

IV. LSGMI SUPERVISION

A. Introduction

Supervision of all program staff is essential to the delivery of high quality legal services to clients, and to the development of skilled, professional staff. To ensure that proper supervision occurs, a deliberate allocation of time and responsibility should be made for this purpose. What is expected of both the supervisor and those who are supervised should be made explicit. Compatibility between supervisor and supervisee is an important aspect of a successful working relationship. Where such relationships are incompatible to either party, the matter should be brought to the attention of the Executive Director.

The goals of supervision of an attorney are (1) for the attorney to provide high quality legal advocacy to the client community by becoming a skilled advocate, and (2) to foster the professional growth of the attorney. Under the guidance of the supervisor, the attorney will develop the planning, organization, analysis, strategy and advocacy skills required to achieve these goals.

The purpose of the *Supervision Guidelines* is to identify standards and expectations for supervision of attorneys in various positions and with various levels of experience. The categories used in this statement may not fit every attorney, nor be appropriate for every attorney who fits, technically, within a category. Consequently, some deviation from these guidelines may be appropriate, and should be considered in conjunction with the policies on case assignment and the evaluation system.

B. Supervisors

Responsibility for direct supervision of individual attorneys may be delegated to attorneys with two or more years of experience. Supervisors should be successful attorneys with the demonstrated ability to identify legal issues, and with the substantive knowledge and procedural skills to plan and implement effective strategies. Supervisors should possess the ability to give constructive criticism and feedback.

No attorney should directly supervise more than two case handlers with less than one year of experience unless the supervisor has a reduced caseload. Annual evaluations are appropriate times to determine whether the *Supervision Guidelines* are being followed and to make any necessary changes. However, informal efforts should also be made throughout the year to assess adherence to the *Supervision Guidelines*.

The supervisor will not always be present or available, and sometimes emergencies arise in their absence or unavailability. Therefore, every supervisor must have a designated back up to assist with emergencies during the supervisor's absence or unavailability. This back up system will assure that the attorney will know who to turn to with emergency matters when the supervisor is not available.

C. New Attorneys – Thirty Day Training and Orientation Period

This section applies to attorneys with less than two years of experience as a Legal Services lawyer. It is understood that new attorneys who have been hired after serving an internship within the same unit to which they are assigned or who have prior experience working as an attorney in a non-Legal Services environment may not require the intensive training outlined below.

The first thirty days of employment for all new attorneys is a training and orientation period during which time the new attorney is responsible for learning LSGMI policies and procedures, substantive law, and client representation skills. The supervisor is responsible for notifying the new attorney about appropriate training opportunities. Assignment of cases should be strictly limited during the thirty day training period.

1. Program Policies and Procedures

During the training and orientation period the new attorney is responsible for becoming familiar with LSGMI policies and procedures. The new attorney shall be provided with a copy of the LSGMI Program Manual and Collective Bargaining Agreement. Upon receipt of the LSGMI Program Manual, the attorney must review the document, and sign an acknowledgment that he/she has read the Manual and agrees to abide by its terms. A copy of the acknowledgment will be placed in the attorney's personnel file.

It is expected that the new attorney will also learn LSGMI policies and procedures during the formal New Attorney Training and Orientation Program, while conducting supervised client interviews and by participation in Unit meetings. It is especially important that the new attorney learn program priorities, client eligibility standards, time record maintenance, LSC requirements, intake procedure, case handling procedures, ethical responsibilities and client sensitivity during the training and orientation period.

2. Substantive Law

During the training and orientation period the new attorney is responsible for becoming familiar with the basic law and procedures addressed by the Unit, and poverty law in general. The supervisor is responsible for directing the new case handler to appropriate introductory legal materials. Examples of introductory legal materials include statutes, regulations, rules of procedure, *Clearinghouse Review* articles, back up center materials and materials developed by Unit staff. These materials will be reviewed during a formal in-house new attorney training program.

3. Client Representation Skills

a. Client Counseling

During the training and orientation period the new attorney should observe at least five client interviews conducted by other staff members. The purpose of observing client interviews is to develop client counseling techniques, and to learn substantive law, and program intake policies and procedures. The observations should be followed by an informal discussion of the legal issues and other matters raised in the interviews.

Also, during the training and orientation period, the new attorney should conduct at least three initial client interviews under the observation of a supervisor. The supervisor should then informally critique the interview with emphasis on fact gathering techniques, spotting of legal issues, applicable program policies, ethical considerations, demeanor and sensitivity to client. The supervisor should stress areas requiring improvement and suggest ways to improve as well as areas where the new attorney performed well. After the observation period is satisfactorily concluded the new attorney may conduct client interviews alone.

b. Advocacy Skills

During the training and orientation period the new attorney must observe at least one hearing in the forum most applicable to the Unit. The new attorney should also observe depositions, negotiations, mediation, meetings with opposing counsel, community meetings and client training as often as practicable during the training and orientation period. The supervisor should schedule such observations and provide the new attorney with a schedule. Such observations may be scheduled outside of the Unit.

