

June 6, 2014

Ms. Stefanie K. Davis  
Assistant General Counsel  
Legal Services Corporation  
3333 K Street, NW  
Washington, D.C. 20007  
Via e-mail to: [PAIRULEMAKING@lsc.gov](mailto:PAIRULEMAKING@lsc.gov)

Re: Comments on Notice of Proposed Rulemaking Regarding 45 CFR Part 1614

Dear Ms. Davis,

The American Bar Association, through its Standing Committee on Legal Aid and Indigent Defendants (SCLAID) and with substantial input from its Standing



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provided. In addition, any time spent by the recipient in helping to plan and organize the legal information portion of the clinic should also count towards PAI.

Another situation that the proposed regulation fails to consider adequately is one in which the clinic has two components: one in which LSC-eligible clients are provided pro bono advice by one group of lawyers, and another component in which ineligible individuals are provided service by either staff of the clinic (who are not employees of LSC recipient) or a separate group of pro bono lawyers. In this situation, screening would take place in advance by clinic staff who are not employees of a LSC recipient, but may be staff of a bar association that has organized the clinic. Those screened individuals who are eligible for LSC services would be seen

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1614.10 (c), such withheld funds are ~~to~~ "made available for basic field purposes, which may include making those funds available for use in providing legal ~~services~~ within the recipient's service area through PAI programs." The Preamble at 79 Fed. Reg. 21198 (April 15, 2014), LSC explains this change is being proposed due to its concern that if the current recipient is the only applicant for those funds in the ~~competitive~~ grant process, the deterrent effect of withholding the funds would be reduced and would defeat the purpose of holding the competitive grant process.

The ABA urges LSC to reconsider this change because it is contrary to the ~~purpose~~ regulation to encourage PAI. If the consequence of failing to use funds for PAI is that the funds become available for basic field services, this provides a disincentive to comply with the PAI requirement. Instead, ~~these~~ withheld funds should be required to be used for PAI, if not in the service area of the program being penalized, then somewhere else in the state or the country. The ABA therefore recommends that LSC ~~maintain~~ the current language, but add a caveat that if the program from which funds are being withheld is the only LSC recipient applying for the funds in the competitive grant process, ~~then~~ LSC shall redirect the funds to another service area for a competitive grant process for PAI services.

The ABA appreciates the opportunity to present these comments and would be happy to provide additional clarification or analysis if such is required.

Sincerely,



Lisa C. Wood

cc: James R. Silkenat, ABA President