

LEGAL SERVICES CORPORATION  
BOARD OF DIRECTORS

OPERATIONS AND REGULATIONS COMMITTEE

OPEN SESSION

Friday, January 19, 2007

3:22 p.m.

Legal Services Corporation  
3333 K Street, N.W.  
Washington, D.C.

COMMITTEE MEMBERS PRESENT:

Thomas R. Meites, Committee Chairman  
Lillian R. BeVier  
David Hall  
Michael D. McKay  
Bernice Phillips  
Jonann C. Chiles (by telephone)  
Frank B. Strickland, ex officio

BOARD MEMBERS PRESENT:

Herbert S. Garten  
Sarah Singleton (by telephone)

STAFF AND PUBLIC PRESENT:

Mattie Cohan, LSC Senior Assistant General Counsel  
Rosita Stanley, National Legal Aid and Defender  
Association  
Don Saunders, National Legal Aid and Defender  
Association  
Richard "Kirt" West, Inspector General  
Victor M. Fortuno, Vice President for Legal Affairs,  
General Counsel & Corporate Secretary  
Charles N. Jeffress, LSC Chief Administrative Officer  
Demille James, LSC Legal Assistant

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## 1 P R O C E E D I N G S

2 MR. MEITES: I will call the Ops and Regs  
3 Committee to order. For the record, it is 3:22. The  
4 first item is approval of the minutes to the committee's  
5 October 27th, 2006 meeting.

## 6 M O T I O N

7 MR. HALL: So moved.

8 MR. MEITES: Is there a second?

9 MS. BeVIER: Second.

10 MR. MEITES: Any discussion?

11 (No response.)

12 MR. MEITES: Hearing none, I will take the  
13 motion to be approved. The next item is consider and  
14 act on draft final rule revising 45 CFR Part 1621,  
15 Client's Grievance Procedure. And let us start with the  
16 staff report. Mattie?

17 MS. COHAN: Thank you. Good afternoon. For  
18 the record, I am Mattie Cohan, Senior Assistant General  
19 Counsel with the Office of Legal Affairs, Legal Services  
20 Corporation.

21 As you may remember, LSC published a notice of  
22 proposed rulemaking proposing to amend the Corporation's

1 client grievance procedure rule on August 21st, 2006.

2           To the first set of -- the first publication  
3 of the NPRM, LSC received five timely comments. Prior  
4 to the presentation of a draft final rule at the October  
5 meeting of this committee, NLADA, the National Legal Aid  
6 and Defenders Association, had requested reopening of  
7 the comment period to permit additional time for client  
8 representatives to comment. That was agreed to, and the  
9 notice of proposed rulemaking was re-published for a new  
10 comment period on November 7th, 2006.

11           In response to the reopened comment period,  
12 LSC received three timely additional comments and two  
13 late filed comments. All of the comments, however, I  
14 want to make clear, were considered in the development  
15 of the draft that's before you.

16           So we are now presenting a draft final rule  
17 for the committee's consideration. All of the comments  
18 and the proposed changes are discussed at length in the  
19 preamble to the draft final rule which was provided in  
20 your materials. So I'm kind of going to hit highlights  
21 from that, but if there's anybody has any very specific  
22 comments, I'm more than happy to address them.

1           The NPRM proposed only modest changes, and  
2 management is now proposing to adopt most of those  
3 changes as proposed, although there are a few further  
4 changes in the draft final rule made in response to  
5 specific comments that we received.

6           One kind of other general change before I turn  
7 to a section-by-section analysis is the notice of  
8 proposed rulemaking proposed to reorder two of the  
9 sections. The sections on complaints by applicants  
10 about denial of service, to have that section precede  
11 the section on complaints by clients about the quality  
12 and manner of legal assistance provided. The comments  
13 we received support this reordering, and the draft final  
14 rule keeps the proposed reordering of those two  
15 sections.

16           Section-by-section analysis. Section 1621.1,  
17 Purpose Section. We proposed to clarify -- use the  
18 purpose section to clarify that the grievance procedures  
19 are intended for clients and applicants and not for the  
20 benefit of unrelated third parties. There were no  
21 comments in opposition to that proposal, and the draft  
22 final rule contains the clarified language as proposed.

1           The NPRM also proposed deletion of a reference  
2 to an effective remedy, that the client grievance  
3 procedure was supposed to provide an effective remedy.  
4 We received comments both in support of and in  
5 opposition to this proposal. In particular, we received  
6 a number of comments from representatives of the client  
7 community, opining that such a deletion would undermine  
8 the purpose of the rule somehow. Although management  
9 disagrees that deleting that language would in fact  
10 undermine the purpose of the rule, we also believe that  
11 these concerns can be met, the concerns of the client  
12 community are important, and we believe they're met by  
13 the proposed addition of a new sentence. So, in  
14 addition to what we previously proposed, this draft  
15 final rule contains a new sentence which would read:

16           This part is further intended to help ensure  
17 that the grievance procedures adopted by recipients will  
18 result, to the extent possible, in the mutually  
19 satisfactory resolution of complaints.

20           We believe that this balances the concerns of  
21 the client representatives that the client grievance  
22 procedure try to in fact be meaningful enough to provide

1 a mutually satisfactory resolution, yet at the same time  
2 acknowledging that the procedure is a process and no  
3 particular outcome can be guaranteed in any particular  
4 instance.

5 MR. MEITES: Why don't you stop right there,  
6 Mattie.

7 MS. COHAN: Sure.

8 MR. MEITES: Because I think it's helpful if  
9 we discuss each of these as you go through them,  
10 otherwise we'll lose --

11 MS. COHAN: Sure.

12 MR. MEITES: And then we'll take public  
13 comment after we go through this. I was struck by the  
14 comments from the client community about effective  
15 remedy. And so I read 1621.1 with some care. And I  
16 have to say that I think that as presently drafted, the  
17 phrase "effective remedy" is misleading, at least as I  
18 read it, it suggests that the grievance procedure is an  
19 effective remedy. Well, the grievance procedure is  
20 useful for some purposes, but not for others. If the  
21 matter is not resolved at the grievance level, then it  
22 has not provided a remedy as a lay person would think.

