

LEGAL SERVICES CORPORATION
BOARD OF DIRECTORS

MEETING OF THE
GOVERNMENT AND PERFORMANCE REVIEW COMMITTEE
OPEN SESSION

Sunday, July 20, 2014

4:47 p.m.

Des Moines Marriott Downtown
700 Grand Avenue
Des Moines, Iowa 50309

COMMITTEE MEMBERS PRESENT:

Martha L. Minow, Chairperson
Sharon L. Browne
Charles N.W. Keckler
Julie A. Reiskin
John G. Levi, ex officio

OTHER BOARD MEMBERS PRESENT:

Robert J. Grey Jr.
Harry J.F. Korrell, III
Victor B. Maddox
Laurie Mikva
Father Pius Pietrzyk, O.P.
Gloria Valencia-Weber

STAFF AND PUBLIC PRESENT:

James J. Sandman, President
 Lynn Jennings, Vice President for Grants Management
 Ronald S. Flagg, Vice President for Legal Affairs,
 General Counsel, and Corporate Secretary
 David L. Richardson, Comptroller and Treasurer,
 Office of Financial and Administrative Services
 Carol A. Bergman, Director, Office of Government
 Relations and Public Affairs
 Carl Rauscher, Director of Media Relations, Office of
 Government Relations and Public Affairs
 Marcos Navarro, Office of Government Relations and
 Public Affairs
 Wendy Long, Executive Assistant, Office of Government
 Relations and Public Affairs
 Jeffrey E. Schanz, Inspector General
 John Seeba, Assistant Inspector General for Audit,
 Office of the Inspector General
 Thomas Coogan, Assistant Inspector General for
 Investigations, Office of the Inspector General
 David Maddox, Assistant Inspector General for
 Management and Evaluation, Office of the
 Inspector General
 Lora M. Rath, Deputy Director, Office of Compliance
 and Enforcement
 Julia Kramer, Program Counsel, Office of Compliance
 and Enforcement
 Janet LaBella, Director, Office of Program
 Performance
 Althea Hayward, Deputy Director, Office of Program
 Performance
 Herbert S. Garten, Non-Director Member, Institutional
 Advancement Committee
 Frank B. Strickland, Non-Director Member,
 Institutional Advancement Committee
 Robert E. Henley, Jr., Non-Director Member, Finance
 Committee
 Allan J. Tanenbaum, Non-Director Member, Finance
 Committee
 Dennis Groenenboom, Executive Director, Iowa Legal
 Aid
 Patrick McClintock, Iowa Legal Aid
 Chris Luzzie, Iowa Legal Aid

 Terry Brooks, American Bar Association Standing
 Committee on Legal Aid and Indigent Defendants
 (SCLAID)

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Motions: 4, 4, 42, 45, 48

1 P R O C E E D I N G S

2 (4:47 p.m.)

3 CHAIRMAN MINOW: I'd like to call to order a
4 meeting of the Governance and Performance Review
5 Committee. And I will entertain a motion to approve
6 the agenda.

7 M O T I O N

8 MR. KECKLER: So moved.

9 MS. REISKIN: Second.

10 CHAIRMAN MINOW: All in favor?

11 (A chorus of ayes.)

12 CHAIRMAN MINOW: Excellent. Motion to approve
13 the minutes of the Committee's open session meeting of
14 April 6th?

15 M O T I O N

16 MS. REISKIN: So moved.

17 MS. BROWNE: Second.

18 CHAIRMAN MINOW: All in favor?

19 (A chorus of ayes.)

20 CHAIRMAN MINOW: Excellent.

21 We welcome back Carol Bergman with a report on
22 progress in implementing the GAO recommendations. This

1 list is getting shorter.

2 MS. BERGMAN: Yes, indeed, it is. This is
3 very exciting. We're in the final stretch.

4 Since our last Board meeting, GAO has verbally
5 told us that they are prepared to close our
6 recommendations 9 and 10 regarding performance
7 management.

8 So on June 20th, in conversations with them,
9 they assured us that both 9, which is LSC's performance
10 measures -- we were supposed to develop and implement
11 procedures to link performance measures to specific
12 offices and their core functions and activities, and to
13 LSC's strategic goals and objectives -- and 10, which
14 is the periodic assessment of performance
15 measures -- where GAO required evidence of
16 implementation to develop and implement procedures for
17 periodically assessing performance measures.

18 What we did was provide to GAO copies of
19 selected first quarterly assessments of the 2014 office
20 performance assessment measures. And they were
21 satisfied, and they have verbally assured us they're
22 closed. They had hoped to get them closed on the

1 website before our board meeting, but unfortunately
2 that did not happen. But it should be imminent.

3 So we have one open recommendation. This is
4 number 12, the employee performance measures regarding
5 staffing needs assessment. This was to develop and
6 implement a mechanism to ensure that all LSC staff were
7 to receive annual performance assessments.

8 So LSC has finalized an employee performance
9 management system that we talked about at the last
10 meeting to replace the performance management process
11 that's described in LSC's employee handbook, and staff
12 and managers have been trained on the new employee
13 performance evaluation system.

14 Directors have completed employee performance
15 plans that are tied to the departmental plans. And the
16 plans were to include a six-month check-in between
17 employees and supervisors, and this year that would be
18 adjusted to a three-month check-in because of the
19 timing of when this is all to be implemented.

20 So we have plans now to discuss the new system
21 with GAO and see if we are going to be able to produce
22 selective departmental assessments again. Our goal is

1 to try and close this out by the end of 2014.

2 Our plan is to meet with GAO by the end of the
3 month of July to have that conversation to see what
4 would be required. But that's what we are hopeful that
5 we are going to be able to do.

