (attach copy): \_\_\_\_\_

Name of file where activity will be documented: \_\_\_\_\_

Pika Number: \_\_\_\_\_

IMPORTANT: LSC regulations limit this advocacy as follows:

- Communication requested of you is on a specific matter.
- Your response can only be made to the requesting party, or to an agent or employee of such party.
- You must not solicit or arrange for the request.
- You must obtain prior approval (see bottom of this form).
- You must receive a written request directed to LSNC which:
  - a) Is signed by an agency official or legislative member;
  - b) States the type of representation or assistance requested; and
  - c) Identifies the administrative or legislative matter to be addressed.

All activity undertaken in connection with this request shall be documented, with reference to the above file name, on the advocate's time sheets and charged to Funding Code 9910 (Legislative Advocacy). Copies of all time sheets documenting such activity and all written correspondence will be maintained in the Pika file.

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**APPROVAL**

Approved.

Not approved.

Date: \_\_\_\_\_

\_\_\_\_\_  
Executive Director or Designee of  
Legal Services of Northern California

## **M. Megan Smith**

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**From:** Julie Aguilar Rogado <jaguilar@lsnc.net>  
**Sent:** Monday, July 23, 2012 11:50 AM  
**To:** M. Megan Smith  
**Cc:** Gary Smith  
**Subject:** Corrective Action Number 9

Hello Megan,

Please accept this addition to our comment letter of June 28, 2012, for Corrective Action 9 in response to your request for further information:

### ***Corrective Action 9***

The attorney assigned to review the clinic cases will review all cases. Cases closed during hours when the attorney is absent from the clinic site will be reviewed by the attorney as soon as possible upon the attorney's return to the clinic site.

Thank you.

Julie

**Julie Aguilar Rogado**  
Deputy Director  
**Legal Services of Northern California**  
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Sacramento, CA 95814  
phone: (916) 551-2179  
fax: (916) 551-2196