D. New Attorneys – The First Year

During the first year of employment the new attorney shall (i) become knowledgeable about the law and procedures addressed by the Unit; (ii) develop the skills necessary to competently represent clients; (iii) become knowledgeable about the client community and begin to develop formal relationships with client and community organizations; and (iv) become knowledgeable about program policies and procedures. During the first year the supervisor shall closely monitor the new attorney's progress in these areas and provide opportunities and support for the development of these skills.

1. Monitor Case Assignment and Work Load

The supervisor shall be responsible for closely monitoring the first year attorney's case assignments. Case assignment shall be made with the following factors in mind: (i) experience of the case handler; (ii) complexity of the case; (iii) other responsibilities; (iv) support and supervision available to the case handler; and (v) the needs of the client community. During the first year, cases shall be assigned to provide

the new attorney with an opportunity to expand professional skills, and provide high quality representation. As the new attorney continues to acquire client representation skills and knowledge of the substantive law, the cases assigned should reflect this progress.

The new attorney shall prepare and maintain a case status report of all active cases which is updated weekly. The Supervisor shall review the case status report each week. The new attorney should submit the case status report to the supervisor, and the Senior Attorney in charge of the unit if the Senior Attorney is not the direct supervisor, so the supervisor and the Senior Attorney are aware of the status of all cases assigned to the new attorney.

A recommended method of promoting development of new attorneys is through co-counseling assignments with supervisors and peers. Co-counseling involves the ongoing active participation of both attorneys to develop a case plan and timetable, strategies, research, drafting of pleadings, client contact, negotiations and shared court room experience as appropriate.

2. Case Review

The supervisor and new attorney must meet regularly to review and discuss the new attorney's cases. The new attorney must review the cases prior to the meeting and be prepared to identify the legal problem, and to also discuss the client's goals, facts, strategy, procedural issues, research done, progress made, and recommended course of action. This information should also be recorded in the case status report and placed in the client file. The new attorney should submit the case status report to the supervisor at the time of the meeting.

A supervisor must play an active role in the new attorney's cases. The supervisor must be prepared to help the new attorney develop the skills to define the legal problem, and to develop strategies and a course of action in every case for which the new attorney is responsible. The supervisor should be familiar with the case file, and be able to exercise independent judgment in evaluating each case. Merely listening to reports on cases is not a sufficient basis for competent supervision of a beginning attorney. The supervisor must review the actual case files under review. The supervisor's input should be recorded on a Supervisor Case Review Notes form (Exhibit 1), and placed in the client file. The supervisor may want to keep a copy of the Supervisor Case Review Notes in a separate file for future reference

During the first three months of employment, the supervisor and new attorney must meet at least every two weeks to formally discuss all cases assigned to the attorney. At the end of the three month period, the supervisor and new attorney should discuss whether it is appropriate to meet on a more or less frequent basis, but at least one time per month, and make a recommendation to the Executive Director or the Senior Attorney if he/she is not the direct supervisor. This conversation should occur in the context of the three month evaluation.

Close supervision as described above typically should continue at least through the first six months of employment. During the six month evaluation, the supervisor and the attorney should discuss the level and type of supervision that will be appropriate during the next six months.

3. Supervision of Courtroom and Administrative Advocacy

The new attorney should observe at least one administrative or judicial hearing, trial, or motion before appearing alone. The supervisor should schedule this observation, and provide the schedule to the attorney and the Senior Attorney if not the supervisor. After the observation, the attorney and the attorney providing representation should discuss what was observed. The new attorney should also discuss the observation with the supervisor with the goal of developing advocacy skills.

The supervisor must attend at least the first hearing that the new attorney conducts alone. The supervisor must critique the new attorney's performance at the conclusion of the hearing.

During the first year, the new attorney should participate as co-counsel in at least two administrative proceedings or courtroom proceedings with the supervisor or another experienced case handler. The supervisor must critique the new attorney performance.

The new attorney shall review his/her case preparation with the supervisor at least two days prior to the new attorney conducting an administrative hearing or courtroom proceeding alone. Any written materials to be submitted shall be provided by the new attorney to the supervisor at least five days prior to the deadline for submission.¹ The supervisor should schedule a moot court for the new attorney. .

E. New Attorneys With Prior Legal Services Experience

This section applies to attorneys who are new to LSGMI, but who have two or more years experience working as an attorney in another Legal Services program.

The first thirty days of employment for all attorneys is a training and orientation period during which time the attorney is responsible for learning LSGMI policies and procedures, substantive law and client representation skills. The supervisor shall notify the attorney about appropriate training opportunities. There should be close supervision as described in Section C above. After one month, the supervisor and attorney shall make a recommendation to the Executive Director, or the Senior Attorney if he/she is not the direct supervisor, regarding the level and type of continued supervision that is

¹ Some deviations from these guidelines may be necessary due to court imposed deadlines.

appropriate. It is understood that attorneys hired with experience will have a variety of skill levels and may not require the entire training outlined in this section.

1. Program Policies and Procedures

The experienced attorney and supervisor must follow the procedures established for new case handlers in Section C.1.