1           But I am concerned about the notion that the  
2 phrase "effective remedy" in the rule as written does  
3 suggest an aspirational goal that it is the hope that  
4 the grievance procedure will lead to resolution of the  
5 problem. And as I understand your additional sentence,  
6 it is to focus on that aspect of the phrase "effective  
7 remedy" and to make clear that this is not in lieu of  
8 whatever other remedies in the rest of the universe are  
9 available. Is that what the idea was in the additional  
10 sentence?

11           MS. COHAN: Yes. Exactly.

12           MR. MEITES: Thank you.

13           MS. COHAN: Shall I go on?

14           MR. MEITES: Please.

15           MS. COHAN: There were two things that the  
16 NPRM talked about in the preamble to the notice of  
17 proposed rulemaking. One was a statement regarding  
18 whether the rule should have a statement about  
19 nonentitlement to service, that the existence of a  
20 grievance procedure available to applicants who are  
21 dissatisfied with being denied service, whether the rule  
22 should also include a statement that the existence of



1 the grievance procedure does not create any entitlement  
2 to be provided service.

3           We received comments both in support and  
4 opposition to the suggestion. On balance, management  
5 decided that inclusion was not -- of such a statement in  
6 the regulatory text was not necessary, and so that  
7 doesn't appear in the draft final rule. Rather,  
8 management believes that the discussion that's in the  
9 preamble and the fact that the 1611 financial  
10 eligibility rule does contain such a direct statement  
11 should provide grantees with I would say the written  
12 documentation that they may need to help resolve any  
13 complaints that they are receiving about that and help  
14 grieving applicants understand that there's not an  
15 entitlement to service.

16           Some of the comments that we got in support of  
17 that provision talked about that it would be helpful to  
18 have something to point to, essentially. And management  
19 believes that there is something to point to. It's the  
20 preamble to the rule and 1611, so that restating it in  
21 the client grievance procedure rule was perhaps not  
22 necessary, it was not necessary. And the comments in

1 opposition felt that it was not necessary and perhaps  
2 kind of antithetical to the point of the grievance  
3 procedure rule, which is to try to foster effective  
4 communications rather than kind of throwing up -- that  
5 it might look to some like throwing up a barrier.

6           So it was an on balance thing. The discussion  
7 is in the preamble but not in the draft of the final  
8 rule text.

9           A similar --

10           MR. MEITES: Wait a second.

11           MS. COHAN: Sure.

12           MR. MEITES: You know, as I think about the  
13 grievance procedure and its purposes, I guess the  
14 analogy to the rest of -- to my universe is more like a  
15 voluntary mediation. If it works, it works, if it  
16 doesn't work. There is an issue in employment law that  
17 sometimes -- because employers have grievance  
18 procedures. And there is a complaint at times, so I  
19 don't know how often this occurs, that employees invoke  
20 the grievance procedure, which takes some time, and  
21 thereby might have missed some filing opportunities for  
22 other avenues of relief.

1           In employment, there is an EEOC mandatory time  
2 period for filing charges. Was there any concern  
3 expressed that clients were losing other opportunities  
4 for remedy unaware that time may be passing because  
5 they're using the grievance procedure?

6           MS. COHAN: Well, I don't think so because  
7 this is only going to come up, the nonentitlement to  
8 service is primarily going to come up in the situation  
9 of an applicant who has been denied service, rather than  
10 a client who has actually gotten service and then  
11 perhaps, you know, because I'm thinking in terms of  
12 deadlines. If a client was unhappy with the quality or  
13 the manner of assistance provided, might have a certain  
14 time deadline to file, whether they thought it was an  
15 EEO complaint or file a bar complaint.

16           That's not going to come up in -- generally  
17 not going to come up in the situation of an applicant  
18 who is being denied service for one of the myriad  
19 reasons that they can be denied service, up to and  
20 including that there's just simply not the resources.  
21 They're perfect eligible. They have a great, you know,  
22 perfectly legitimate, eligible complaint, but there's

1 just not service, there's not resources to provide them  
2 service.

3 MR. MEITES: Let me -- does anybody on the  
4 committee see that this is a problem? I think that's a  
5 good answer. These kind of claims aren't going to be  
6 the kind of claims that really invoke -- have a time  
7 period running, if that's okay. Why don't you go on.

8 MS. COHAN: Okay. Another issue that had come  
9 up during the rulemaking workshops that we held was kind  
10 of what I would call ancillary uses of the grievance  
11 procedure, that there's a lot of information that  
12 grantees can glean from seeing what complaints come in,  
13 whether it's need for training of staff or need for  
14 reallocation of resources or reordering of priorities,  
15 there's a lot of good information from that process.  
16 And there was some question about whether those  
17 ancillary uses should be addressed in the regulatory  
18 text.

19 In the NPRM, LSC decided not to put that in  
20 the reg text because it really was an ancillary issue  
21 and seen as while grantees might want to use that  
22 information, that's not what this rule was really about.

1 And we received no comments opposing the decision not  
2 to put it in the rule, and the draft final rule  
3 continues that decision. So there's a discussion of the  
4 rule in the preamble, but you won't see anything about  
5 ancillary uses of the grievance procedure information in  
6 the reg text itself. So that's 1621.1.

7 1621.2, the Client Grievance Committee, the  
8 NPRM proposed no changes to this section. Most of the  
9 comments we received supported the decision to not  
10 propose any changes to the section, but did suggest  
11 adding to the preamble some information, a discussion  
12 about the appropriate balance that governing body  
13 members must bring to weighing their duties on the  
14 Grievance Committee and their duties with fiduciary  
15 responsibilities as governing body members to their  
16 respective organizations.

17 Management agreed that this was a useful  
18 discussion, and there is a discussion of that issue in  
19 the preamble. The discussion notes that the inclusion  
20 of that discussion is not intended to imply in any way  
21 that the Corporation has any concern that the governing  
22 body members are not in fact weighing those duties and

1 carrying out their responsibilities in anything other  
2 than a proper manner, but just that it was an important  
3 issue to raise, and so it's so duly raised in the  
4 preamble, and there's no need for any reg text on it.

