the legal assistance provided. The regulation is intended to help "insure that legal services programs are accountable to those whom they are expected to serve." 42 Fed. Reg. 37551 (July 22, 1977).

As noted above, Part 1621 has not been amended since its original adoption nearly 30 years ago. A Notice of Proposed Rulemaking (NPRM) was published in 1994 which would have instituted some more specific requirements for the grievance process and clarified the situations in which access to the grievance process is appropriate. However, due to significant legislative activity in 1995 and 1996, no final action was ever taken on the 1994 NPRM and the original regulation has remained in effect.

As part of a staff effort in 2001 and 2002 to conduct a general review of LSC's regulations, the Regulations Review Task Force found that a number of the issues identified in the 1994 NPRM remained extant. The Task Force recommended in its Final Report (January

Proposed Rulemaking (NPRM). LSC convened a Rulemaking Workshop on January 18, 2006, and provided a report to the Committee at its meeting on January 27, 2006. As a result of that Workshop and report, the Board directed that LSC convene a second Rulemaking Workshop and report back to the Operations & Regulations Committee prior to the development of any NPRM. LSC convened a second Rulemaking Workshop on March 23, 2006 and provided a report to the Committee at its meeting on April 28, 2006. As a result of the second Workshop and report, the Board directed that a Draft NPRM be prepared. The Committee considered the Draft NPRM at its meeting of July 28, 2006 and the Board approved this NPRM for publication and comment at its meeting of July 29, 2006. LSC published the NPRM on August 21, 2006 (71 Fed. Reg. 48501). LSC received five timely comments on the NPRM.

A Draft Final Rule was prepared by Management for presentation to the Committee at its October 27, 2006, meeting. Prior to that meeting, however, LSC received a request from the National Legal Aid and Defender Association (NLADA) that LSC postpone consideration of the Draft Final Rule and reopen the comment period to allow the client community additional time to respond to the proposed changes in the rule. In response to that request, action on the Draft Final Rule was deferred and the NPRM was republished for comment on November 7, 2006 (71 Fed. Reg. 65064). LSC received three timely additional comments, one from the client caucus of an LSC grantee, one from the client committee of a non-LSC grantee legal services provider, and one from the Center for Law and Social Policy on behalf of NLADA, replacing CLASP/NLADA's previously submitted comments. LSC also received two late filed comments, one from an individual past client of a recipient and one from the Chairperson of the NLADA Client Policy Group.[1] After consideration of the additional comments, Management presented a

[1] The comments from the Chairperson of the NLADA Client Policy Group although dated December 21, 2006 (prior to the close of the comment period) were not submitted properly in accordance with the directions set forth in

revised Draft Final Rule to the Committee at its meeting of January 19, 2007. The Committee recommended adoption of the Draft Final Rule to the Board of Directors and the Board adopted the changes to Part 1621, as set forth herein, at its meeting of January 20, 2007.

Summary of the Rulemaking Workshops

LSC convened the first Part 1621 Rulemaking Workshop on January 18, 2006. The following persons participated in the Workshop: Gloria Beaver, South Carolina Centers for Equal Justice (now known as South Carolina Legal Services) Board of Directors (client representative); Steve Bernstein, Project Director, Legal Services of New York – Brooklyn; Colleen Cotter, Executive Director, The Legal Aid Society of Cleveland; Irene Morales, Executive Director, Inland Counties Legal Services; Linda Perle, Senior Counsel, Center for Law and Social Policy; Melissa Pershing, Executive Director, Legal Services Alabama; Don Saunders, Director, Civil Legal Services, National Legal Aid and Defender Association; Rosita Stanley, Chairperson, National Legal Aid and Defenders Association Client Policy Group (client representative); Chuck Wynder, Acting Vice President, National Legal Aid and Defenders Association; Steven Xanthopoulous, Executive Director, West Tennessee Legal Services; Helaine Barnett, LSC President (welcoming remarks only); Karen Sarjeant, LSC Vice President for Programs and Compliance; Charles Jeffress, LSC Chief Administrative Officer; Mattie Condray, Senior Assistant General Counsel, LSC Office of Legal Affairs; Bert Thomas, Program Counsel, LSC Office of Compliance and Enforcement; Michael Genz, Director, LSC Office of Program Performance; Mark Freedman, Assistant General Counsel, LSC Office of Legal Affairs; and Karena Dees, Staff Attorney, LSC Office of Inspector General.