6 CHAIRMAN MINOW: Well, as I say, it's really
7 great progress, and I commend Jim and all of the staff
8 for making this progress, and Carol for moving it along
9 and getting GAO to be responsive. So this is really
10 promising.

11 Is there anything else we should know, Jim,
12 about this implementation?

13 PRESIDENT SANDMAN: I just want to commend
14 Carol and Treefa and all of the managers who have dealt
15 with GAO on these issues. I have the sense that they
16 believe that we're very serious about our commitment to
17 not only closing out the recommendations but
18 implementing the recommendations.

19 I think we've established credibility with
20 them, which is indicated by their willingness to close
21 out recommendations that haven't been implemented over
22 the course of a year yet just based on our

1 demonstration of what we've done to date.

2 So a lot of people have put in a lot of work
3 on this, and I think the relationship with GAO has a
4 lot to do with our success in closing out so many of
5 the recommendations.

6 CHAIRMAN MINOW: That's excellent. And
7 actually, the systems that are now in place are just
8 what we would hope. And I think it's something to be
9 very proud of.

10 MS. BERGMAN: The only thing I would add is I
11 just want to make clear, this has been a huge
12 collaborative effort on behalf of many LSC directors.
13 This couldn't have been done without HR, without
14 Tracy's work, and without Richard Sloane's work.

15 People have really cooperated in this. We
16 could never have pulled this off unless there was that
17 knows commitment across the board.

18 CHAIRMAN MINOW: Well, that's wonderful.

19 Julie?

20 MS. REISKIN: This is really exciting and
21 fantastic, and I know I've actually used this as a
22 model when people say, oh, it's impossible to change a

1 culture, especially in a government-type agency, to
2 say, no, it isn't, and it can be done; or when people
3 see these kind of recommendations as always having a
4 negative impact, that that isn't always true.

5 At some point it might be good to just do a
6 short article or bullet points or something to put
7 either in a government or nonprofit newsletter just
8 about how do you do this because I think people feel so
9 hopeless at the start of this or people feel like it
10 can't be done.

11 Because this is a really big deal, how you've
12 done it and how systemic it's been and how well it's
13 been. So that's just a thought, not that I'm saying
14 you should go do that this minute. And certainly you
15 wouldn't want to do it till everything is totally
16 closed, but to be a leader, a model, of how a well-run
17 organization functions.

18 My other question is, I'm just curious: How
19 did the staff take to the training and the
20 implementation? Because that was a big culture change.

21 MS. BERGMAN: I think Jim's in a better
22 position to answer that than me.

1 PRESIDENT SANDMAN: I think there's definitely
2 a wait-and-see attitude. People want to see how this
3 is going to work out in practice, and in particular,
4 what the final results are in terms of the annual
5 evaluations that they receive at the end of the
6 process.

7 So it's a work in progress, and I think people
8 are withholding judgment until they see how the new
9 system plays out in its entirety.

10 CHAIRMAN MINOW: That's great. Thank you.

11 MR. LEVI: All I can say is -- and Frank
12 Strickland is walking back in here -- that as I was
13 getting familiar with LSC, he presented me with I don't
14 know how many inches thick of GAO reports and open
15 items that his Board had begun working on.

16 But we have taken it from him and brought it
17 to, in my view, a place we can all be, I think, very
18 proud of in reasonably efficient fashion. And this is
19 probably one of the most important pieces.

20 I know there'll be training, and I assume
21 there's been -- and there's a wait-and-see. But at
22 least we're leaving a legacy of -- I'm assuming it'll

1 get tweaked, maybe. But we're leaving a process in
2 place, and hopefully it will be a well-respected one,
3 because to turn over to the next group a situation in
4 which our employees are not being reviewed annually I
5 don't think any of us want to do.

6 MS. BERGMAN: I think it also makes a huge
7 difference on Capitol Hill. There's no question that
8 one of the first things that Members do -- people
9 check the website. And so much of the history has been
10 bound up with complaints and criticisms and all of
11 these outstanding recommendations.

12 So I think we've seen it in our meetings on
13 the Hill. I think you've seen it, John, the response
14 from Members. It really matters in that regard. I
15 think that it's harder sometimes for some of the staff
16 to see that, so the importance is the value internally
17 of having that kind of accountability. But we know how
18 much it matters externally on Capitol Hill to have
19 moved forward on these outstanding recommendations.

20 CHAIRMAN MINOW: So well-done, and here's just
21 a comment to Jim. Since I'm in the middle of doing the
22 performance reviews for my 16 direct reports, I have

1 some sense of how much work is involved in this, and it
2 is an overwhelming undertaking.

3 I also would like to say that I think helping
4 a team understand that taking criticism and giving
5 criticism is actually a growth opportunity for
6 everybody. That's the one positive thing I can say
7 about this experience, is that if you have an attitude
8 that it's lifelong learning, this is lifelong learning,
9 that's a good thing.

10 So thank you, Carol. That's just great. I
11 don't think there's any action item for us.

12 So we'll move now to a report on the Public
13 Welfare Foundation grant and our research agenda from
14 Jim.

15 PRESIDENT SANDMAN: Thank you. I'd like to
16 report on two things: first, where we stand in the
17 Public Welfare Foundation grant for LSC's own data
18 collection and analysis project, and second, other
19 projects that the Public Welfare Foundation is funding
20 that are related to research subjects in which we have
21 an interest.

22 Our consultants completed their comprehensive

1 report on the survey of our grantees that they did last
2 fall. You'll recall that that was a survey about what
3 data analysis our grantees are currently doing, what
4 data they're collecting, and what they wish they had
5 and would like to collect.

6 Second, they have completed a report on their
7 work to date, summarizing what they've done in
8 interviewing more than 30 people in the legal services
9 field and related fields; the literature research that
10 they've done; and what they've come up with in terms of
11 the current state of the art in outcomes measurement in
12 the legal aid world.