5           We did, however, receive one additional  
6 comment that suggested that LSC should create its own  
7 grievance committee, which would essentially act as a  
8 substitute for individual grievance committees. And the  
9 thought behind that comment was that to avoid any  
10 potential conflict of interest that a governing body  
11 might have in looking at a grievance against its own  
12 self.

13           Although clearly it would be a way to get rid  
14 of any potential conflict of interest to do that, the  
15 downside of it, however, is management's really  
16 concerned that the grievance procedure is really a local  
17 governance issue and a local control issue, that it is  
18 not appropriate for LSC to be taking on that power and  
19 that responsibility, that we have no reason to believe,  
20 as I said just before, that the local grievance  
21 committees at the individual board are not performing  
22 their functions in a perfectly fine manner, that there's

1 widespread conflict of interest problems cropping up.  
2 And so management didn't think there was any need to  
3 disturb that system.

4           In addition, that would be a considerable  
5 resource drain for LSC to develop that expertise. And  
6 because there's not really any -- there is not any  
7 perceived problem, and the commentor there didn't really  
8 raise a specific problem that's widespread or individual  
9 allegations, there doesn't seem to be a good  
10 justification for the resource allocation change that  
11 would be required for LSC to undertake such a  
12 responsibility. That's all the comments that we  
13 received on 1621.2.

14           Section 1621.3. Complaints by applicants  
15 about denial of legal assistance. As I mentioned  
16 earlier, this is reordered to come before the complaints  
17 by clients. We received no comments opposing the  
18 reordering.

19           Next, the NPRM proposed clarification of the  
20 title and the text of this section to, as we did with  
21 the purpose section, to make it clear that it applies to  
22 applicants for legal assistance and not on behalf of

1 third parties. The comments that we received on that  
2 supported the proposed rule, and the draft rule contains  
3 those text changes as proposed.

4 Another change proposed by the NPRM would be  
5 that applicants denied for any reason would have  
6 recourse to the grievance procedures. Under the current  
7 rule, applicants have recourse to the grievance  
8 procedures if they have been denied service for one of a  
9 number of reasons, but not all reasons out there. It  
10 came up during the workshops that in the mind of the  
11 client, there's really not -- if you get denied, you get  
12 denied. There's not really a difference. And in  
13 practice, the grantees were making their grievance  
14 procedures generally available to anyone who was denied.

15 So, the reg is kind catching up to real life, I would  
16 say there.

17 We received no comments in opposition to that  
18 change, and the draft final rule reflects the proposed  
19 change as proposed.

20 Next, the NPRM proposed to clarify the phrase  
21 "adequate notice." In the current rule, it's a little  
22 vague. Contextually, it tells you that it's adequate



1 notice of what the complaint procedures are, but it's  
2 not clearly written. And the NPRM proposed to clarify  
3 that.

4 We received several comments requesting  
5 additional clarification in this area, and the draft  
6 final rule in fact has been rewritten to respond to  
7 those comments.

8 The new language that is in front of you today  
9 is that the complaint procedure shall provide, quote, "a  
10 method for the recipient to provide applicants with  
11 adequate notice of the complaint procedures and how to  
12 make a complaint as practical."

13 That language is intended to be clear of what  
14 the adequate notice is required, and yet build in  
15 necessary flexibility for the grantees to determine just  
16 how that notice is in fact given, given their location  
17 situation, whether they're a hotline or a program with  
18 lots of people coming in, or whatever the case may be, a  
19 local office or a statewide program.

20 MR. MEITES: Stop.

21 MS. COHAN: Sure.

22 MR. MEITES: I will ask Lillian's question for

1 Lillian about the punctuation of "as practical." What  
2 does "as practical" modify, or what -- it is a dependent  
3 clause to what?

4 MS. COHAN: It is intended to be a modifier of  
5 the requirement to provide a method to provide  
6 applicants with adequate notice. There are many ways to  
7 provide applicants with adequate notice. One can do it  
8 in, you know, if the client comes in in person, the  
9 grievance procedure may be posted on the wall, or if  
10 it's a telephone service, the grievance procedure may be  
11 basically part of the hold script while the person is on  
12 hold, they get various information; our offices are at;  
13 if you have a complaint, you can file it this way.  
14 Other programs do it when they get -- when the person  
15 finally gets to an actual human being that they're  
16 talking to. They've been on hold and they're talking to  
17 a person.

18 MR. MEITES: I think that if you were to make  
19 the word "practical" and adjective modifying the word  
20 "method," you would solve my problem. And it becomes a  
21 practical method to give notice and to make a complaint.  
22 So, if that satisfies our grammarians.

1           MS. BeVIER: Well, yeah, but I'm not sure that  
2 it's a practical method to -- I'm not sure -- I thought  
3 maybe it modified procedure. Procedure shall -- I don't  
4 know how to put in there, but it seemed to me that it  
5 might modify that. But if what you mean is it should be  
6 a practical -- it shall provide a practical method for  
7 the recipient to provide applicants. Is that what it is  
8 you actually mean? Or is --

9           MS. COHAN: Right. Well, let me turn your  
10 attention to what was proposed, the language that was  
11 proposed, which was: "The procedure shall at a minimum  
12 provide a method for the recipient to provide applicants  
13 with adequate notice as practicable of the complaint  
14 procedures."  
15 And then "and information about how to make a  
16 complaint." That was what was proposed. And we  
17 received a number of comments that that was apparently  
18 unclear, and management decided that the sentence, "The  
19 procedure shall at a minimum provide a method for the  
20 recipient to provide applicants with adequate notice of  
21 the complaint procedures and how to make a complaint as  
22 practical" covered all of the flexibility and was

1 perhaps less confusing. If you find it more confusing,  
2 we're more than willing, I'm sure more than willing to  
3 change it back, or to change it to something else  
4 altogether.