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the NPRM and were, consequently, received late. The late filed comments were nonetheless considered in the development of this Final Rule.

The discussion was wide-ranging and open. The participants first discussed the importance of and reason for having a client grievance process. There was general agreement that the client grievance process is important to give a voice to people seeking assistance from legal services programs and to afford them dignity. The client grievance process also helps to keep programs accountable to their clients and community. It was generally agreed that the current regulation captures this purpose well. However, it was noted that the client grievance process also can be an important

was noted that while informing clients of their rights can be empowering, suggesting at the outset that they may not like the service they receive is not conducive to a positive experience.

The appropriate role of the governing body in the client grievance/client relations process;

Challenges presented in providing proper notice of the client grievance procedure to applicants and clients who are served only over the telephone and/or email/internet interface;

Application of the process to Limited English Proficiency clients and applicants;

Whether and to what extent it is appropriate for the composition of a grievance committee to deviate from the approximate proportions of lawyers and clients on the governing body, e.g., by a higher proportion of clients than the governing body has generally;

Challenges presented by a requirement for an in-person hearing and what other options may be appropriate;

Whether the limitation of the notiay be appaitaticca4ns of lawyersih,

Finally, the group was in general agreement that additional opportunity for comment and fact finding would prove useful to both LSC and the legal services community before LSC committed to moving ahead with the development of a Notice of Proposed Rulemaking.

LSC convened its second Part 1621 Rulemaking Workshop March 23, 2006. The following persons participated in the second Workshop: Claudia Colindres Johnson, Hotline Director, Bay Area Legal Aid (CA); Terrence Dicks, Client Representative, Georgia Legal Services; Breckie Hayes-Snow, Supervising Attorney, Legal Advice and Referral Center (NH); Norman Janes, Executive Director, Statewide Legal Services of Connecticut; Harry Johnson, Client Representative, NLADA Client Policy Group; Joan Kleinberg, Managing Attorney, CLEAR, Northwest Justice Project (WA); George Lee, Client Representative, Kentucky Clients Council; Richard McMahon, Executive Director, New Center for Legal Advocacy (MA); Linda Perle, Senior Counsel, Center for Law and Social Policy; Peggy Santos, Client Representative, Massachusetts Legal Assistance Corporation; Don Saunders, Director, Civil Legal Services, National Legal Aid and Defender Association; Rosita Stanan Janesanan Jnesanan Jnesana .000c0.2o and

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clients and applicants experience the grievance

talk to someone. Talking with someone higher up almost always resolves the issue and usually entails an explanation of the decision not to provide service.

Decisions to deny service sometimes involve consideration of the priorities of other entities such as pro bono programs that take referrals. Some programs handle intake for themselves and for other organizations. The criteria for intake for different entities are not always the same. A program may have to handle complaints about denials of service that involve a different program's priorities.

In many situations there is nothing more that the program can do, especially when a denial of service decision was correct. There was a concern about creating lots of procedures that would give a grievant false hope. It is important that the applicant get an "honest no" in a timely fashion.

The oral and written statements to a grievance committee do not require an in person hearing. These can be conveyed by conference call, which may be better in some circumstances. In some cases though, clients or applicants have neither transportation nor access to a phone. Programs may have difficulty providing grievance procedures in those situations.

Hotlines have a number of callers who never

program. There is a danger of a generally available form becoming a conduit for a flood of complaints unrelated to a program and its services.

The grievance process itself should not be intimidating. Often the applicants and clients are already very frustrated and upset before contacting the program.

There was discussion of what process, if any, a client had for addressing quality concerns with a PAI attorney or a pro bono referral. One program reported informTf1.f1.0iediating these0.01T0002D0.Tw[(Thnor di)8.1(and its inform)8surv55 0 TD2250005 Tc0.0495 Tw[682 before

throughout this regulation. LSC intends no change to the meaning of the terms "denial" and "deny" as they are used in the current client grievance procedures rule. LSC intends that "applicant" has the same meaning as it does in Part 1611, Financial Eligibility, except that for the purposes of this Part, "applicant" shall also include groups which apply for legal assistance.