13 We had a meeting last month, a two-day meeting
14 in Washington in June, of our advisory committee, our
15 seven-member advisory committee, supplemented by the
16 executive director of the state-level funder in
17 California. We included here because California is
18 about to adopt new standards for outcomes reporting.

19 The state-level funder in California has 99
20 grantees of its own, including eleven LSC-funded
21 programs, and we thought it was very important to be
22 apprised of what they're doing and coordinate with them

1 and do everything we can to avoid duplicative or
2 conflicting reporting requirements and imposing
3 additional burdens on our eleven very sizeable grantees
4 in California. Her presence was very valuable to our
5 discussions.

6 We had a very productive meeting, and we came
7 away with a consensus to do a couple of things: first,
8 to revise LSC's performance criteria to require that
9 grantees collect and analyze outcomes data for all
10 extended service cases; and second, for them to use
11 data to manage toward their strategic goals, and to be
12 able to demonstrate to LSC how they're doing that.

13 Our goal is to try to create and nurture a
14 culture of data collection and analysis and
15 incorporation into the management of the program. What
16 we don't want is a situation where people are
17 collecting data for collection's sake because LSC
18 required that they do it, but not making any use of it.

19 Our ultimate goal is to improve client service
20 so that grantees are making informed judgments about
21 what works and what doesn't, what's effective and what
22 isn't, based on their own analysis of their results in

1 their cases.

2 To implement this, LSC will be providing a
3 toolkit that includes examples of outcome reporting
4 systems currently used by other funders and by
5 individual grantees with recommendations for best
6 practices.

7 There are currently at least five states where
8 the state-level funders require outcomes collection and
9 reporting. They are New York, Virginia, Texas,
10 Florida, and Maryland.

11 In addition, we know that a number of our own
12 grantees do a very good job of collecting outcomes data
13 and using it in the management of their programs. Two
14 examples are Bay Area Legal Aid in California and the
15 Legal Aid Society of Cleveland.

16 What we would like to do is to permit grantees
17 to have flexibility in choosing and tailoring the
18 outcome measurement tools that they use, and not to
19 impose a uniform, mandatory, one-size-fits-all system
20 for everybody so that if, for example, we have grantees
21 like those in the Bay Area in California and Cleveland
22 that are already doing a good job of data collection

1 and reporting and use, and those systems have been
2 custom-developed for their practices and their local
3 legal environment, why would we want to mess with that?

4 Why do we think we know better than they do about what
5 might work for them?

6 What we will do in the toolkit is to lay out
7 an array of possibilities, basically, that have been
8 blessed by us so that we will be able to tell our
9 grantees, if you choose any of these vehicles, this
10 will satisfy us in terms of what you need to do to
11 collect and analyze data.

12 If you want to come up with your own, that's
13 fine, too, but we're going to be looking to you to tell
14 us what kind of information you're collecting and, most
15 importantly, how you are using it to manage your
16 program.

17 In terms of the reporting to LSC itself, we
18 would look primarily to high-level outcomes such as
19 "Maintained housing" or "Improved safety for victims of
20 domestic violence" without specifying chapter and verse
21 exactly in detail what they need to report because that
22 would be very difficult to do if we're going to permit

1 them the flexibility and the ability to innovative that
2 we're looking to promote at the local level.

3 Our timetable is to roll out the new
4 performance criteria and the toolkit by the end of this
5 year, and to be looking for outcomes data collection to
6 start in 2015, some time in 2015. It may not be the
7 first of the year; it might be at some point into the
8 year.

9 I also wanted to report on several projects
10 that the Public Welfare Foundation --

11 CHAIRMAN MINOW: Could we stop and talk about
12 what you've talked about so far?

13 PRESIDENT SANDMAN: Yes.

14 CHAIRMAN MINOW: That's great and very
15 exciting. Somebody said a couple years ago that in the
16 next decade, the sexiest people will be statisticians.

17 That's an interesting sentence.

18 (Laughter.)

19 CHAIRMAN MINOW: But it is, I think, the case
20 that data is the tool of management and improvement in
21 every system, from baseball teams to everything else.
22 So I think this is a very exciting development.

1 I do have two questions, and wonder if others
2 have questions. One is how the selection of the items
3 to be reported to LSC is being done so that it permits
4 aggregation for us to be able to tell our story.
5 That's one.

6 The second, which is more provocative, again
7 it's becoming the state of the art for groups to make
8 their data collection public so that others can analyze
9 it. And is that something that we're thinking about?

10 PRESIDENT SANDMAN: On the first, what we will
11 have reported to LSC, that's a work in progress and we
12 are looking at the data currently collected by the
13 state-level funders and how that rolls up, as we put
14 it, into higher level reporting.

15 We'd like to try to build on models that are
16 already out there and not articulate our general
17 categories of reporting that are required in ways that
18 are very different from what's already being done out
19 there. So we have that analysis ongoing currently.

20 On the second issue, we do hope that this
21 toolkit will, over time, be a source of data and best
22 practices and information-sharing, that it will be a

1 live tool that people can share experiences about, what
2 they found effective, what not. It can promote
3 communication among people to share best practices.

4 That's very much a part of the culture we're
5 trying to create so that each individual grantee
6 doesn't have to go about this alone, but is aware of
7 what others are doing. In terms of the level of detail
8 that grantees will be required to report to us of what
9 they collect, that we have to think carefully about.

10 CHAIRMAN MINOW: Yes. Sure.

11 PRESIDENT SANDMAN: That could deluge us with
12 information that is too much and not helpful to us.

13 CHAIRMAN MINOW: Julie?

14 MS. REISKIN: One is, would we be able to look
15 at that report that they did, or is the --

16 PRESIDENT SANDMAN: Yes. We'd be happy to
17 provide that, yes.

18 MS. REISKIN: I'd love to see it. And then a
19 comment. I think the way we handle some of the early
20 reports is going to be really critical, especially how
21 we message the use of data. It is very tempting for
22 nonprofit directors to want to show, we did this and

1 we're wonderful and it all worked beautifully. And
2 that's great when that's real.