5 MS. BeVIER: Well, the whole thing is you're  
6 trying to make it a sort of practical procedure and a  
7 practical notice and so forth.

8 MS. COHAN: Correct.

9 MS. BeVIER: But right now it's just sort of  
10 dangling there kind of modifying.

11 MS. COHAN: Right. The original modifier was  
12 right after the words -- was originally after the words  
13 "adequate notice." So it was a method for the recipient  
14 to provide applicants with adequate notice as  
15 practicable -- it could be as practical -- of the  
16 complaint procedures.

17 MS. BeVIER: I like it. Thomas?

18 MR. MEITES: Yeah, I like it, too.

19 (Laughter.)

20 MR. MEITES: So, subject to you coming up with  
21 a better idea between now and when we present it to the  
22 board, let's move "practical" to modify "method."

1 MS. BeVIER: A practical method.

2 MS. COHAN: Okay. So if I'm getting this  
3 correctly, let me just read it back. "The procedure  
4 shall at a minimum provide a practical method for the  
5 recipient to provide applicants with adequate notice of  
6 the complaint procedures and how to make a complaint."

7 MR. MEITES: Yes.

8 MS. COHAN: Okay. All right. Moving on. The  
9 NPRM proposed to add a statement to the regulation that  
10 requires that the procedure be designed to foster  
11 effective communication between recipients and  
12 complaining applicants.

13 The comments we received were generally  
14 supportive of this new section, although one comment  
15 suggested that the language should be aspirational  
16 rather than mandatory, that the required procedure  
17 should be designed to foster effective communications  
18 rather than shall be designed to foster effective  
19 communications.

20 Management is of the opinion that "effective  
21 communications" is really at the heart of effective  
22 grievance procedure, and that this is an essential

1 element and should be mandatory. And the  
2 proposed -- the draft final rule before you maintains  
3 the mandatory language that was proposed.

4 MR. MEITES: Okay.

5 MS. COHAN: One last comment we received on  
6 this section suggested that we shouldn't change the  
7 section, the language of this section at all, and  
8 suggested that the proposed language was now too  
9 legalistic.

10 Management just respectfully disagrees and  
11 believes that the language as written now and in front  
12 of you, especially as further modified by Tom just a few  
13 minutes ago, is in fact clear, and that the substantive  
14 changes, though modest, that had been made, are  
15 important and will be helpful. And so, therefore, that  
16 comment was declined, and the draft final rule proposes  
17 the revised language, not the original language of the  
18 section.

19 MR. MEITES: Okay.

20 MS. COHAN: Finally, the last section, 1621.4,  
21 Complaints by clients about the manner or quality of  
22 legal assistance. Again, this is, as I noted before,

1 there was a reorganization of reordering of the  
2 sections. Nobody opposed that. Similar to 1621.3,  
3 there was a proposal to clarify the text and the title  
4 of this section to clarify that it applies to clients  
5 who are complaining about legal assistance and not for  
6 the benefit of third parties who might wish to complain.

7           Again, we got comments supporting that  
8 clarification and the draft final rule retains the  
9 proposed changes as proposed.

10           MS. COHAN: The next change, the current rule  
11 provides that the client is required to be informed of  
12 the grievance procedures at the time of the initial  
13 visit. Well, with hotlines and larger programs and a  
14 lot of programs not having initial in-person visits any  
15 more, that became kind of a concept that really didn't  
16 match reality.

17           So, the NPRM proposed that the client must be  
18 informed of the client grievance procedure at the time  
19 that the person is accepted as a client, because that's  
20 when it really, this particular provision kicks in for  
21 them.

22           The comments were generally supportive,

1 although LSC did receive one comment suggesting that LSC  
2 require the provision of a written form setting for the  
3 complaint procedures be sent, mailed, given to the  
4 client when that person is accepted as a client.

5 Management was concerned that requiring a  
6 written form, a particular written form of a client  
7 grievance procedures may unnecessarily limit grantee  
8 flexibility, because here again, grantees provide notice  
9 of the client grievance procedures in a variety of ways  
10 tailored to their particular situations.

11 In addition, the provision of a written notice  
12 may in fact not be appropriate in all cases.

13 Mailing -- you know, the example that comes to my mind  
14 is mailing a copy of the written grievance procedure to  
15 a client's home when she's seeking help for a relief  
16 from domestic violence may only serve to exacerbate the  
17 situation.

18 So, the draft final rule retains the text  
19 about this change as proposed and published in the NPRM.

20 As with Section 1621.3, NPRM proposed to add a  
21 statement requiring the procedures be designed to foster  
22 effective communication and complaining clients. Again,



1 we received comments in support of this with that same  
2 one comment saying that this should be aspirational  
3 rather than mandatory, for the same reasons with 1621.3,  
4 management believes that this is an essential element to  
5 an effective grievance procedure and the draft final  
6 rule retains this addition in the mandatory formulation  
7 that was in the proposed rule.

8           A new addition that was proposed with the NPRM  
9 is the requirement that the grievance procedures provide  
10 some method of reviewing complaints about service  
11 provided by private attorneys through a grantee's  
12 private attorney program.

13           We received one comment which urged LSC not to  
14 adopt this -- any sort of provision on this without  
15 soliciting input from bar associations. Well,  
16 management would point out that this NPRM went out to  
17 public comment twice, so there's been more than ample  
18 opportunity plus the publicly noticed meetings and the  
19 discussions at it had bar associations wished to comment  
20 and have any problem with it, and we did not receive any  
21 such comments.

22           So, I will note, however, that -- and there

1 were no other comments opposing the addition of a kind  
2 of a PAI component as written. In looking at it,  
3 management has decided to slightly reformulate the  
4 language that was proposed in the NPRM. There's no  
5 intention to make the proposed -- the revised -- let me  
6 start that sentence again. There is no intention with  
7 the revised language in front of you that has any  
8 difference in meaning than what was proposed in the  
9 NPRM. It's just thought that the revised language was  
10 actually clearer.

