



## RULEMAKING OPTIONS PAPER

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TO: **Operations & Regulations Committee**  
Board of Directors

FROM: **Victor M. Fortuno**  
Vice President & General Counsel

DATE: October 11, 2007

SUBJ: Rulemaking to Develop "Lesser Sanctions"

### *Introduction*

... SC senior management.

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further recommends that such rulemaking be undertaken through Notice and Comment Rulemaking, with the convening of a limited scope Rulemaking Workshop to address the process for imposing limited reductions in funding.

**Background**

*LSC's Enforcement Authority & Tools*

LSC takes seriously its responsibilities to ensure compliance. The LSC Act provides general enforcement authority to the Corporation.<sup>2</sup> LSC's main regulation discussing

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45 C.F.R. Part 1618. In accordance with the requirements of Part 1618, Management  
requirements of enforcement tools, formal and informal, to ensure compliance. By and

establishing such standards and procedures.

The instances in which LSC encounters a grantee that is not diligently working

toward compliance are few and far between. However, the proposed tools may well have a deterrent effect and increase LSC's flexibility in addressing compliance issues.

*Previous Consideration of the Development of a "Lesser Sanctions" Regulation*

be legally available  
grantee to a  
discretionary  
the 1998 revision to Part 1606 contemplated further rulemaking to adopt  
limited reductions in funding, no further action was taken at the time, or

**Scope of Potential Rulemaking**

The following ~~options~~ addresses two options involving the imposition of monetary-

based penalties. Although Management believes that monetary-based enforcement tools should be enforcement tools of last resort, they can be useful options for their deterrent effect and as a meaningful sanction in the infrequent instances in which they would be needed. Although either of these tools could be adopted individually without the other, Management believes that pursuing both would be preferable. Such an approach would provide LSC with a more complete set of enforcement tools, enabling LSC to choose the most effective and appropriate sanction in any given situation.

***Amending Part 1623 to Provide for Suspension of Funding Pending Corrective Action***

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63 Fed. Reg. 64646 at 64648 (Nov. 23, 1998). In the nearly nine years since this rule was adopted, many grantees have significantly increased the variety of sources of their funding.

While there are some grantees with little or no non-ISC funding, many grantees now

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limited reductions in funding, but is of the opinion that such a process can be developed

### ***Rulemaking Process - Options***

Under the LSC Rulemaking Protocol, LSC may pursue rulemaking by Notice and Comment Rulemaking only, or through the use of Negotiated Rulemaking (followed by a brief notice and comment process). If LSC pursues a Notice and Comment rulemaking...

only, LSC has the option of conducting a public Regulatory Workshop to engage in a discussion with interested parties about the subject of the rulemaking prior to the development of a Notice of Proposed Rulemaking.

With respect to the proposed rulemaking on the extension of the maximum suspension period (Part 1693), although the rulemaking is likely to be of significant interest

**extension of the maximum suspension period would not represent an effective or efficient use of resources. Rather, Notice and Comment Rulemaking by itself would provide sufficient opportunity for all interested parties to comment on LSC's proposed course of action. However, Management recommends the convening a limited scope Regulatory Workshop on the development of a process for the imposition of limited reductions in funding.**

Approved:



A handwritten signature in blue ink, appearing to read "Herin M. B...".

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President