Section 1621.1 – Purpose

LSC proposed to amend this section to clarify that the grievance procedures required by this section are intended for the use and benefit of applicants for legal assistance and for clients of recipients and not for the use or benefit of third parties. LSC received one comment specifically supporting and no comments specifically opposing this amendment. Accordingly, LSC adopts this change as proposed.

In addition, LSC proposed to delete the reference to "an effective remedy" because the grievance process is just that, a process and not a guarantee of any specific outcome or "remedy" for the complainant. LSC received three comments specifically supporting and three comments specifically opposing this change.[2] The comments opposing the proposed change (all of which are from client representative groups) stated that removal of the reference to an effective remedy undermines the purpose of the rule and suggests that so long as the recipient provides a grievance process, the outcome to the client in cases in

agrees that a goal of an effectiv

reference to an "effective remedy" as proposed, but is adding an additional sentence to this section providing:

> This part is further intended to help ensure that the grievance procedures adopted by recipients will result, to the extent possible, in the mutually satisfactory resolution of complaints.

LSC believes that the addition of this language meets the commenters' concerns that grievance procedures should be designed and implemented with the intention of resolving complaints to at least some level of satisfaction of the complainant in as many cases as possible. Indeed, LSC believes that this is already the intention and practice of recipients. As such, adding this clarifying language to the regulation bolsters the notion of accountability to applicants and clients which animates Part 1621, while acknowledging that no specific outcome can be guaranteed in any particular instance.

LSC considered including a statement in this section clarifying that the client grievance procedure is not intended to and does not create any entitlement on the part of applicants to legal assistance. LSC specifically invited comment on this issue in the NPRM. One commenter agreed with LSC's determination that the addition of such a statement would not ultimately be a useful addition to the regulation because it seems unlikely that many applicants for legal assistance will have read the regulation prior to applying for legal assistance. Another commenter expressed some concern that an express statement that there is no entitlement to service could be used by a recipient as a basis to deny grievances in instances in which the recipient failed to follow its own case acceptance or other policies. Another commenter suggested that including such a statement would undermine the purpose of the rule and would be dispiriting to disappointed clients. However, LSC also received two comments suggesting that

LSC should include language in this section making it clear that the existence of a grievance procedure does not mean that an applicant is entitled to service. These commenters argue that such a statement would be helpful in that, even if applicants do not read the grievance procedures rule, recipients would have something concrete to refer to in talking with applicants unhappy with being denied legal assistance.

LSC acknowledges that there are good arguments to be made in favor of both positions (inclusion of a non-entitlement statement and non-inclusion of such a statement). On balance, LSC continues to believe that adding such a statement to the regulation is unnecessary. To the extent that it may be helpful to have something to

invited comment on this issue and received one comment agreeing with LSC's position. Accordingly, LSC is not adding any language to the regulation on this issue.

LSC received one additional comment on this section. This commenter suggested that LSC add a statement to the regulation that the client grievance procedure process does not take the place of a complaint filed with the appropriate state or local bar association and that the bar association "expects the client to make a good faith effort to re

the proportion of clients and lawyer members of the grievance committee to approximate that of the governing body, to be sufficiently flexible for recipients to respond to local conditions. LSC received one comment opposing and two comments expressly supporting LSC's approach to this issue. LSC continues to believe any change to this section to be unwarranted.

The comments supporting LSC's position on this issue did, however, suggest that LSC add a discussion to the preamble to note that although there is a role for each recipient's governing body in the grievance process, it is also important to recognize the limited role of the governing body in the day-to-day operations of the recipient. Further, it is incumbent on all parties to recognize that governing body members have fiduciary duties to their organization and must be careful, when engaging in any grievance committee activities, to safeguard these duties and avoid any potential conflicts of interest. LSC agrees that these are important considerations, and, accordingly, sets them forth herein. LSC is confident that governing body members currently serving on grievance committees are generally balancing their various duties and responsibilities appropriately. Inclusion of this discussion in the preamble should not be taken as an indication that either LSC or the commenters are concerned that current grantee/governing body practices are raising problems involving micromanagement of recipients' day-to-day operations.