11           So, under the revised draft final rule  
12 language in front of you, it would say: Complaints  
13 received from clients about the manner or quality of  
14 legal assistance that has been rendered by a private  
15 attorney pursuant to the recipient's private attorney  
16 involvement program under 45 CFR 1614, shall be  
17 processed in a manner consistent with its  
18 responsibilities under that section, and with applicable  
19 state or local rules of professional responsibility.

20           Again, there's no intention to change the  
21 substance of what was proposed, but in re-reading it  
22 later, we thought that there was a better way of saying

1 what we had said the first time around.

2 MR. MEITES: Well, I applaud the addition of  
3 the language "applicable state or local rules of  
4 professional responsibility." Some states, like ours,  
5 have imposed an affirmative obligation on members of the  
6 bar to report instances of attorney misconduct of which  
7 they are aware. And I'm glad that we now say it, we  
8 recognize in our regulation that there is that  
9 independent obligation, there may be that independent  
10 obligation.

11 MS. COHAN: In addition, LSC received a few  
12 other comments about this section. One was -- well, two  
13 comments requesting clarification that the requirement  
14 in this section that recipients maintain files of  
15 complaints and their disposition applies only to  
16 complaints by clients about the quality or manner of  
17 legal assistance provided.

18 Management believes that the structure of the  
19 regulation is clear on this that that particular  
20 language is found only in that section and is not found  
21 in the section on complaints by applicants about denial  
22 of service and makes clear in the preamble that in fact

1 that that's where that requirement applies.

2           Finally, we received one comment which wanted  
3 LSC to address that complaint files are required only  
4 for complaints that reach the grievance committee.  
5 That's not the requirement in the current rule. The  
6 current rule says a file for every complaint shall be  
7 maintained.

8           LSC did not propose to change that rule.  
9 Making the change that the commentor requested would be  
10 a substantive change to the rule, and management did not  
11 see any justification for making that change and none  
12 had been previously contemplated.

13           Finally, we received one comment similar to  
14 the comment we received on 1621.3, which was concern  
15 that the revised language was too legalistic and  
16 suggested that no change to the previous language be  
17 made.

18           Again, management believes that the revised  
19 language, particularly as revised in response to  
20 comments, is clear and that there are substantive  
21 changes included, even if they are modest, in the  
22 revised language that are very important, and so the

1 proposed -- the draft final rule that is in front of you  
2 maintains as revised the changes from the NPRM.

3 That his my summary of the comments and the  
4 changes. I'm happy to talk any more about them.  
5 Otherwise, management has a recommendation.

6 MR. MEITES: Any more comments from  
7 our -- from the committee or the board?

8 (No response.)

9 MR. MEITES: Well, then, go ahead.

10 MS. COHAN: At this point then I would say  
11 management recommends that the committee recommend that  
12 the board adopt the draft final rule with the change as  
13 suggested herein today and that the board approve the  
14 draft final rule for publication as final with that  
15 change.

16 MR. MEITES: All right. With that as the  
17 recommendation, let me ask if there's any public  
18 comment.

19 MR. SAUNDERS: We'll sit over the cookies, Mr.  
20 Chairman. Mr. Chairman, members of the committee and  
21 the board, good afternoon. I'm Don Saunders, the  
22 director of Civil Legal Services for the National Legal

1 Aid and Defenders Association.

2 Our comments are in your record, and we don't  
3 intend to go over them today. I just wanted to thank  
4 you and the committee for your accommodation of what has  
5 been a very important and useful conversation among  
6 NLADA's leadership about this very important regulation.

7 It stands at the heart of the relationship between your  
8 programs, the quality of their service, and the client  
9 community.

10 Rather than have Linda Perle or Chuck or I  
11 address you today, it's my real honor, if I might, Mr.  
12 Chairman, to introduce the vice chair for a few brief  
13 comments to the committee of NLADA, Ms. Rosita Stanley.

14 Many of you know Ms. Stanley. She has been involved  
15 with the legal services program since they provided her  
16 service in 1977, one of your grantees in Georgia.

17 Since then, Rosita has been a real leader and  
18 voice in the client community, both in Georgia and at  
19 the national level. She currently, as I said, is vice  
20 chair of NLADA's board, and also chairs our client  
21 policy group. She's very engaged in her community doing  
22 trainings in Head Start around legal services issues.

1 She has three children she's very proud of, one of whom  
2 is an attorney who was a legal aid attorney for a while.

3 And Ms. Stanley has really led I think a very healthy  
4 dialogue among client leaders from across the country  
5 about this regulation. I think the accommodation the  
6 committee showed to reopen it and to hear from clients  
7 was a very positive and constructive one.

8 So if I might introduce to you Ms. Stanley to  
9 provide some response on behalf of NLADA, Mr. Chairman,  
10 I'd appreciate it.

11 MR. MEITES: Thank you. Ms. Stanley, welcome  
12 to our committee, and we look forward to hearing from  
13 you.

14 MS. STANLEY: Thank you. Thank you, Mr.  
15 Chairman. Good evening. My name is Rosita Stanley, and  
16 I'm from Macon, Georgia. I've been involved in this  
17 community for some time now, but I'm here today, first I  
18 want thank you, Mr. Chairman, and the staff at LSC for  
19 ensuring that the clients was engaged and had input in  
20 the redrafting of this provision.

21 Early on Karen Sarjeant reached out to our  
22 community to get us engaged and be a part of the

1 thinking about this project. But as they began -- as  
2 LSC staff and NLADA staff and class began to draft and  
3 write the report, some of our comments was not included,  
4 so we then requested that -- our staff asked you to  
5 reopen the process, and you did that. And I've been  
6 around a long time, so I've never known that to happen.

7 So first I want to just thank the board and you for  
8 allowing us to be engaged.

9 I want to inform you that there are a lot of  
10 us who serve on our program board, and you may think  
11 that we understand what all our duties and  
12 responsibilities are as board members. And these aren't  
13 just clients, these are attorneys, too.

