



OFFICE OF LEGAL AFFAIRS

MEMORANDUM

TO: Operations & Regulations Committee

FROM: Victor M. Fortuno
General Counsel

DATE: April 13, 2006

SUBJECT: Staff Report on 45 CFR Part 1621 (Client Grievance Procedure)
Rulemaking

Introduction

On October 29, 2005, the Board of Directors directed that the Legal Services Corporation (LSC) initiate a rulemaking to consider revisions to LSC's regulation on client grievance procedures. 45 CFR Part 1621 (hereinafter "Part 1621"). The Board further directed that LSC convene a Rulemaking Workshop and report back to the Operations & Regulations Committee prior to the development of any Notice of 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. This report is provided to inform the Committee of the results of the second Rulemaking Workshop, held on March 23, 2006, and to present management's recommendation for further action in the rulemaking.

Summary of the Workshop

A second rulemaking Workshop to consider issues relating to Part 1621 was held on March 23, 2006. The following persons participated in the 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 Aid Corporation; Don Saunders, Director, Civil Legal Services, National Legal Aid and Defender Association; Rosita Stanley, Client Representative, NLADA Client Policy Group; Helaine Barnett, LSC President (welcoming remarks only); Karen Sarjeant, LSC Vice President for Programs and Compliance; Charles

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Jeffress, LSC Chief Administrative Officer; Mattie Condray, Senior Assistant General Counsel, LSC Office of Legal Affairs; Bertrand Thomas, Program Counsel, LSC Office of Compliance and Enforcement; Cheryl Nolan, Program Counsel, LSC Office of Program Performance; and Mark Freedman, Assistant General Counsel, LSC Office of Legal Affairs,

President Barnett welcomed the group and provided background on the LSC Board's interest in reviewing Part 1621 and these workshops. President Barnett then provided a summary of the issues raised in the first workshop and explained that the participants in the first workshop and LSC staff recommended having a second workshop to get more client input and to hear from programs operating hotlines. Thus the participants for the second workshop, she explained, included client advocates, representatives from programs with different kinds of hotlines, as well as national advocates from NLADA and CLASP. Fina

- § Client and applicant dignity is very important. Most concerns are addressed when the applicant feels that they were heard and taken seriously, even if they are denied service.
- § All of the programs reported that intake staff will deal with dissatisfied callers by offering to let them talk to a supervisor, sometimes the executive director. They are given the choice of talking to someone or filing a written complaint. They almost always want to 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 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 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 is 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 handled by conference call, which may be better in some circumstances. In some cases though, cl. In5a0 TJJ331svo the

