

Public Comments

- Janice Chiaretto, Statewide Legal Services of Connecticut
- Lynda Krupp, Legal Aid and Defender Association, Inc.
- Linda Warren Seely, Memphis Bar Association/Memphis Area Legal Services
- William Tanner, Legal Aid Society of Orange County
- David Udell, National Center for Access to Justice

From: Jan Chiaretto [mailto:JChiaretto@slsct.org]
Sent: Friday, May 24, 2013 10:46 AM
To: PAI Rulemaking
Subject: Comments on PAI rule-making

The topic is vast and well covered .

TO Mark Freedman, Senior Assistant General Counsel, Legal Services Corporation

FROM: Legal Aid and Defender Association, Inc.



These comments are submitted to the Legal Services Rulemaking Committee by Linda Warren Seely, President, Memphis Bar Association, Member of the House of Delegates for the Tennessee Bar Association, Member of the Tennessee Bar Association Access to Justice Committee, Member of the Memphis Bar Association Access to Justice Committee, Member of the Subcommittee on Faith Based IOne of the more exciting developments over the past 10 years has been the increase in the number of Bar Association and Court related Access to Justice or Pro Bono committees, taskforces and commissions. In my experience at the state and local levels, a broad range and category of new volunteers have made their way onto these committees, taskforces and commissions. From the Memphis Bar Association's Access to Justice committees inception paralegals (from private firms all the way to the Sheriff's department), social workers (from the Veterans Administration), law students, other agency service providers, judges, clerks and law professors have been welcomed as key stakeholders in the development of innovative programs and projects in the delivery of legal services in Memphis.

One project I will mention of the Memphis Bar Association and Memphis Area Legal Services is our monthly Saturday Legal Clinic. We began on the second Saturday of November in 2008 at a church, First Baptist Church on Broadway, in a lower income part of Memphis. We began with a handful of volunteer attorneys and a number of the church congregants who came out to feed us and ply us with coffee. Although we didn't have huge numbers of applicants, we had such a great volunteer turnout that we did it again, this time at a different church in a different part of Memphis. As we began, we added a paralegal volunteer component, then law students started coming. Mediators wanted to offer their services and we split them off to serve weekly at our General Sessions Courts and used social work graduate students to coordinate their sessions. The clinic expanded significantly after the then Chair of the MBA Access to Justice Committee and MALS staff met with staff from the Memphis and Shelby County Library system to partner on a more permanent community venue for our clinic. This library location in Memphis is a large, spacious building with 3 community rooms available for public use.

free of charge. The main library has a large parking lot and sits on the main bus line. We have institutionalized our Saturday Legal Clinic. We are open from 10 am until about 1 pm the second Saturday of each month at the main library in Memphis. Each month a different firm or corporate legal department or bar association acts as the event sponsor; in June the Ben F. Jones Chapter National Bar Association served as the sponsor. The sponsor's job is to make sure there are at least 20 volunteer attorneys available at the clinic. We have paralegals and administrative assistants who regularly staff the clinic providing much needed and valuable coordination for the applicants, making sure forms are completed and kept in some order. Volunteer law students and students in the local paralegal studies programs often come to volunteer and will be assigned to work with one of the volunteer attorneys providing forms and internet research, helping the attorneys complete documents and other related tasks. A local investment group, the Marston Group and a local bank, Bank Tennessee, send over coffee and treats for the volunteers.

We encourage churches to also sponsor these clinics and sometimes we go into Senior Centers and other community centers to provide clinic operations.

Memphis Area Legal Services has volunteers and externs from law schools and paralegal schools and undergraduate schools. We have used social worker volunteers, community volunteers, retired lawyers and just about anyone who calls and says, "I want to help". They staff clinics, help applicants with forms, do research, make community education materials or provide in house clerical help, represent clients, attend hearings, write newsletter articles; if it's something our community or clients need, we count on volunteers to help. We have office space available for volunteer attorneys who don't have an office- mothers with small children or attorneys who cannot find a job but want to contribute and give them cases to handle.

The volunteers, all of them regardless of whether or not they are attorneys, need access to office space, a doyd, "thebuk aovib9-5(e)8(r)ront 6-2(n ho)2(i)-2ud(ng o)-1ss to omme

We have a number of paralegals who represent individuals at social security disability hearings, which is permitted by the Social Security Administration provided the paralegals pass certain testing requirements. We are not able to make use of cases handled by these paralegals as they don't 'count' as lawyers.

None of the work done by many of our volunteers is countable towards our PAI obligation because they aren't lawyers. This can be a huge disincentive to working with these nonlawyer volunteers for our agency. It's hard to understand why LSC encourages and even demands these relationships but won't let us count as part of our PAI requirement cases handled by provisionally licensed lawyer students directly supervised by our staff or paralegals authorized to practice in certain administrative tribunals or even mediators who are frequently licensed attorneys.

Should LSC implement regulations to allow PAI credit for training and supervision of these volunteers?

Yes, LSC funded agencies should be permitted a little more latitude with regard to the types of volunteers, cases and services provided by attorneys that count toward the PAI requirement.

Ensuring against fraud or waste and/or unintended consequences.

As for concerns in this regard, it might be helpful to fund some pilot programs to see what if any problems or unintended consequences arise. I will note, however, that the preponderance of legal aid type agencies that eschew LSC funding and have been very successful at growing their service delivery model and providing excellent services in their communities. It might be helpful to conduct a review of these agencies and model services after those programs.

*Please note that this particular description encompasses a description of how we handle advice and counsel/brief service clinics. All of the applicants are screened for eligibility and sufficient information is obtained from them to properly open a file consistent with LSC requirements including signing of Citizenship Attestations and limited scope retainer agreements. However, at a recent Tennessee Supreme Court Access to Justice Commission conference in Tennessee designed to encourage churches and bar associations to sponsor clinics, the point was made repeatedly that partnering with an LSC funded agency is a huge problem for the bar associations and churches because of regulatory compliance issues. The speaker indicated that LSC funded agencies were unnecessary to the success of these clinics, that LSC requirements inhibited applicants from coming because of the paperwork burden and was an unwelcome intrusion by the private attorneys. He encouraged those present to eschew partnership with LSC funded entities to avoid these difficulties. The speaker in this instance is a well known attorney in the Access to Justice arena having served as the Chair of the Tennessee Bar Access to Justice committee.

LSC PROBONO TASK FORCE WORKSHOP

Proposal for Allowing the Training and Supervision of Law Students, Law School Graduates, and Deferred Associates to Count Toward an LSC Recipient's PAI Funding.

I. Background

The LSC PAI requirement stipulates that "a substantial amount of funds be made available to encourage the involvement of private attorneys in the delivery of legal assistance." 1614.2(a). The purpose and mission of the PAI requirement is "to generate the most possible legal services for eligible clients from available, but limited, resources" 1614.1(c). According to the LSC Pro Bono Task Force, engaging students and instilling a lasting commitment to pro bono work is wholly consistent with the aims of the PAI regulation." LSC Pro Bono Task Force Recommendation 2, PAI Revision 0 Td (B)Tj -0.016 Tc 0.015 Tc

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graduates seeking to start their own solo practice or small firm that represents the poor. The Chicago Bar is also setting up an incubator that targets students wanting to establish a community practice that serves low-to-moderate income residents.

Further, incubators encourage private attorney involvement with public interest organizations. Law students and new attorneys participating in public interest incubators tend to enjoy the work performed in the incubator that they remain committed to serving the unrepresented. These participants are more likely to continue serving in accordance with the LSC's goals.