14 But what happened was, when this regulation  
15 came up for revision is that, one, I had to -- I took it  
16 upon myself to educate the clients that serve on legal  
17 services board, one, that it was happening, but for a  
18 lot of people, it was their first time knowing that  
19 there was even a provision for a grievance procedure at  
20 the program level, and that the program director had not  
21 engaged the board and their thoughts or input into the  
22 comments that they submitted to your staff as it relates



1 to what this regulation ought to look like.

2           So we spent and planned three days at NLADA  
3 annual conference on, one, on making sure people had a  
4 copy of the reg. Two, hoping that they would understand  
5 what it said and what it meant and had Don and Linda  
6 Perle to help us be engaged in a dialogue so we could  
7 know what we was responding to.

8           I want to tell you that there were clients at  
9 this conference who serve on the grievance committee of  
10 their program board who the program committee never even  
11 met. And so quite naturally, there were clients in the  
12 room who have had instances of grievance but never knew  
13 how to articulate the process so that it would even get  
14 started.

15           And so I feel that we have to do a better job  
16 educating the program board members so that they are in  
17 charge of making sure that we have a program that is  
18 client-centered and community-driven, and that it is  
19 responsive to the clients we serve and is accountable.

20           And for me the client grievance procedure, I  
21 mean, the grievance procedure is probably the only best  
22 instrument we have as members of the community and as

1 servants of our community on program boards to ensure  
2 some accountability. Because, you know, on a day-to-day  
3 basis, the director managed the program, and oftentimes  
4 the board just throws its hands up.

5           And so with resources being at the point they  
6 are in our community and the crises we have to deal  
7 with, with people's children getting snatched up by DFAS  
8 on drugs, welfare abuse and stuff, we need to have  
9 someplace to go that if we're -- to be served. And if  
10 we're not going to be served, we ought to be given  
11 legitimate reasons in a timely manner why not, not  
12 because somebody felt like that we're the cause of our  
13 problems, we got our own self in the situation we're in,  
14 and so you got a whole lot of that in our community.

15           But I want to tell you from the client  
16 position at our conference was, we probably had about  
17 80, 90 clients at the conference, and you didn't get  
18 letters from all of them, but we wanted to make sure  
19 that you got some letters. But our sentiment is that to  
20 modify the language in 1621.1 takes away from us the  
21 ability to hold the director who runs these programs and  
22 the board accountable to ensuring that we have due

1 process.

2           And we never looked at the remedy being that  
3 it promised us an outcome, but for us the part about  
4 remedy in 1621.1 is that it promises us a process. And  
5 so that's the difference between our language and your  
6 language is that the way we look at is more simplistic  
7 than very broad. I said -- I spoke to members of our  
8 defender community about this provision, and they was  
9 really just caught off guard that this community would  
10 take a position that took away from a meaningful process  
11 the component that for us delivered the message. And I  
12 said to one of the directors, you know, if we could  
13 afford it, because we really don't know the language  
14 well enough to be legalistic about going through this  
15 document, we should have had us somebody to represent us  
16 as a legal representative so when we get to this level  
17 and you begin to have the legal discussion, we don't get  
18 lost in it.

19           But inasmuch as the staff has done its work,  
20 we have not been afforded all of the support we need to  
21 be effectively as we want to be on this regulation, we  
22 think that they heard us to the extent that they removed

1 the nonentitlement piece. It is something that we were  
2 happily aware.

3 But I just want you to know that the clients  
4 who are knowledgeable now about 1621 feel like the  
5 change in 1621 really dilutes the purpose for a  
6 grievance procedure altogether. And I want to be their  
7 voice at this meeting.

8 My personal piece is, is I've just gone  
9 through a piece at my program wherein I was accepted as  
10 a client and then the staff tried to deny me the  
11 representation. And so I know that this stuff happens  
12 all the time, and as knowledgeable as you would think  
13 that I am, I have not filed a grievance because you  
14 really want to try to get what you need done so that you  
15 can get the help you need. And if you can't get it from  
16 legal services, then that's the last and the first place  
17 you go to is that you go home just feeling that there's  
18 no answer.

19 And so I just want you all to be very mindful  
20 of the message that we get from the work that's been  
21 done and the gutting. That's what some of our folks  
22 feel like this regulation 1621 has just been gutted,

1 that the gutting of this regulation takes away from the  
2 community they are in the position to make sure that  
3 when programs deny clients services that their reason  
4 has to be legitimate and they have to justify to -- at  
5 least to the board why they're doing it.

6 And so that's the message I came for. I don't  
7 have anything else to say. But if you wanted to ask me  
8 some questions, I don't mind answering.

9 MR. MEITES: Ms. Stanley, thank you for your  
10 presentation. A couple of things in response. First is  
11 that our committee regularly reviews proposals like this  
12 regulation, and we receive comments from a number of  
13 people, including the ABA and the National Legal Aid and  
14 Defenders Association, and I can assure you that you  
15 don't need your own lawyer. You have good lawyers  
16 working on your behalf.

17 However, what you bring to us is something  
18 that lawyers really only can present second-hand. And I  
19 very much appreciate. I'm sure my committee members  
20 appreciate the insight you've given us as to the  
21 importance to the client community of the phrase that  
22 was in the regulations, "effective remedy," and which

1 would be deleted. What I'd like to see is if we can't  
2 save that phrase in a way that is an addition to the  
3 regulation rather than being somewhat off to the side.

4 Let me open that to discussion. If members of  
5 my committee share that feeling, if we can do some  
6 wordsmithing and try to meet your concern that this not  
7 be seen as a step back --

8 MS. STANLEY: Right.

9 MR. MEITES: -- but still keep the regulations  
10 clarified. Let me ask Mike and William and David.

11 MR. HALL: Well, I certainly support the  
12 spirit behind that, because I don't believe that the  
13 goal is to gut the present system or to gut the present  
14 regulation to the point that it is meaningless. I think  
15 that's the farthest thing from our intention.

16 But if in doing that the people who we are  
17 primarily charged to serve would believe that, then I  
18 think to a certain extent we've failed. So if there's a  
19 way in which one can develop some language that would  
20 capture what it is we're trying to do and at the same  
21 time not send that message, then I think that's the  
22 place where we should strive to come to. Because we're

1 not on different places. And so if we're not in a  
2 different place and it's really about language, then  
3 let's try to find some language that makes everyone feel  
4 that they are being taken care of.