3 But I think we really want to message -- and
4 again, we have to be careful because we don't want to
5 do anything that's going to hurt us politically. But
6 we really need to message very carefully, we want you
7 to use your data, and sometimes what that means is, we
8 tried this and this really didn't work, and it wasn't a
9 good idea and we're making a change.

10 We need to set up a culture where that's going
11 to be not only okay but where we really encourage that
12 because so often, in human services, we just keep doing
13 the same thing with horrible results, and we're afraid
14 to make changes.

15 I think a lot of that fear is driven by
16 funding, is driven by, well, if I say this project
17 didn't work, then no one's going to give me money
18 again. And so I think just how we message that is so
19 important.

20 Again, we need to be careful because there are
21 people that will take anything we do and twist it. So
22 I'm not saying I have the answer. I'm just saying

1 that's so important, what we're doing, and --

2 CHAIRMAN MINOW: Julie, that's such an
3 interesting point. It might be interesting to include
4 some kind of a question like, what have you phased out?

5 PRESIDENT SANDMAN: Yes.

6 CHAIRMAN MINOW: Which is an affirmative way
7 of putting the issue.

8 PRESIDENT SANDMAN: Well, that's an excellent
9 point, and it's a point I try to make any time I'm
10 before a group of executive directors talking about
11 this issue. And I give an example from the Legal Aid
12 Society of Cleveland. I may have told the Board about
13 this at a previous meeting; if I did, forgive my
14 repetition.

15 The Legal Aid Society of Cleveland a few years
16 ago was doing a lot of foreclosure work. And because
17 of the data collection they do, they were able to
18 correlate the results they had achieved in foreclosure
19 cases with the income levels of their clients.

20 What their analysis showed was that if the
21 client had an income level below 75 percent of the
22 federal poverty guideline, they always lost. There was

1 nothing they could do for them. If you think about it,
2 that's not surprising. The people just didn't have
3 enough income, and they weren't going to be able to
4 restructure a mortgage or come up with a solution that
5 was going to be satisfactory to any prudent lender.

6 As a result of that analysis, the Legal Aid
7 Society of Cleveland decided to stop handling
8 foreclosure work for people below 75 percent of the
9 federal poverty guideline. That might strike you as
10 harsh. I think that's a wise and prudent business
11 decision because what it allowed them to do was to
12 redirect their resources to those clients where they
13 could make a difference.

14 You might look at that and say, they failed
15 all those clients, and that's not the answer at all.
16 They were not afraid to see where they were not
17 succeeding and to make a decision about how they could
18 invest their limited resources more wisely where they
19 could make a difference.

20 CHAIRMAN MINOW: That's a great example.

21 Charles?

22 MR. KECKLER: I guess I raised this last time,

1 but now that the report's available, you can answer a
2 little bit more definitively. And that has to do with
3 hours as data. Well, I won't anticipate your answer.
4 But are hours and the ratio of the amount of hours
5 versus the outcomes part of the data analysis in the
6 report?

7 PRESIDENT SANDMAN: The answer is no, and the
8 reason is there are just so many challenges with the
9 use of hours data. As somebody who recorded hours for
10 30 years, I share the concern.

11 CHAIRMAN MINOW: In what intervals, seven
12 minutes or --

13 (Laughter.)

14 PRESIDENT SANDMAN: In my firm it was quarter
15 hours, believe it or not, which is on the high side
16 these days.

17 But we have so many variations in service
18 delivery models. Keep in mind the amount of the work,
19 the number of cases closed by our grantees that are
20 closed with brief services. So what we're talking
21 about here is extended service cases because that is
22 much more conducive to outcomes analysis than brief

1 services, where there can often be real challenges in
2 following up with the clients.

3 But to be able to convert hours spent into
4 some kind of ratios that you could use across programs,
5 I think, could do a lot of mischief, and I just don't
6 have enough confidence in the quality of the data that
7 we would get or the usefulness for that purpose to be
8 able to recommend that.

9 MR. KECKLER: So it was a topic of discussion,
10 and it was rejected?

11 PRESIDENT SANDMAN: It wasn't discussed. It's
12 not something that anybody else is doing currently.
13 Our grantees are required to keep time.

14 MR. KECKLER: Right.

15 PRESIDENT SANDMAN: That is one of their
16 requirements. And when we go in to visit a program, we
17 look at time records. We might look at them in a
18 questioned cost proceeding. But they're not required
19 to report them to us currently in the ordinary course
20 of their --

21 MR. KECKLER: That's the issue. Right? If
22 everybody's required to keep time, and there's a

1 meaning to keeping time as opposed to just discipline
2 like you're there on time, there's a huge amount of
3 quantitative data there. And then we're talking about
4 outcome data.

5 It just seems to me, and has always seemed to
6 me, that our overall goal of efficient delivery of
7 services has some inherent connection to outcomes per
8 hours invested. So there's these two data streams that
9 are coming in, and if there was some way to integrate
10 them -- and I understand the challenges -- it just
11 seems that that would be extremely powerful. So that's
12 my only commentary on this.

13 CHAIRMAN MINOW: You did raise this before,
14 Charles, and it goes maybe a little bit of a link to my
15 earlier question about making the data open. I think
16 that this is sensitive, but it would be interesting
17 once we have some new systems up with grantees, to see
18 if there are any that are willing to collaborate with
19 some researchers to do a pilot to ask some questions.
20 And a very good one would be the kind of one that
21 Charles is asking.