The matter of potential conflicts of interest between a Board member's duty to the grievance process and his/her duty to the organization was the subject of the one comment LSC received opposing the proposed retention without amendment of this section. That commenter suggested that LSC create a Grievance Committee within LSC to process all client complaints. This, the commenter argues, would alleviate any potential conflicts because it would remove recipient Board members from the complaint resolution process. This commenter further argues

that such a change would be appropriate because client members of governing bodies who are

by having the more detailed procedures required by the section on complaints about the manner or quality of legal assistance appear first in the regulation. Put another way, there was concern that the current organization of the regulation obscures the fact that recipients are permitted to adopt a different procedure for processing the denial of complaints of legal assistance by applicants.

LSC received two comments specifically supporting the proposed reorganization. LSC continues to believe the proposed reorganization will clarify this matter and make the regulation easier for recipients and LSC to use. Accordingly, LSC adopts the change in organization as proposed.

In addition to the proposed reorganization discussed above, LSC proposed modest substantive changes to the regulation. First, LSC proposed to add language to the title of this section and the text of the regulation to clarify that this section refers to complaints by applicants about the denial of legal assistance. Consistent with the proposed changes in the purpose section, LSC believes these changes will help clarify that the grievance procedure is available to applicants and not to third parties wishing to complain about denial of service to applicants who are not themselves complaining. LSC notes that for applicants who are underage or mentally incompetent, the applicant him or herself is not likely to be directly applying for legal assistance and LSC does not intend this change to impede the ability of any person (parent, guardian or other representative) to act on that applicant's behalf. Rather, LSC intends the proposed clarification to apply to situations in which a neighbor, friend, relative or other third party would seek to complain in a situation in which the applicant is otherwise capable of complaining personally. LSC received two comments expressly supporting these changes and no comments opposing them. Accordingly, LSC adopts these changes as proposed.

notice in phone menus, to having intake workers and attorneys speaking with applicants provide the information orally. All of these methods can be sufficient and appropriate to local circumstances. The proposed phrasing was intended to ensure that recipients have sufficient flexibility to determine exactly how and when notice of the complaint procedures are provided to applicants, while retaining the requirement that the notice be "adequate" to achieve the purpose that applicants know their rights in a timely and substantively meaningful way so as to exercise them if desired.

LSC received several comments addressing the proposed changes concerning "adequate notice." Three commenters suggested that the clarification proposed by LSC was not adequate. One of these commenters suggested that the phrase "as practicable" should instead be "to the extent practicable," while another commenter suggested that the language LSC proposed in section 1621.4 is clearer and that similar language could be used in section 1621.3. LSC does not agree that the phrase "to the extent practicable" is substantively preferable to "as practicable." LSC believes that "to the extent practicable" suggests that that if a recipient decides it is not practicable, the recipient is not required to provide notice at all, whereas LSC believes that that the phrase "as practicable" suggests that adequate notice will always be provided, but recognizes the significant leeway recipients need in determining the particular time and manner in which that notice is to be provided. However, LSC does agree that the language it proposed in section 1621.4 is clearer than the language in proposed 1621.3, Accordingly, LSC is adopting language that provides that the procedure must provide "a method for the recipient to provide applicants with adequate notice of the complaint procedures and how to make a complaint, as practical. . . ." LSC is also changing the word "practicable" to "practical" in the following clause of that sentence to maintain consistency in language. Thus, the clause will read that the

recipient's procedure for review of complaints by applicants about the denial of legal assistance "shall provide for applicants to have an opportunity to confer with the Executive Director, or the Executive Director's designee, and, to the extent practical, with a representative of the governing body."

Finally, LSC proposed to add a statement that the required procedure must be designed to foster effective communications between recipients and complaining applicants. It was clear in the Workshops that this is very important to both applicants and recipients. Indeed, it is one of the main reasons for having a complaint procedure. Accordingly, LSC believes it is important for the regulation to reflect this. Because LSC is confident that the vast majority of recipient grievance procedures are already designed to foster effective communications, LSC continues to believe that the proposed addition to the regulation should not create any undue burden on recipients.

