



DRAFT FOR PUBLIC COMMENT

Program Letter 12-1

TO: All LSC Program Directors

FROM: James J. Sandman, President

DATE: [Date]

SUBJECT: Financial Eligibility Screening Guidelines

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James J. Sandman

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In furtherance of the Legal Services Corporation's ("LSC") responsibility to enforce applicable restrictions on the use of LSC funds and to ensure that those funds are used only to provide legal services to permitted beneficiaries of LSC-funded services, LSC issues this Program Letter to provide guidance on client-eligibility screening requirements.

All methods of eligibility screening, whether conducted in person, by mail, by telephone, or online, are subject to LSC regulations, including the requirements outlined in 45 C.F.R. Parts 1611 and 1626, and the CSR Handbook (2008 Ed., as amended 2011).¹ Under Part 1611, LSC grant recipients "may provide legal assistance supported with LSC funds only to individuals whom the recipient has determined to be financially eligible for such assistance."² In order to determine that the applicant is financially eligible, LSC grant recipients are required to, among other things, "make reasonable inquiry regarding sources of income, income prospects, and assets,"³ regardless of the method of eligibility screening. This requires asking sufficient questions of the applicant to determine the total amount of household income and the value of non-excluded household assets.⁴

¹ Case Service Report (CSR) Handbook (2008 ed., as amended 2011), § 5.1.

² 45 C.F.R. § 1611.4(a).

³ 45 C.F.R. § 1611.7(a)(1).

⁴ CSR Handbook (2008 ed., as amended 2011), § 5.3 ("Programs' intake procedures must include instructions to ask sufficient questions of the applicant to determine the total amount of household income") and § 5.4 ("Programs' intake procedures must include instructions to ask sufficient questions of the applicant to determine the total amount of non-excluded household assets"); see also 70 Fed. Reg. 45,545 at 45,560 ("[m]any recipients, in practice, . . . probe[] for additional information based on the responses provided, the requirements of the regulation and their knowledge of the local circumstances.")

Over the last several years, LSC has seen a marked increase in the number of LSC grant recipients implementing online systems as part of their client-eligibility screening to improve efficiency in their intake processes. LSC has experienced a corresponding increase in compliance-related inquiries pertaining to these systems.

The guidance below is intended to assist LSC recipients in complying with eligibility screening requirements for all methods of intake, including online intake systems. It reflects LSC's obligation to ensure compliance with statutory and regulatory requirements governing the use of LSC funds, our recognition of the importance of efficiency in program operations, and our familiarity with current practices in the field. This guidance also reflects the current and long-standing practices of LSC recipients in conducting LSC-compliant intake systems. Most importantly, the standards set forth below are founded on LSC's experience in testing the effectiveness, efficiency, and compliance of many intake systems.

In order to ensure consistent application of LSC regulations and policies to all forms of client-eligibility screening, LSC provides the following interpretive guidance as to what LSC requires for a "reasonable inquiry" of applicants for LSC-funded services under 45 C.F.R. Part 1611:⁵

1. A grant recipient should not make a determination that an applicant is financially eligible for the provision of legal assistance until a recipient staff person, or another person under the direction of the recipient, has reviewed the application for eligibility screening purposes.
2. If the intake was not conducted in a manner that allowed for a direct inquiry of the applicant regarding his or her eligibility, a grant recipient should not make a determination that an applicant is financially eligible for the provision of legal assistance until a recipient staff person, or another person under the direction of the recipient, has conducted sufficient direct follow-up with the applicant to confirm that the applicant understood those questions determinative of eligibility and that the applicant's responses to those questions are accurate and complete. Direct inquiry and follow-up may include communication in person or by telephone, text, e-mail, chat, or other interactive methods.

The level of review and interaction necessary will vary for each applicant. It should be based on an experienced intake worker's assessment of the individual applicant's

⁵ This guidance applies to financial eligibility screening conducted for the provision of legal assistance that is subject to LSC regulations and guidelines, including for the provision of advice by Private Attorney Involvement attorneys under 45 C.F.R. Part 1614. This guidance does not pertain to the provision of legal information, nor does it apply to eligibility screening or other services funded with non-LSC funds (*i.e.*, providing assistance in non-LSC-funded cases in compliance with the restrictions on the usage of non-LSC funds in 45 C.F.R. Part 1610). Recipients are, however, required to comply with 45 C.F.R. Part 1626 and § 5.5 of the CSR Handbook (2008 ed., as amended 2011) regardless of the source of the funds used to support eligibility screening.

understanding of the intake questions, to ensure that the applicant has provided accurate and complete information necessary for making the eligibility determination.

LSC encourages recipients to explore the use of new technologies that allow for accurate and efficient eligibility screening. LSC will continue to evaluate recipients' experiences with eligibility screening and will provide additional guidance or amended requirements as needed. LSC recommends that recipients contact the LSC staff listed below if they have any questions relating to these requirements.

LSC Staff Contact List

General Screening and Intake Questions

Cheryl Nolan
Program Counsel III
Email: nolanc@lsc.gov
Phone: 202-295-1561

Eligibility Policy and Related Compliance Questions

M. Megan Smith
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Technology and Technology Initiative Grants (“TIG”) Questions

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