



July 11, 2001

**Sent via electronic mail with hard copy
to follow via U.S. mail**

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RE: Eligibility of Older Americans Act Client to Serve as 'Eligible Client Member' on Recipient Board of Directors, Ex-2001-1011

Dear Mr. Hutchinson,

I am writing in response to your recent inquiry to the Office of Legal Affairs regarding the appointment of an Older Americans Act ("OAA") client to the board of directors of Dakota Plains Legal Services ("DPLS"). Specifically, you inquired whether a senior who is represented with OAA funds is an "eligible client member" within the meaning of 45 C.F.R. 1607, in light of the fact that recipients of OAA funds are not permitted to use a means test in determining client eligibility.

After analyzing the relevant regulatory provisions and considering the policy implications of your question, we have determined that a senior citizen represented with OAA funds is *not* an eligible client member for purposes of a recipient governing body unless he or she is financially qualified under 45 C.F.R. 1611. Section 1607.2 of the LSC Regulations provides that an "eligible client member" means a board member who is financially eligible to receive legal assistance under *the [LSC]Act and part 1611 of this chapter. . . .* [Emphasis added.] The regulation does not provide discretion to permit the appointment of financially ineligible client board members, including in situations where the client nominee is eligible for LSC services under a statute which does not permit a determination of financial eligibility.

Notwithstanding this determination, however, LSC recognizes the benefit of having OAA clients serve on recipient boards, as they are indeed representative of a segment of recipient client bases. Accordingly, we encourage you to appoint such persons to your board, where possible, in positions remaining after the appointment of the required sixty percent (60%) attorney members and one-third (1/3) eligible client members.

I hope this information is helpful. Please feel free to contact me at 202-336-8871 if you have any questions or if you would like to further discuss this issue.

Sincerely,

Dawn M. Browning
Assistant General Counsel

Victor M. Fortuno
General Counsel