MATTIE COHAN CONDRAY

From: Cantos, Olegario D. [Olegario_D._Cantos@who.eop.gov]

Sent: Wednesday, June 14, 2006 10:40 AM

To: mdubin@ciladvocacy.org; MATTIE COHAN CONDRAY

- **Cc:** karen dickerhoof; Soflacil@aol.com; alvarez33161@comcast.net; akarret@legalaid.org
- Subject: RE: Comments to Proposed changes to LSC's Prohibition Against Discrimination on the Basis of Disability

Marc, thanks for sending me a CC of these recommendations to LSC. I concur with these sentiments.

--Ollie

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From: Marc Dubin [mailto:m_dubin@comcast.net]
Sent: Wednesday, June 14, 2006 9:34 AM
To: mcondray@lsc.gov
Cc: Cantos, Olegario D.; 'karen dickerhoof'; Soflacil@aol.com; alvarez33161@comcast.net; akarret@legalaid.org
Subject: Comments to Proposed changes to LSC's Prohibition Against Discrimination on the Basis of Disability
Importance: High

Wednesday, June 14, 2006

Mattie Cohan Condray Senior Assistant General Counsel Office of Legal Affairs Legal Services Corporation 3333 K Street, NW. Washington, DC 20007 mcondray@lsc.gov

Dear Ms. Condray:

I respectfully submit my comments, set forth below, concerning proposed changes to LSC's Prohibition Against Discrimination on the Basis of Disability.

Comments To Legal Services Corporation Regarding Proposed Changes to Its Prohibition Against Discrimination on the Basis of Disability.

Submitted by Marc Dubin, Esq. Director of Advocacy, Center for Independent Living of Broward Director of Advocacy, Center for Independent Living of South Florida Former Senior Trial Attorney, U.S. Department of Justice, Civil Rights Division, Disability Rights Section, Washington, D.C.

Background:

Form 1993-2005, I served as a Senior Trial Attorney at the U.S. Department of Justice, in the Disability Rights Section of the Civil Rights Division. In that capacity, I was responsible for nationwide enforcement of the ADA and the Rehabilitation Act on behalf of the United States. In addition to investigating and litigating alleged violations, I was also responsible for providing technical assistance, writing or reviewing much of the technical assistance materials issued. I have reviewed LSC's proposed changes, and have several concerns, set forth below. Please feel free to contact me if I can be of any further assistance.

Proposed Change:

LSC is also proposing to add a definition of the term "auxiliary aids and/or other assistive technology." Under section 1624.4, grantees with more than fifteen employees are required to provide appropriate "auxiliary aids" when necessary to clients and applicants to make services accessible.

Comment:

Section 1624.4, as described above, violates title III of the ADA. The section misstates the law. The issue of the number of employees (15 or more) only applies in the context of employment, under title I of the ADA. Under title III, which covers legal services offices as places of public accommodation, does not have the same requirement regarding the number of employees. The number of employees a place of public accommodation has is irrelevant under title III. I recommend that this be clarified.

Proposed Change:

"Although the current regulation uses the term "auxiliary aids," it does not contain a formal definition of the term in the definition section. Rather, section 1624.4 provides that for the purposes of that section, "auxilition regulatore scaffic in the 3605 in Teal Teal Teal Teal 2000.00000 (6927 is 00.0003 t T, va(336 i Ben

(2) Qualified readers, taped texts, audio recordings, Brailled materials, large print materials, or other effective methods of making visually delivered materials available to individuals with visual impairments;

(3) Acquisition or modification of equipment or devices; and

(4) Other similar services and actions.

Using this definition would be helpful in many ways, most notably in providing consistency with the ADA.

Proposed Change:

who bring allegations of the ADA to the attention of LSC, rather than have a practice of referring these cases elsewhere. Engaging in these cases will likely increase the number of legitimate claims coming to the attention of LSC, and will increase the experience of LSC attorneys and staff with ADA violations and the ADA regulations. LSC should also consider hiring ADA consultants to train staff and to consult on cases.

Executive Director, CAVNET (Communities Against Violence Network) www.cavnet.org

Former prosecutor (New York and Florida) (1983-1993)

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