5 MS. STANLEY: Thank you.

6 MS. PHILLIPS: And I absolutely agree. If the  
7 client doesn't understand what they are reading or  
8 what's in here, it's useless to them. So I absolutely  
9 agree.

10 MR. MEITES: Lillian?

11 MS. BeVIER: I agree. My only concern here is  
12 that I don't want to have a false promise here that  
13 there is in fact an entitlement to service. If we had  
14 the resources to provide service to all the clients who  
15 come and, you know, meet the basic income requirements  
16 and so forth, then I would say, yes, effective remedy  
17 for denial of service would be appropriate, and we could  
18 have that even in the reg.

19 My problem is not that I want to take anything  
20 away from the clients at all, it's just a question of  
21 basic honor and honesty in terms of what it is that we  
22 are holding out to them as being possible. So, that's

1 where -- I mean, I completely understand the client  
2 community's view. I just -- if we can find language  
3 that doesn't promise something that we are not in a  
4 position to deliver, then I'm happy to look for it.

5 MR. MEITES: Let me make a suggestion, and  
6 then maybe we can just allow the staff and concerned  
7 people to work on it overnight.

8 If we could work the phrase "effective remedy"  
9 into the last sentence, the new sentence, that the idea  
10 that the grievance procedure should be adopted to  
11 provide as effective remedy as can be, something  
12 along -- you know, I'm not suggesting particular words.

13 But if it makes sense to the group, to our committee,  
14 we can defer this, and if you all can work something out  
15 overnight and let us know before we present it to the  
16 board, that will be fine.

17 MS. COHAN: Yeah. That's fine. I can make a  
18 suggestion right here and we can see if that just -- if  
19 that fixes it.

20 MR. MEITES: Do you want to do that, or should  
21 we --

22 MR. HALL: If she has an answer, I mean, let's



1 hear it, if we can.

2 MS. COHAN: This part is intended -- this part  
3 is further intended to help ensure that the grievance  
4 procedures adopted by recipients will, to the extent  
5 possible, provide an effective remedy in the resolution  
6 of complaints.

7 MR. MEITES: Do you want to -- Don and Ms.  
8 Stanley, do want to think about that for a moment?

9 MS. STANLEY: I think that's better, and I  
10 would support that language.

11 MR. MEITES: All right. If that's okay with  
12 the committee?

13 MR. HALL: It is. I mean, going back to  
14 Lillian's point, I didn't even hear in her presentation  
15 that they're looking for a guarantee, but I just think  
16 the language symbolizes something for the client  
17 community, and so in this context, it seems to achieve  
18 both goals.

19 MS. BeVIER: Yes. And it does say "to the  
20 extent possible," which suggests that there are  
21 limitations to the ability to do this, so it puts us  
22 both on the same page, and in that sense, I'm happy with

1 it.

2 MR. MEITES: Well, if that's satisfactory, why  
3 don't we ask that the change be made. We'll all think  
4 about it overnight and see how it looks when it comes  
5 up. But if that's satisfactory, why don't we just  
6 proceed on that basis. Bernice, Mike, is that good for  
7 all of us? Okay.

8 Any other public comments on the proposed  
9 regulation?

10 MS. COHAN: I was just asked to repeat that  
11 sentence one more time in case anybody missed it. "This  
12 part is further intended to help ensure that the  
13 grievance procedures adopted by recipients will result,  
14 to the extent possible, in the provision of an effective  
15 remedy in the resolution of complaints."

16 MR. MEITES: Fine. Thank you.

17 MR. SAUNDERS: Thank you, Mr. Chairman.

18 MS. STANLEY: Thank you, Mr. Chairman.

19 MR. MEITES: Thank you very much. If that is  
20 all, I will entertain a motion that we make a  
21 recommendation to the board with regard to this  
22 regulation.

1 M O T I O N

2 MR. HALL: I so move.

3 MR. McKAY: Second.

4 MR. MEITES: All in favor of recommending this  
5 regulation for adoption as amended? All in favor of it?

6 (Chorus of ayes.)

7 MR. MEITES: Any opposition?

8 (No response.)

9 MR. MEITES: Very good. Thank you very much.

10 All right. The next item on our agenda is staff report  
11 on history and implementation of LSC restrictions. This  
12 could be almost infinitely long, but it will be brief.

13 Who is going to make the staff report? Is Vic here?

14 All right. Vic is not here. We'll give Vic  
15 approximately one minute to be present, and then we'll  
16 move on.

17 MS. BeVIER: I have a blank page in my book.

18 Am I supposed to? Under the tab Proposed Regulatory  
19 Agenda for 2006?

20 MR. MEITES: Yes you are supposed to have.

21 We're not there yet.

22 MS. BeVIER: I know we're not there yet, but

1 I'm just wondering if I could be -- okay. So it's okay  
2 for me to be looking at this blank space?

3 MR. MEITES: Yes. You may contemplate the  
4 blankness.

5 (Laughter.)

6 MR. MEITES: Item 5. Consider and act on  
7 adoption of a regulatory agenda for Operations &  
8 Regulations Committee for 2007. Why don't we start with  
9 the OIG report, Kirt, if you want come up and  
10 just -- you and I can have a little dialogue on what  
11 you've done and perhaps discuss a possible course of  
12 conduct.

13 MS. SINGLETON: Mr. Chairman, this is Sarah  
14 Singleton.

15 MR. MEITES: Yes, ma'am?

16 MS. SINGLETON: Was there a staff report in  
17 response to this OIG proposed agenda?

18 MR. MEITES: There is not, and that is what  
19 we're going to discuss. Kirt, you sent to our committee  
20 and then to the board a report I think earlier this  
21 month or late last month which suggests a number of  
22 regulations that the OIG would like us to consider as

1 part of our work this year. Is that correct?

