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June 10, 2015

Ms. Stefanie K. Davis

Assistant General Counsel Legal Services Corporation

VIA E-mail: SubgrantRulemaking@lsc.gov and to 1628rulemaking@lsc.gov

Re: Comments to Notice of Proposed Rulemaking for Part 1627 (Subgrants),
80 FR 21692, April 20, 2015

Dear Ms. Davis:

Metro Volunteer Lawyers submits the following comments on proposed revisions to 45 C.P.R. Part 1627.

Introduction

MVL was established in 1966 by a group of young Denver Bar Association lawyers. MVL is a non-profit pro bono program that provides civil legal services to financially-eligible applicants in eight Metro Denver counties. Our mission is "to bridge the gap in access to justice by coordinating the provision of pro bono legal services by volunteer lawyers with the Denver Metro Area to people who could not otherwise afford legal services for their civil legal issues."

MVL serves people who are living at or below 125% (free legal services) - 150% (low-fee legal services) of federal poverty guidelines. The majority of MVL cases are referred to volunteer attorneys. MVL also assists low-income clients through the Family Law Court Program, Post Decree Clinics, the legal clinics at the Denver Indian Center, and fellowship legal service programs. In 2014, MVL handled 1,783 civil cases thanks to the assistance of 416 volunteer attorneys.

MVL is first and foremost the pro bono program of the Denver Bar Association. MVL also collaborates with other local bar associations in the Denver Metro Area to provide legal services in Denver, Adams, Arapahoe, Jefferson, Elbert, Broomfield, Gilpin, and Douglas counties. Each local bar association provides delegate members to the MVL Board of Directors.

Colorado Legal Services provides support to MVL's mission through office space and intake personnel. CLS provides an in-kind donation of office space to house MVL's Executive Director, Family Law Court Program Coordinator, Legal Services Coordinator, Rovira Scholar (a fellowship position funded by a private benefactor), and the Program Assistant. Additionally, nearly all the cases that MVL handles are filtered first through CLS's intake team. CLS's intake team gathers essential information on the legal issues of prospective clients and passes that information to MVL to refer out to volunteer attorneys.

MVL Comments and Opposition to the Proposed Rule

A major impact of the proposed rule would be increased costs of administration for both CLS and MVL. These costs would be at the expense of providing legal service to the needy.

We point out that organizations similarly situated to MVL might be impacted in the following ways:

- limitations or prohibitions in receiving in-kind services to assist and alleviate expense for both the LSC grantee and non-LSC grantee organization
- maintaining proximity to and continuity with the referral source
- contending with LSC regulations contrary to organizational missions, objectives, and administration
- maintaining flexibility to serve our community

Because their comments include cogent and compelling arguments and examples directly reflective of the types of hardships MVL would face in the event that the proposed rule is adopted, MVL adopts and incorporates herein the following provisions from the NLADA comments as set forth below:

“NLADA urges LSC to carefully consider the possible adverse consequences the framework set out in this section may have on the ability of LSC funded programs to effectively carry out their mission to promote equal access to justice and provide high-quality civil legal assistance to low-income Americans.

...

However, this apparent blanket prohibition on the provision of goods and services by recipients that are in part or fully funded by LSC conflicts with the purpose, intent and provisions of the Private Attorney Involvement (PAI) regulation, particularly 1614.4 (b) (3) 1[1], and would hinder not advance longstanding, beneficial collaborative relationships with community members, including private attorneys and the bar; prevent the development of similar relationships in the future and marginalize recipients’ visibility and presence in the community. Prohibiting the exchange of goods and services denies recipients appropriate flexibility to be innovative and creative in expanding access to legal services which has been strongly encouraged by LSC, including its Board members.

If LSC intends to impose an all-out probation on a recipient’s use of office space a number of LSC funded programs would be prevented from using one of their most valuable assets – property they have invested in to provide economical office space for their operations. In a time of severe fiscal constraints this non-monetary asset could be used in innovative ways to partner with community organizations, particularly pro bono programs, to enhance the availability of legal services for people who are poor and in need of legal services.

LSC’s proposed revisions and comments regarding revised sections 1627.2 and 1627.3 appear to be directly contrary to LSC’s strong encouragement of and support for recipients’ collaboration with third parties in the community and robust and sustained support for PAI. LSC’s promotion of recipient collaboration with third parties, is illustrated by inclusion in the opening page of its website which states: “LSC encourages programs to leverage limited resources by partnering and collaborating with other funders of civil legal aid, including state

^{1[1]} Support provided by the recipient in furtherance of activities undertaken pursuant to this section including the provision of training, technical assistance, research, advice and counsel or the use of recipient facilities, libraries, computer assisted legal research systems or other resources. 45 CFR 1614(b)(3)

and local governments, Interest on Lawyers' Trust Accounts (IOLTA), access to justice commissions, the private bar, philanthropic foundations, and the business community."^{2[2]}

Beginning in 2011 LSC spent almost two years spearheading a Pro Bono Taskforce (PTF) to "identify and recommend to the Board new and innovative ways in which to promote and enhance pro bono initiatives throughout the country."^{3[3]} In 2014, LSC then implemented many of the recommendations of the taskforce report issued in October 2012 by revising the PAI regulation to encourage and expand PAI activities. The PAI regulation, 1614. 4 (b)(3) specifically allows an LSC recipient to provide goods and services such training, technical assistance, research, advice and counsel or the use of recipient facilities, libraries, computer assisted legal research systems or other resources to support private attorney involvement. LSC also advocated for funding for the Pro Bono Innovation Fund to encourage innovation and replication of effective practices in pro bono legal service delivery.

...

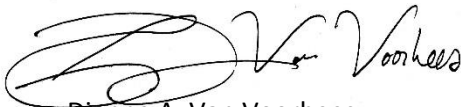
As indicated by the president of LSC's Board of Directors, Jon Levi, LSC's vital mission to help provide equal access to justice, essential to the rule of law, has been threatened for many years now by significantly expanding need and chronically inadequate resources. "LSC has been attempting to address this problem by raising public awareness and through innovative technology and pro bono programs to help stretch every dollar as far as it can possibly go."

Conclusion

Please reject the proposed rules to avoid detrimental consequences that could end or at least substantially disrupt the decades- long symbiotic relationship between MVL, CLS, and the Denver Metro Area Legal Community.

We thank you for your careful consideration.

Sincerely,



Dianne A. Van Voorhees
Executive Director

^{2[2]} <http://www.lsc.gov/about/what-is-lsc#sthash.mL138y0a.dpuf>

^{3[3]} <https://www.federalregister.gov/articles/2014/10/15/2014-24456/private-attorney-involvement>