22 I would say that in the general field of

1 law, -- others here know more than I do -- this is its
2 infancy, the effort to take the same task and see if
3 different lawyers perform it more efficiently or less.

4 I know of one project right now on Dodd-Frank
5 compliance that is doing exactly that.

6 In other fields, there's a lot of work on
7 this. In law, there's almost nothing. So it might be
8 interesting to see, at least as an internal matter,
9 whether we could explore a pilot after we have some
10 data systems developed.

11 Gloria?

12 PROFESSOR VALENCIA-WEBER: I'm concerned about
13 a couple of elements here. We want to encourage some
14 thoughtful innovation, and at the same time avoid the
15 worst consequences when something does not work out.

16 I think we need to think about the vocabulary
17 we're using to describe some of these efforts. Martha
18 has hit on one, where you do pilot projects. Giving
19 permission to fail is really hard to do, especially on
20 public money.

21 Even if we designate certain projects as those
22 that are purely out of the box, not been tried before,

1 and put the right labels on them, we still have the
2 struggle of how do we make the permission to fail
3 acceptable in Congress? Because we know all too often
4 the ready way in which a part of the picture can be
5 exploited in hearings or considerations about our
6 appropriations.

7 The other thing is, I understand Charles'
8 concern. But at the same time, having done clinic
9 representation of low income people in rural areas, it
10 is really impossible to make comparable, even a
11 similar, income client with a similar issue of, say, a
12 foreclosure when you're dealing with time and
13 difficulties of serving people in a rural area.

14 It can certainly be done more efficiently,
15 more efficiently in some instances, in an urbanized
16 area with mass transit that can get people there, and
17 where you don't have to travel four hours to the
18 proceeding where all this outcome is determined, where
19 the outcome occurs.

20 I can't say the quality of representation of
21 one is worse because it took more hours. So I'm quite
22 concerned about that.

1 CHAIRMAN MINOW: Thank you.

2 Jim, let's hear about the other research.

3 PRESIDENT SANDMAN: I'll give a fuller report
4 on Tuesday when I make my Management report to the full
5 Board. But I just want to mention four projects that
6 the Public Welfare Foundation is funding that I think
7 should be of interest to us.

8 First, they've made a grant to compile
9 information and offer technical assistance on non-LSC
10 federal funding that is available for civil legal aid.

11 We've talked about this a number of times, and people
12 have suggested that LSC try to become the repository of
13 information of all of the different other sources of
14 federal funding for civil legal aid.

15 The Public Welfare Foundation has made a grant
16 to NLADA to do that, and so I think that's covered.
17 And I assume the rationale there was that the NLADA
18 universe includes many more legal aid programs than
19 just the LSC-funded universe.

20 Second, they are funding a program to develop
21 a website compiling research that's been done on legal
22 aid service delivery so there is one place you can go

1 and look at what research has already been done.

2 Their hope is that that will help identify
3 gaps in the research, what hasn't been researched that
4 should be, and also to try to be sure that nobody is
5 reinventing the wheel and going back to redo research,
6 particularly if it's recent research that has already
7 been published.

8 They're funding an analysis of the literature
9 on the economics of civil legal aid. Alan Houseman is
10 being funded to do that.

11 And through the ABA's Fund for Justice in
12 Education, they're funding work to expand the number of
13 state access to justice commissions, to provide
14 technical assistance to the access to justice
15 commissions, and to promote the sharing of best
16 practices so that new commissions don't need to start
17 over again and have the benefit of the work that's been
18 done previously.

19 I think this is all very valuable work. I
20 think the fact that this is being done reinforces the
21 need that we talk about regularly to collaborate and
22 coordinate with others to be sure that we are not

1 trying to do everything on our own, and to work with
2 those who are involved in projects that are important
3 to our mission.

4 CHAIRMAN MINOW: The economics of legal aid,
5 is that something that will touch on this issue of
6 efficiency?

7 PRESIDENT SANDMAN: No. It's a literature
8 review of what's already been done to try to
9 demonstrate the economic benefits of legal aid.

10 CHAIRMAN MINOW: I see. Thank you. Very
11 interesting. Thank you.

12 Any further questions for Jim about this?

13 (No response.)

14 CHAIRMAN MINOW: We'll look forward to hearing
15 more in your report.

16 We will now turn to consider, and we actually
17 have an action item here, the LSC equal opportunity,
18 non-discrimination, and anti-harassment policy draft
19 that has been carefully developed by Ron with a lot of
20 input. So Ron. Thank you.

21 MR. FLAGG: Thank you. I was happy to hear a
22 reference to the potential for action.

1 (Laughter.)

2 MR. FLAGG: There's a memo at page 140 of your
3 Board book with the draft policy following it and a
4 resolution.

5 I would also draw your attention to a memo in
6 the confidential section of the Board book at pages 277
7 to 284, which is a privileged memo that I actually sent
8 to you all back in June, really going through all of
9 the many very thoughtful comments that you provided
10 both at the Board meeting in April and subsequent to
11 the Board meeting, one of those comments being that we
12 should get some outside counsel, which we did, and
13 Morgan Lewis has been advising us on these issues.

14 I really do want to start out by thanking you
15 for all of the thoughtful comments we got. I think the
16 resulting revised draft is substantially better than
17 what we brought to you in April.

18 I do want to add that in response to the draft
19 that was circulated in June, which is included in the
20 materials in the Board book, Harry sent us a set of
21 very thoughtful comments. And I've had several
22 discussions with Harry about those comments, which I

1 wanted to share with you, and then obviously Harry is
2 free to add his additional comments.

3 But Harry basically raised at least three
4 points which I thought were significant and worthy of
5 further review. One point is with respect to who
6 reports of discrimination or harassment may be brought
7 to.

