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Partially superseded by AO-2016-004.
"To the extent that EX-1999-18 suggests that these payments from governmental entities to foster parents, group homes, or nursing homes are attributable to foster children that the recipient considers a household of one, that opinion is withdrawn."

John McKay
President

September 8, 1999

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Joseph A. Dailing, Executive Director
Prairie State Legal Services, Inc.
975 North Main Street
Rockford, IL 61103-7064

Dear Mr. Dailing:

Your August 2, 1999 inquiry concerning the proper income to attribute to a foster child for statistical reporting purposes has been referred to me for reply. I understand from your letter that the services in question are rendered to juvenile wards of the State under a contract with the State of Illinois and, therefore, are not LSC funded activities. Nonetheless, the issue arises under LSC revised case reporting instructions which require you to include in future case statistical reports specific information on all eligible cases handled, regardless of funding source.

Specifically, you asked if the income to be reported is that of the foster child, of the foster family, or of the State guardian. Although the contract is with the State of Illinois, the representation is on behalf of the juvenile wards of the State in special education cases. Therefore, the eligible client is the juvenile ward and not the guardian.

In determining the income eligibility of the client, Part 1611 of LSC=s regulations defines income as the total cash receipts (before taxes) of all persons who are resident members of and contribute to the support of a family unit that includes the client. Family unit is not further defined. The question is, therefore, whether the foster child constitutes a family unit of one or if the child is part of the family unit of the foster parents with whom he or she resides. As LSC has not regulated the definition of family unit, we would defer to a definition adopted by your program for LSC eligibility purposes, if one exists.

In the absence of a definition, we would first look to the definition used by

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the Census Bureau or others in creating the poverty guidelines which are used for LSC=s eligibility limits. There, a family is defined as a group of individuals related by birth, marriage or adoption that are living together. An unrelated individual is likewise defined as an individual, 15 years of age or older, who is not living with a relative. Examples of unrelated individuals include wards and foster children, as well as employees and lodgers. Clearly, foster children who are 15 or older would be considered unrelated individuals under the poverty guidelines and be counted as a separate unit from the foster family with whom they reside. While it is less clear how foster children who are under the age of 15 would be considered, there would be little rationale for treating them substantially differently for LSC purposes on the basis of age alone. Therefore, for LSC eligibility purposes, a foster child, regardless of age, may be considered as a family unit separate from the family unit of his or her foster parents.

The income to be attributed to the foster child, then, would be any monies received by the foster child directly (as wages or other cash support payments), and the foster care payments made by the State to the foster parents for the support of the foster child. LSC would count only payments made in cash and not any in-kind benefits which the child receives or the foster family receives on the child=s behalf.

If you have any further questions concerning the above guidance, please let me know.

Sincerely,

Susan D. McAndrew
Senior Assistant General Counsel