



January 11, 2000

Michael Bagge  
1314 Rutger Street  
Utica, NY 13501

Re: Residency of Eligible Client Board Members of LSC Recipients  
OLA External Opinion

Dear Mr. Baggee

This letter is in response to your inquiry via our web site on December 9, 1999.  
You asked:

Do LSC regs require that an individual appointed as a "client eligible" board member be a resident of the service area covered by the grantee ? I am interested since there is a client eligible board member who has not lived in the service area served by the program for 10 years. This seems to me to be ludicrous and a perversion of the client involvement/empowerment policy which underlay the requirement.

#### Question Presented

Does the LSC Act or regulations require eligible client board members of a recipient to reside in the recipient's service area?

#### Summary of Determination

The LSC Act and regulations require the governing body of a recipient to reasonably reflect the interests of eligible clients in the recipient's service area, but not that eligible client board members of the recipient must live in that area. The recipient and the groups nominating eligible client board members have the discretion to determine the importance of eligible client board member residency.

#### Applicable Statutes and Regulations

The Legal Services Corporation Act, 42 U.S.C. §2996, states in §2996f(c) that one-third of the governing body of a recipient must be 'eligible clients,' which are defined in §2996a(3) as "any person financially unable to afford legal assistance." This provision is further specified in 45 C.F.R. §1607 setting forth the requirements for governing bodies of LSC recipients.

Section 1607.2(c) defines an "[e]ligible client member" as a board member who is "financially eligible to receive legal assistance under the Act and part 1611 of this chapter

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[setting national financial eligibility guidelines] at the time of appointment” regardless of that person’s actual receipt of such legal services. Section 1607.3(c) requires that eligible client members make up at least one-third of the members of a recipient’s governing body. Financial eligibility is the only qualification for eligible client board members mandated by the Act or the regulations.

Section 1607.2(c) provides that “[e]ligibility of client members shall be determined by the recipient or, if the recipient so chooses, by the appointing organization(s) or group(s) in accordance with written policies adopted by the recipient.” Section 1607.3(a) requires that a recipient have a governing body that “reasonably reflects the interests of the eligible clients in the area served.” Under §1607.3(c) eligible client board members are appointed by groups “designated by the recipient that may include, but are not limited to, client and neighborhood associations and community-based organizations which advocate for or deliver services or resources to the client community served by the recipient.” Furthermore these groups should reflect the variety of interests in that community, and the eligible client board members should reflect the diversity of the eligible client population. Id.

Residency within the recipient’s service area is one of many factors that recipients and nominating groups might consider in selecting eligible client board members. In some situations a well qualified eligible client board member could live outside the service area. For example, some service areas are defined by county lines that bisect communities. An eligible client might in fact live in county A but be an active part of a community that is primarily located in county B (which might be only a mile from where the eligible client lives).

The Act and the regulations allow recipients and the nominating community groups flexibility on this issue. LSC considers the recipient and the nominating groups to be best suited for deciding the relevance of a person’s residency for determining their qualifications as an eligible client board member.

I hope that this answers your question and concerns.

Very truly yours,

Mark Freedman  
Staff Attorney