8 Just to put this in context, if you go to page
9 144, you'll see one place where this comes up in the
10 middle of the page, that complaints about conduct may
11 be brought to a supervisor, a director of his or her
12 office, the General Counsel, the Vice President for
13 Grants Management, or the HR director.

14 This is a significant issue. We've gotten a
15 number of different views on this issue. I think there
16 are probably two legitimate concerns here. On one
17 hand, from Management's perspective, we want to make
18 sure that we in fact know and are fully aware of any
19 claim.

20 So arguably, that would argue in favor of
21 having reports only made to the HR director so that
22 unless you report to the HR director, you haven't

1 reported to LSC, and when you do report to the HR
2 director, we're then on notice. In the prior draft, I
3 think we permitted reports either to a supervisor or
4 the HR director.

5 Concerns were expressed about encouraging
6 people to talk to others in Management who people might
7 feel more comfortable talking to. And we have in this
8 draft tried to steer a course between opening up
9 reporting to anybody on one hand or limiting the
10 reports just to the HR director on the other hand by
11 permitting reports to supervisors, directors, and to
12 senior officers or the HR director.

13 The key to the arrangement we propose working
14 is training. All of the people that are named
15 here -- supervisors, directors of offices, General
16 Counsel, the Vice President for Grants Management, and
17 of course the HR director -- will be made aware that it
18 is critical that if you receive any sort of report, if
19 you think you've received a report, if you get any
20 indication, you need to go to the HR director.

21 CHAIRMAN MINOW: So that would follow some
22 training, I assume, for all relevant supervisors?

1 MR. FLAGG: Yes. Obviously, there's going to
2 be training for all employees on this policy. And then
3 for all managers and supervisors in particular, there
4 will be a piece of the training that will emphasize
5 that for this policy to work, you need to inform the HR
6 director that we've gotten this sort of indication.

7 But those are the competing values we're
8 trying to weigh here -- on one, the certainty from
9 Management's perspective that we've in fact gotten a
10 notice of a claim and we've acted promptly because it's
11 the HR director that has to take action --

12 CHAIRMAN MINOW: So Ron, why don't we
13 see -- you may have other points you want to highlight.

14 But I think everyone's read the material.

15 MR. FLAGG: Okay. No, I have two other
16 points, but if you want to talk about this one, we can
17 talk about this one and then I'll --

18 CHAIRMAN MINOW: Why don't you just flag the
19 others. I'm mindful of the time.

20 MR. FLAGG: Yes. The two other points are
21 broader. One is the excellent point that we don't want
22 to create, in essence, contract rights by issuing a

1 policy like this. This policy and others, such as the
2 whistleblower policy, will be part of the code of
3 conduct.

4 The other place where these types of things
5 are found, although in this case not, would be the
6 employment manual. And in both of those documents, the
7 preamble to the document states explicitly, these do
8 not create contract rights. And under D.C. law, D.C.
9 courts will enforce that type of clause.

10 The other point which Harry raised, which
11 again I think is a serious and important point, is a
12 question whether we should have such a detailed and
13 lengthy policy, or whether it's better to just say, in
14 effect, don't discriminate. Don't harass. If you
15 become aware of discrimination or harassment, report it
16 to the HR director and there will be no retaliation.

17 If we were writing on a clean slate, we might
18 have found that -- and I'm obviously exaggerating; the
19 policy would say more than that, but not much more --

20 MR. LEVI: Harry gave great comments.

21 MR. FLAGG: If we were writing on a clean
22 slate, we might be attracted to that sort of policy.

1 But we're not writing on a clean slate. We're writing
2 on a slate where we already have, frankly, in two or
3 three different places policies which are much more
4 detailed.

5 If we were now to go to a "Don't discriminate,
6 don't harass, and if you hear about it, tell us"
7 formula, I think employees might come to us and say,
8 are you serious about this? You seem to have cut back.

9 The other thing that's important is I think
10 the officers who are responsible for carrying out the
11 policy, and in some instances this Board, are given
12 responsibilities. And when those responsibilities are
13 given, Board members at the last meeting said, what are
14 we supposed to do in this situation? So by having some
15 more details, it does relieve people of making
16 difficult decisions about what the process should be.

17 CHAIRMAN MINOW: Yes. I can understand that.

18 I could think it's worth considering a preamble that
19 just says that short statement because you wade through
20 this and it is deadly. And I think it would be
21 incredibly helpful, both as a kind of endorsement
22 statement, symbolic, whatever, communication just to

1 say, here's the essence and here's the details.

2 MR. FLAGG: Well, I'd invite your attention to
3 the "Purpose."

4 CHAIRMAN MINOW: I saw the Purpose. I still
5 think, to summarize it, that's not just to say what the
6 purpose is. This policy in its essence says that we do
7 not accept harassment or discrimination, and therefore
8 we ask all of you to participate in reporting it. The
9 purpose doesn't quite do that. It's a purpose, as
10 opposed to, this is what the policy is. But that's my
11 own view.

12 Harry?

13 MR. KORRELL: I appreciate Ron's addressing my
14 concerns, and I apologize to fellow Board members for
15 not raising them last meeting, but I wasn't here.

16 I have concerns about the approach in general
17 that Ron has already addressed, and in my view, the
18 ship has sailed on those, and perhaps for good reasons.

19 The one issue that I still have with the policy that I
20 would like to bring the Board members' attention to is
21 I really feel strongly that allowing employees to
22 report to a supervisor is a dangerous thing.

1 I reckon, Sharon, this may have been your
2 suggestion at one of the meetings. I've been talking
3 to Ron about the source of these requirements. I just
4 think it opens us up to claims that someone reported
5 when they didn't.

6 I advise my clients strongly to require
7 reporting to one person or maybe two. I understand
8 that may not work here, but I would advise that we take
9 out allowing someone to report conduct to his or her
10 supervisor. There's too much question about who's a
11 supervisor. There's too much question about what
12 constitutes a report.