2. Substantive Law

The experienced attorney and supervisor must follow the procedures established in Section C.2.

3. Client Representation Skills

a. Client Counseling

The experienced attorney must observe several client interviews conducted by other attorneys. Thereafter, the experienced attorney must conduct at least three initial client interviews under the observation of a supervisor who must assess and critique the interviews. If the supervisor determines that the interviews were satisfactory, the experienced attorney may independently interview clients.

b. Advocacy Skills

If the attorney has not had courtroom or administrative hearing experience, there must be courtroom or administrative hearing supervision as described in Section D.3. If the attorney has had courtroom or administrative hearing experience, the supervisor must review the attorney's preparation and must observe the attorney's first motion hearing and first administrative hearing or trial. The supervisor must also review any written materials to be submitted. The supervisor must schedule a moot court as may be appropriate to the case.

F. Attorneys With More Than One Year Experience With LSGMI

LSGMI is responsible for the representation provided by its attorneys. Therefore, LSGMI supervises all attorneys regardless of years of experience. Experienced attorneys will be provided with supervision necessary to ensure that they effectively use their skills and expertise to assist clients, and continue to develop their legal skills and knowledge to enable them to engage in complex legal, policy and community work expected of experienced attorneys.

Each experienced attorney will be assigned a specific supervisor. However, because an experienced attorney may have multiple and varied assignments (e.g. individual case load, mentoring of junior staff, project coordination, community work, etc.) oversight may be provided by individuals other than the immediate supervisor.

The specific strategies used to supervise experienced attorneys are dependent on the individual attorney's assignments, professional goals, strengths, and challenges. However, at a minimum, the following strategies must be utilized in the supervision of all experienced attorneys.

1. Monitor Case Assignment and Work Load

The Unit Senior Attorney assigns cases to the attorney. The Senior Attorney should consult with the supervisor on a regular basis to ensure that the attorney has a case load that will allow for both high quality service to clients and continued professional development.

Factors to consider in assigning cases include: (i) the availability of time for the attorney to provide competent representation; (ii) the attorney's level of experience, training and expertise; (iii) the status and complexity of the attorney's pending cases; (iv) non-representational legal work and other responsibilities of the attorney; (v) support available to the attorney; (6) other relevant factors such as office location, travel time, congested court dockets, etc.

2. Case Review

a. Monthly Case Status Report

The attorney must maintain a current case status report and provide it to the supervisor each month. The supervisor must review the case status report each month. After reviewing the case status report, the supervisor should meet with the attorney as may be appropriate to discuss concerns about the quality of legal services provided in a case, case strategies, upcoming hearings or negotiations, or other issues related to the quality of legal services provided and the attorney's professional development.

b. Open Case File Review

The supervisor must periodically review the attorney's case files. It is recommended that for attorneys with between one to three years experience a representative sample of open files be reviewed every four months. It is recommended that for attorneys with more than three years of experience that a representative sample of his or her files be reviewed every six months. The supervisor should pick the files to be reviewed. However, the attorney may request that files of his or her choosing also be reviewed in addition to those selected by the supervisor. The supervisor must complete a Supervisor Case Review Note for each file reviewed, and place it in the client file. It is recommended that the supervisor retain a copy for future reference.

Open case file review should include:

1. An in-depth review of complex legal matters to assure that the attorney has identified all major issues and considered appropriate remedies. Strategies should be re-evaluated to take account of new developments that may arise in the case.

2. Routine cases should be assessed to ensure that representation is provided in a competent and timely fashion with adequate client contact,. Unacceptable patterns of practice should be identified and corrected.

c. Closed Case File Review

The supervisor must review all case files prior to the case being closed in the case management data base. The supervisor must assess whether the goals of representation have been achieved, and if not, why; whether there was a final communication with the client; and whether the LSGMI case closing protocol has been followed.

3. Other Supervision Strategies

- a. Daily interaction between the attorney and the supervisor concerning pending cases and other legal work.
- b. Assignment to work as lead counsel on a case with junior staff that the attorney will mentor.
- c. Assignment to work on a complex case with the supervisor.
- d. Prior to filing an appeal, federal lawsuit or complex or potentially controversial litigation the attorney must present the proposed litigation to the Litigation Review Committee,
- e. Prior review and approval by the supervisor of all appellate briefs and complex/nonroutine legal memos of law filed with the court.
- f. Moot court prior to all appellate arguments and complex motion hearings.
- g. Presentation at an office or Unit meeting to discuss the status of a case or other legal work.
- h. Attendance by the supervisor at proceedings, such as hearings or trials, meetings, or other settings where the supervisor has an opportunity to observe and provide feedback on the attorney's performance.

Exhibit 1

SUPERVISOR'S CASE REVIEW NOTES

CLIENT'S NAME: _____ STAFF: _____

FILE
NUMBER: _____
PROBLEM CODE/LEGAL
PROBLEM: _____
INTAKE
DATE: _____
CASE STATUS:

NEXT STEPS:

DEADLINE: _____

COMMENTS: _____

SUPERVISOR: _____ DATE: _____