LSC received two comments specifically addressing this change. One commenter suggested that this statement should not be mandatory because the requirement necessitates a subjective judgment as to what is effective. Although LSC agrees that regulations should generally set forth clear, objective standards, there are situations in which some level of discretion and judgment are appropriately incorporated into a rule. An example of this is the "adequate" notice requirement discussed above. One could argue that "adequate" is a subjective term, yet LSC believes that there is no appropriate "one size fits all" approach and that recipients may provide notice in a variety of ways, any of which is adequate to inform the applicant as to the existence of a complaint procedure and Anmunicatc-.1(id2/Sadar, objBion)5.Cv[(dre TD0.0011 Tc

which LSC takes this element of the complaint procedure process (based on the importance which both applicant and recipients place on it), yet provides for a necessary level of recipient discretion in achieving the desired results. Accordingly, LSC declines to substitute the word "should" for "must" as suggested. LSC does believe a change in this paragraph, however, is warranted. Another commenter suggested the use of the word "shall" for "must" to be consistent with the use of the word "shall" throughout the remainder of the regulation. LSC agrees that "shall" is more appropriate in this context and adopts this suggestion.

LSC considered proposing to add a statement that the required procedure must be designed to treat complaining applicants with dignity, as this was another recurring refrain LSC heard throughout the Workshops. Because treating applicants with dignity is such a basic duty, LSC preliminarily determined that it is neither necessary nor appropriate to make it a specific regulatory requirement in this context and invited comment on this issue. LSC received one comment specifically supporting LSC's determination in this respect and none in opposition. Accordingly, LSC is not adopting any specific regulatory requirement on this issue.

LSC also received a comment suggesting that the proposed language of section 1621.3, "inappropriately involves the governing body in day-to-day case acceptance decisions because of the proposed addition of the phrase 'at a minimum.'" LSC disagrees that the inclusion of the phrase "at a minimum" either negates the language in the previous sentence of the provision that the procedure be "simple" or, of necessity, elevates the involvement of any governing body in a recipient's day-to-day case acceptance decisionmaking. Rather, as proposed, the regulation sets forth the minimum elements the procedure must have to be compliant with the regulation while inclusion of the phrase "at a minimum" provides recipients with discretion to have procedures which incorporate the required minimum elements, but also provides for additional elements, if

so desired. LSC does not intend and does not believe the language will require most recipients to make significant changes in how their governing bodies' grievance committees are incorporated into the grievance procedure. As LSC noted in the preamble to the NPRM: "LSC intends that existing complaint procedures for applicants who are denied legal assistance which would meet the proposed revised requirements may continue to be used and would be considered to be sufficient to meet their obligations under this section." 71 Fed. Reg. at 48505 (August 21, 2006).

This commenter also argues that, as proposed, section 1621.3 requires each recipient to have a procedure in place to review all decisions to deny legal assistance to applicants and not just those decisions which becomeew all d.0631 osioJ20, asenan1recipno

point. Accordingly, LSC is changing the language of proposed section 1621.3 to read "[a] recipient shall establish a simple procedure for review of complaints by applicants about decisions to deny legal assistance to the applicant." This language is also more consistent with the similar language in section 1621.4.

Finally, LSC received one comment (in the attachments to the Chairperson of the NLADA's Client Policy Group comments) suggesting that the current language of the regulation is clear and that the changes proposed make the language legalistic. This commenter suggests retaining the original language. LSC disagrees that the proposed language is less clear that the existing language. Rather, LSC believes the language being adopted, as discussed above, is clearer than the language it is replacing (as well as clearer than the existing language). Moreover, the language being adopted includes some substantive changes which LSC believes improves the utility of the regulation for recipients, applicants and clients. Accordingly, LSC declines to adopt the commenter's suggestion.

to complaints by clients about the manner or quality of legal assistance provided. LSC received two comments expressly supporting these changes and no comments opposing them. Consistent with the proposed changes in the purpose section, LSC continues to believe these changes will help clarify that the grievance procedure is available to clients and not to third parties wishing to complain about the legal assistance provided to clients who are not themselves complaining. Accordingly, LSC adopts these changes as proposed. As with the similar proposed changes to the section on applicants, LSC notes that for clients who are underage or mentally incompetent, the client is not likely to be directly applying and LSC does not intend this change to impede the ability of the person (parent, guardian or other representative) to act on that client's behalf. Rather, LSC intends the proposed clarification to apply to situations in which a neighbor, friend, relative or other third party would seek to complain in a situation in which the client is otherwise capable of complaining personally.