13 If the only way to make this work is, as Ron
14 suggested, we roll out a big training component, I
15 think we open ourselves up to problems because someone
16 will report to someone that he or she thinks is a
17 supervisor. That person will think they were just
18 talking as friends over a cup of coffee. They won't
19 realize it was a report.

20 Then we'll miss the opportunity to do anything
21 about it, and from a legal standpoint, you lose the
22 ability to defend yourself because you didn't respond

1 to a report. So that would be my suggestion.

2 MS. BROWNE: Well, I agree with Harry. I
3 think having the ability of an employee to talk to a
4 supervisor could lead to potential problems. And I
5 probably misspoke at the last meeting, and so I
6 apologize.

7 But I think eliminating supervisors -- because
8 you can have somebody who is a low-level supervisor who
9 has one or two people that they supervise, but not
10 really going above that. I would think eliminating
11 "supervisor" would be acceptable.

12 I still think that you need to allow somebody
13 to come to management, which is different than a
14 supervisor -- it could be a department head, HR,
15 general counsel, officers, board members -- to make
16 sure that this is an informative policy that people
17 feel comfortable in reporting potential acts of
18 discrimination or harassment.

19 But eliminating the word "supervisor" I think
20 would be well done.

21 CHAIRMAN MINOW: So on page 144, 5A, the
22 proposal is to strike --

1 MR. FLAGG: "His or her supervisor."

2 CHAIRMAN MINOW: -- "his or her supervisor."

3 MR. FLAGG: And the same --

4 CHAIRMAN MINOW: And where it's repeated.

5 MR. FLAGG: Yes. It would come up on page 145
6 in the paragraph beneath "Complaints Against OIG
7 Employees."

8 CHAIRMAN MINOW: Right.

9 MR. KORRELL: And again on 146.

10 CHAIRMAN MINOW: And again on 146.

11 MR. FLAGG: Right.

12 CHAIRMAN MINOW: Does anyone have problems
13 with that? It sounds like a good amendment.

14 MR. LEVI: No. I agree with it.

15 CHAIRMAN MINOW: And it sounds like we got
16 some pretty high-level free legal advice from some
17 people who practice in this area, so that's pretty
18 great.

19 Other comments?

20 MS. BROWNE: Just one. I'm assuming that this
21 policy, once it's adopted, will be distributed to all
22 LSC employees, or anybody who's impacted by it. And

1 I'm hoping that every employee will be required to date
2 and sign it and say that they understand it and agree
3 to it, and then put it back into every employee's HR
4 file. Is that going to happen?

5 MR. FLAGG: Yes. What we do with both the
6 employee manual and the code of conduct is do exactly
7 what you described. This policy, along with two other
8 policies the Board has approved in the last nine
9 months, the whistleblower policy and the conflict of
10 interest policy, are all part of code of conduct.

11 We are going to have a new and revised code of
12 conduct, which will consist of those three policies as
13 approved by the Board, and we'll show that whole
14 document to you. But that policy we will require
15 employees to read when they become employees, and
16 likewise our employee manual. We have people review it
17 when they become employees.

18 CHAIRMAN MINOW: So for current employees,
19 will they be asked to do it as well?

20 MR. FLAGG: Yes. When we have a new policy --

21 CHAIRMAN MINOW: When you have a new one.

22 Yes.

1 MR. FLAGG: -- we'll do that again. And
2 again, a big piece of this will be training. And we
3 will plan to do that.

4 CHAIRMAN MINOW: Great. Are there other
5 comments or questions? Because I actually would like
6 this Committee to vote to recommend this to the Board.

7 Yes?

8 MS. BROWNE: On page 7, I also see the word
9 "supervisor." And I think we need to change that as
10 well, to eliminate it. "Contact HR director if you
11 have any questions."

12 MR. FLAGG: That's a good one.

13 CHAIRMAN MINOW: Good catch. Good. Thank
14 you.

15 Julie?

16 M O T I O N

17 MS. REISKIN: I'd like to move we send this to
18 the Board to approve, with the changes that we just
19 agreed on, removing the supervisor.

20 CHAIRMAN MINOW: Thank you. Is there a
21 second?

22 MS. BROWNE: Second.

1 CHAIRMAN MINOW: Committee vote. All in
2 favor?

3 (A chorus of ayes.)

4 CHAIRMAN MINOW: Excellent. We will have it
5 on the agenda for discussion by the full Board.

6 MR. FLAGG: Thank you.

7 CHAIRMAN MINOW: And Ron, thank you. I know
8 this was a pretty elaborate and detailed effort, and I
9 think it's much improved.

10 MR. FLAGG: I agree.

11 MR. KORRELL: I particularly appreciate Ron's
12 taking my comments, emails, and the like over the last
13 couple of weeks.

14 MR. FLAGG: When we have an employment lawyer
15 on our Board, I'm attentive when he gives me comments.
16 I'm very attentive to their comments.

17 CHAIRMAN MINOW: Two of them. And we
18 particularly appreciate the time that you put into it,
19 Harry. I don't think we could afford you. So it's
20 excellent.

21 (Laughter.)

22 CHAIRMAN MINOW: Our next item is also with

1 Ron, to consider and act on the Board attendance
2 program visit. We don't have to act on this, or do we?

3 MR. FLAGG: There is a resolution.

4 CHAIRMAN MINOW: There is? Okay. So we have
5 to update the agenda to say that there's an action
6 item.

7 MR. FLAGG: Yes. The resolution was part of
8 the Board package.

9 CHAIRMAN MINOW: This is pretty
10 straightforward, as we have found it very helpful to
11 have individuals attend meetings with the staff who are
12 from the Board. They should not have to pay for their
13 travel. That seems like a pretty straightforward
14 point. When they are there at the request of the Board
15 and the staff, that seems right.

