

PROGRAM LETTER 98-5

TO: All LSC Program Directors

FROM: Karen J. Sarjeant
Acting Vice-President for Programs

DATE: July 2, 1998

RE: Case Information Disclosure -- Semiannual Reports Required by
45 C.F.R. Part 1644

This program letter provides guidance as to the timing and format of the semiannual case disclosure report required by law as discussed in detail in 45 C.F.R. Part 1644 (63 F.R. 33251, June 18, 1998).¹ **The semiannual reports will be due at the Corporation by August 1 for cases filed from January 1 through June 30 of each year and on February 1 for cases filed from July 1 through December 31 of each year.** Please direct completed reports to Compliance and Enforcement Unit, Office of Program Operations.

The reports shall be filed on the attached form, entitled "Case Information Disclosure Report", or, in the alternative, if a recipient compiles all the information requested by LSC on its own form, submission of that form will meet the semiannual case disclosure requirement. If a recipient submits its own form, it must include the caption "LSC Case Disclosure Semiannual Report for [Recipient Name]."

For guidance as to which cases must be disclosed, see §1644.3; note that §1644.3(b) provides that disclosure of cases in which a private attorney provides legal assistance as a part of a recipient's PAI activities is not required. For guidance as to what information must be disclosed, see §1644.4. If the name and address of a party is withheld under §1644.4(a)(1)(i) or (ii), the recipient should so note in the space provided for name and address on the attached form. Such notation should be in the following form:

¹ The publication of the 45 C.F.R. Part 1644 and the issuance of this Program Letter supersede Program Letter 97-2, which was interim guidance on the case information disclosure requirements of Pub. L. 105-119.

- A) Withheld pursuant to 45 C.F.R. §1644.4(a)(1)(i) because this information is protected by [insert appropriate language, such as “order of the court”, “rule of the court”, “State law (citation)”, or “Federal law (citation)”]; or
- B) Withheld pursuant to 45 C.F.R. §1644.4(a)(1)(ii) because the [insert recipient name] has determined that disclosure of this information would put its client(s) at risk of physical harm.

If a recipient has a grant to serve clients under legislation such as the Violence Against Women Act (VAWA) or the Victims of Crime Act (VOCA), there is a greater likelihood that disclosure would put a client at risk of physical harm and recipients should use the exception under §1644.4(a)(1)(ii) liberally. Such risk is not, however, a certainty and the determination must be made case-by-case by the attorney providing representation. For example, if the recipient is certain that the name and address of the client is already known to the person who poses a physical danger to the client, the recipient could determine that disclosure is harmless.

If the attorney providing representation determines that disclosure would lead to a risk of physical harm to a relative of the client, the recipient may withhold the client’s name and address, especially if the relative at risk is a child. In such instances, the recipient must keep a record of this determination and the reasons for it. For any other situation where it is not clear whether the risk-of-harm exception applies, the recipient should consult the Corporation before making a decision on disclosure.

In some instances, the name and/or address of one or more parties may be unavailable to the recipient.² For example, an opposing party may be a Jane or John Doe, or a party may be homeless, or a party’s address may be a P.O. Box. In such instances, the recipient should provide whatever information is available and enter “Not Available” for the remaining information.³

For further information please contact Danilo Cardona at (202) 336-8800.

² When there are multiple parties, the reporting obligation extends to all parties. Reporting name and address of just one client or one opposing party is not sufficient.

³ For cases filed under subgrant arrangements that are not PAI, recipients may not use the fact that this information is not in their files as an excuse not to report on such cases. In such cases, recipients must obtain the information from their subrecipient and may not claim unavailability unless it is unavailable to the subrecipient.