LSC also proposed some revision of the language setting forth the minimum requirements for the required grievance procedures. Except as noted below, these changes are not intended to create any substantive change to the regulation but, rather, to provide more structural clarity to the regulation. One such proposed change is the addition of a statement that the procedures be designed to foster effective communications between recipients and complaining clients. LSC received one comment suggesting that this statement should not be mandatory because the requirement necessitates a subjective judgment as to what is "effective." The rationale for the proposed change and LSC's response to this comment are the same as for the parallel proposed change in proposed section 1621.3.

As with proposed section 1621.3, LSC considered also proposing to add a statement that the required procedure must be designed to treat complaining clients with dignity, but chose not

to for the same reasons articulated in that proposed section. As noted above, LSC received one comment expressly supporting LSC's position on this issue.

LSC also proposed to amend the time specified in the rule regarding when the client must be informed of the complaint procedures available to clients. Currently, clients must be informed "at the time of the initial visit." This is typically accomplished in one of several different ways, such as through the posting of the complaint procedures in the office, by providing an information sheet to clients or by including information about the grievance procedure in the retainer agreement. However, the phrase "at the time of the initial visit" tends to imply an in-person initial contact – a situation which in increasingly uncommon for many recipients and clients. Also, a client may not actually be accepted as a client at the time of the initial contact (whether in person or not). LSC believes that what is important is that the person

However, the word "possible" is not used in that subsection. Rather, LSC used the word "practicable" in that proposed subsection. LSC believes that the language as proposed already meets the intent of the comments, but LSC does not believe the use of the word "practical" instead of "practicable" is likely to cause problems in understanding or applying the rule. This change would also be consistent with the use of the word "practical" in section 1621.3 (discussed above). Accordingly, LSC adopts the suggested change.

LSC received two additional comments on this section. The first commenter suggested that the terms "adequate notice" and "as practicable" were too vague and instead urged LSC to adopt a requirement that recipients be required to provide a written form setting forth the grievance procedures to clients (either in person, or by mail or fax) at the time the client is accepted for service. As noted in the discussion of the term "adequate notice" in section 1621.3, above, recipients use a variety of methods of providing notice of grievance procedures to clients, from posting of the procedures in the office or on websites, to having written procedures available for distribution and/or included in retainer agreements, to the provision of the notice orally through recorded phone menus or by having intake workers and attorneys speaking directly with clients. All of these methods can be sufficient to achieve the purpose that clients know their rights in a timely and substantively meaningful way so as to exercise them if desired, while still being appropriate to local circumstances. Moreover, there are situations in which issues of practicality arise in the provision of notice. For example, providing a written notice by mail to a client who is seeking legal assistance in a case involving domestic violence may put the client's safety in jeopardy and in other cases emergency conditions may prevail dictating some delay in the provision of notice. For these reasons, LSC believes that adopting the commenters' suggestion would unnecessarily impinge on recipients' flexibility to determine exactly how and

when notice of the complaint procedures are provided to clients. Accordingly, LSC declines to adopt this suggestion.

The second commenter asked for guidance on

procedure to private attorneys. However, from the clients' standpoint it is immaterial whether legal assistance happens to be provided directly by the recipient or by a private attorney pursuant to the PAI program. In both cases, the client remains a client of the recipient and should be afforded some avenue to complain about legal assistance provided. At the same time, subjecting private attorneys to the same grievance procedure that applies to the recipient would likely be administratively burdensome and likely impede recipients' ability to recruit private attorneys for the PAI program. In addition, some PAI programs, such as ones administered by bar associations, already have their own complaint pr

believes that the issues in the rulemaking have

1614 continue to be used and would be considered to be sufficient to meet their obligations under this section.

LSC received three other comments addressing proposed section 1621.4. Two of these comments ask LSC to clarify that the requirement in proposed section 1621.4(d) that recipients maintain files of complaints and their disposition applies only to complaints by clients about the manner or quality of legal assistance provided and not to complaints by applicants about the denial of legal assistance. LSC believes that it is clear that this requirement applies only to that section and not to any other section in the regulation. Recipients are not required to maintain files on complaints by applicants about denial of legal assistance. LSC does not believe that any modification of the regulation is necessary and anticipates that this discussion will remove any possible ambiguity.