16 MR. FLAGG: Right. And look, I think it's
17 quite clear under the bylaws that this is permissible.

18 A little ambiguous under the existing resolution
19 whether visits to grantees are covered; just to make
20 that clear, we wanted to --

21 MR. LEVI: It seems like a no-brainer to me.

22 MR. FLAGG: And Management recommends the

1 change be made.

2 CHAIRMAN MINOW: So it's a belt-and-suspenders
3 approach. Can I have a motion?

4 M O T I O N

5 MR. LEVI: So moved.

6 MS. BROWNE: Second.

7 CHAIRMAN MINOW: Or motion. Second. All in
8 favor? Omnibus.

9 (A chorus of ayes.)

10 MS. REISKIN: I'll abstain.

11 CHAIRMAN MINOW: Julie has abstained, although
12 maybe we should all abstain. But no, I think it's
13 carried, and I don't believe this has to be -- or does
14 this get reported to the full Board, then?

15 MR. LEVI: Yes.

16 CHAIRMAN MINOW: So we will do that.

17 MR. FLAGG: Yes. There's a Board resolution
18 at page 152.

19 CHAIRMAN MINOW: I see. So that's what we
20 will do. Thank you, Ron, very much.

21 We will now consider and act on any other
22 business. Anyone have anything to propose?

1 MS. BROWNE: Just I was looking at the risk
2 management, and there were some dates there for the
3 governance to have a risk management report.

4 CHAIRMAN MINOW: Yes. That was news to me as
5 well. Yes.

6 MR. FLAGG: I'm happy to -- let me remind
7 myself what those dates are and why they're there.

8 So again, presaging what's going to happen at
9 the Audit Committee tomorrow, the matrix is meant to
10 identify our risk areas, and there are obviously risk
11 areas associated with each of our Board Committees.

12 Management has gone through these risk areas
13 and has indicated where we've last reported to the
14 Board, at least in the last two years since we started
15 updating this matrix, and identifying future meetings
16 at which we might address issues.

17 In the case of the -- Sharon's referring to
18 page 180 and 181 --

19 CHAIRMAN MINOW: And 183.

20 MR. FLAGG: -- and 183 of the Board book, and
21 the matrix. Management has gone through all of these
22 risk areas, identified the ones which we propose to

1 make reports to the Board, and have put in some
2 tentative dates.

3 My suggestion is, rather than talk about them
4 here, is that these proposed report topics and dates be
5 discussed further with the Chair of the Committee, and
6 that if it seems like a good idea to go forward with
7 these dates, we will. And if the Chair prefers some
8 other date or some other topic --

9 CHAIRMAN MINOW: Well, since the dates will
10 have passed by then, I think it would be important to
11 change the dates.

12 MR. FLAGG: No, no. I don't think there
13 were -- or were there July dates?

14 CHAIRMAN MINOW: Yes. There were July dates.
15 July 20, 2014. So I take your point, and we will
16 leave this for discussion at the Audit Committee
17 with -- I think it's a really good point. So while
18 that is the work of the Audit Committee, it directs
19 work for this Committee, and we will look forward to
20 collaborating on that. Thank you.

21 Any other new business?

22 (No response.)

1 CHAIRMAN MINOW: Any public comment?

2 (No response.)

3 CHAIRMAN MINOW: All right. I will consider a
4 motion to adjourn. Anybody?

5 M O T I O N

6 MS. BROWNE: Move.

7 MS. REISKIN: Second.

8 CHAIRMAN MINOW: All in favor?

9 (A chorus of ayes.)

10 CHAIRMAN MINOW: Thank you.

11 MR. LEVI: Allan Tanenbaum, you have a brief
12 report?

13 MR. TANENBAUM: I just wanted to update the
14 Board on a presentation that I made at the last Board
15 meeting respecting the ABA Legal Access Job Corps,
16 where we were addressing the issues, and are addressing
17 the issues, of the perceived over-supply of new lawyers
18 and the under-supply of lawyers to serve the public,
19 and especially the group of clients that Legal Services
20 Corporation is most interested in.

21 I'm happy to say that this task force has been
22 given new life and will continue for at least one more

1 year under the new president of the ABA for next year,
2 and that the Chief Justice of the D.C. Court --

3 PRESIDENT SANDMAN: Court of Appeals.

4 MR. TANENBAUM: -- of Appeals, Eric
5 Washington, is going to continue to co-chair that with
6 me.

7 What we've done since the last meeting is
8 we've set out a competition among bar-related
9 organizations to give out a number of seed grants -- we
10 call them catalyst grants -- to try to encourage the
11 development of new programming that will address these
12 issues.

13 We've given out and awarded eight
14 grants -- some of the recipients are grantees of the
15 Legal Services Corporation, others are incubator
16 projects based on law schools and collaborated with
17 local bar associations -- so that we can try to
18 encourage the development of some new programming, new
19 techniques, and new ways that we can utilize the
20 lawyers around the country to deliver services to
21 people of modest means and almost no means.

22 We've given that out for a year. We hope to

1 get a report back in a year, to see what new things
2 they have developed that we might be able to replicate
3 around the country, and specifically with grantees of
4 the Legal Services Corporation.

5 So this totals about \$80,000 of grants. We're
6 hoping to do the same thing for next year and keep this
7 research going at the local delivery levels to see what
8 else we can do to try to address some of the problems
9 that the Pro Bono Task Force of this Corporation
10 identified as real needs.

11 So the ABA is doing that. We're putting money
12 where our mouth has been. And hopefully we'll be able
13 to see some fruits of our collective labors.

14 CHAIRMAN MINOW: That's great.

15 MR. LEVI: Questions? Comments? Thank you
16 all.

17 (Whereupon, at 5:45 p.m., the Committee was
18 adjourned.)

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