One of these commenters further suggested that either the rule or preamble should make clear that files are required only for complaints that are not resolved informally by staff, the Executive Director or the Executive Director's designee and that the requirement should, instead, apply only to complaints that have been considered by the Board's grievance committee. The current requirement found in section 1621.3(c) is not limited in the manner suggested by the commenter. Rather, the current language provides

regulation. For LSC to change the regulation would result in a significant substantive change for which no rationale has been articulated. LSC declines to adopt this suggestion.

Finally, LSC received one comment (in the attachments to the Chairperson of the NLADA's Client Policy Group comments) suggesting that the current language of the regulation is clear and that the changes proposed make the language legalistic. This commenter suggests retaining the original language. LSC disagrees that the proposed language is less clear that the existing language. Rather, LSC believes the language being adopted, as discussed above, is clearer than the language it is replacing (as well as clearer than the existing language). Moreover, the language being adopted includes some substantive changes which LSC believes improves the utility of the regulation for recipients, applicants and clients. Accordingly, LSC declines to adopt the commenter's suggestion.

For reasons set forth above, and under the authority of 42 U.S.C. 2996g(e), LSC revises 45 CFR Part 1621 as follows:

PART 1621—CLIENT GRIEVANCE PROCEDURES

Sec.

AUTHORITY: Sec. 1006(b)(1), 42 U.S.C. 2996e(b)(1); sec. 1006(b)(3), 42 U.S.C. 2996e(b)(3); sec. 1007(a)(1), 42 U.S.C. 2996f(a) (1).

§ 1621.1 Purpose.

This Part is intended to help ensure that recipients provide the highest quality legal assistance to clients as required by the LSC Act and are accountable to clients and applicants for legal assistance by requiring recipients to establish grievance procedures to process complaints by applicants about the denial of legal assistance and clients about the manner or quality of legal assistance provided. This Part is further intended to help ensure that the grievance procedures adopted by recipients will result, to the extent possible, in mutually satisfactory resolution of complaints .

§ 1621.2 Grievance Committee.

The governing body of a recipient shall establish a grievance committee or committees, composed of lawyer and client members of the governing body, in approximately the same proportion in which they are on the governing body.

§ 1621.3 Complaints by applicants about denial of legal assistance.

A recipient shall establish a simple procedure for review of complaints by applicants about decisions to deny legal assistance to the applicant. The procedure shall, at a minimum, provide: a method for the recipient to provide applicants with adequate notice of the complaint procedures and how to make a complaint, as practical; and an opportunity for applicants to confer with the Executive Director or the Executive Director's designee, and, to the extent practical, with a representative of the

(b) The procedures shall be designed to foster effective communications between the recipient and the complaining client and, at a minimum, provide:

(1) A method for providing a client, at the time the person is accepted as a client or as soon thereafter as is practical, with adequate notice of the complaint procedures and how to make a complaint;

(2) For prompt consideration of each complaint by the Executive Director or the Executive Director's designee,

(3) An opportunity for the complainant, if the Executive Director or the Executive Director's designee is unable to resolve the matter, to submit an oral or written statement to a grievance committee established by the governing body as required by §1621.2 of this Part. The procedures shall also: provide that the opportunity to submit an oral statement may be accomplished in person, by teleconference, or through some other reasonable alternative; permit a complainant to be accompanied by another person who may speak on that complainant's behalf; and provide that, upon request of the complainant, the recipient shall transcribe a brief written statement, dictated by the complainant for inclusion in the recipient's complaint file.

(c) Complaints received from clients about the manner or quality of legal assistance that has been rendered by a private attorney pursuant to the recipient's private attorney involvement program under 45 CFR Part 1614 shall be processed in a manner consistent with its responsibilities under 45 CFR §1614.3(d)(3) and with applicable state or local rules of professional responsibility.

(d) A file containing every complaint and a statement of its disposition shall be preserved for examination by LSC. The file shall include any written statement submitted by the complainant or transcribed by the recipient from a complainant's oral statement.

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Victor M. Fortuno

Vice President and General Counsel