2 MR. WEST: That's correct, Mr. Chairman.

3 MR. MEITES: Okay. Let me then pick up what's  
4 happened since then. I, after I talked to the staff,  
5 and given the shortness of time, it was my decision  
6 that, after talking to Helaine, that it wasn't practical  
7 to ask the staff to respond to as detailed and  
8 thoughtful a presentation as we received from Kirt in  
9 the amount of time left between -- before this meeting.

10 So what I suggested both to Kirt and to  
11 Helaine and now I suggest to my committee that we defer  
12 this entire item till our April meeting, which not only  
13 would give the staff a chance to respond, but also give  
14 us a chance to study the proposals, but will also give a  
15 chance for any public comment on Kirt's proposal, indeed  
16 any public comment on any aspect of what our agenda  
17 should be for this year.

18 And I understand that the OIG report either  
19 has or will be made available to the public. And so  
20 what I would just suggest to my committee is that we  
21 defer this item to April with the expectation that at  
22 our April meeting we will have staff response and that

1 we will also have any public comment not only on the OIG  
2 report, but any other matters that the public may think  
3 that we should consider. Does that make sense to the  
4 committee?

5 MR. HALL: Yes.

6 MS. BeVIER: It certainly makes sense to me,  
7 but my only -- and my only concern is that I think that  
8 this is in general a matter of some considerable  
9 urgency. I don't mean to say that I think we should  
10 take it up today. Absolutely we should not. But I  
11 think we should be alert to the fact that this is -- we  
12 have to turn our attention to this, and the sooner the  
13 better, so.

14 MR. MEITES: Well, I agree with Lillian.  
15 We've just seen in the grievance regulation we talked  
16 about that once our machinery starts to turn, it doesn't  
17 turn very quickly, for reasons that we have little  
18 control over.

19 So I really would hope that by April we can  
20 make some decisions of which of these regulations we are  
21 going to devote our attention to. And if that makes  
22 sense to the committee, I'll entertain public comment on

1 this proposal before we go ahead. But first let me hear  
2 from Kirt and Vic and Mattie if that -- their response  
3 to our proposal that we defer till April.

4 MR. WEST: Mr. Chairman, we just -- we  
5 presented it to the committee and it's basically -- once  
6 we present it to you, the ball's out of our court. It's  
7 in your court. I will, just to reinforce that because  
8 of some other issues, I was hoping to get it done  
9 earlier than I did. I did share it with management, but  
10 I think management was involved in so many other issues  
11 that they got back to me and said they didn't have a  
12 chance to actually comment on our memo. And, you know,  
13 I appreciate their dilemma. And in fact, President  
14 Barnett and I have talked about this has really been a  
15 tough couple of weeks on all of us, not enough time  
16 between the New Year and this meeting. And so I think  
17 that -- and hopefully, they'll be able to get a report  
18 soon to you so that the discussion can be, you know,  
19 started before April so it's kind of ripe.

20 And just to clarify, it is in the public  
21 material that's available.

22 MR. MEITES: Good.

1           MR. WEST:  So it is -- and we will put it on  
2  our web page.  And I'm intending to forward it to the  
3  relevant committees of Congress so they're aware of just  
4  the comments.

5           MR. MEITES:  Very good.  Vic?

6           MR. FORTUNO:  I think it's safe to say that we  
7  will certainly have a written memo on the subject to the  
8  committee well in advance of the next meeting and be  
9  prepared to make an oral presentation on it at that time  
10 as well.

11          MR. MEITES:  Okay.  Let me ask if there's any  
12 public comment at this time on our proposed course of  
13 action?

14          (No response.)

15          MR. MEITES:  Okay.  Well, we -- oh, Bernice,  
16 please.  I'm sorry.

17          MS. PHILLIPS:  Are we on item 5?

18          MR. MEITES:  We are -- yes we are.

19          MS. PHILLIPS:  Okay.  No one has their report?

20          MR. MEITES:  No.  The idea is to defer it till  
21 the April meeting when we'll have a report from the  
22 staff and also any public comment that we receive.



1           All right. If that's satisfactory, why don't  
2 we just move on to the next agenda item. We'll just  
3 defer that, then. Okay. The next is -- pardon me?  
4 Yes, we're going to go back to Vic's item, staff report  
5 on history and implementation of LSC restrictions. This  
6 report is in response to a request that our committee  
7 made to give us some idea of kind of the history of at  
8 least those regulations that are responsive to  
9 congressional restrictions. Vic?

10           MR. FORTUNO: I think actually there must have  
11 been some miscommunication. I think you have a written  
12 report. I don't think we'd prepared or anticipated the  
13 oral report. We're happy to do that, although that may  
14 be something you don't have time for today.

15           MR. MEITES: No, we don't need that. I only  
16 have one suggestion.

17           MR. FORTUNO: Yes.

18           MR. MEITES: That you add to your report  
19 citations to specific statutory sections and  
20 regulations.

21           MR. FORTUNO: Okay.

22           MR. MEITES: So that it's easier for us to

1 follow this.

2 MS. BeVIER: Yeah. That would be very  
3 helpful.

4 MR. MEITES: But otherwise, it is what we  
5 asked for and it's quite helpful.

6 MR. FORTUNO: Okay.

7 MR. MEITES: Thank you.

8 MR. FORTUNO: We'll certainly do that and get  
9 that to the committee, to the full board in fact.

10 MR. MEITES: Is there any public comment on  
11 this item?

12 (No response.)

13 MR. MEITES: All right. Hearing none, we'll  
14 go on to the personnel manual. Charles, is that your  
15 item?

16 MR. JEFFRESS: I'm going to let Vic handle it.

17 (Laughter.)

18 MR. FORTUNO: Why not?

19 MR. JEFFRESS: Thank you, Mr. Chairman.

20 Charles Jeffress, the chief administrative officer. I  
21 have some extra copies of the employee handbook. I know  
22 it was mailed to folks ahead of time. In case anyone

1 doesn't have one, anyone need one?

2 MS. SINGLETON: When was it sent out, Charles?

3 This is Sarah Singleton.

4 MR. JEFFRESS: It was sent out last week to  
5 your --

6 MS. SINGLETON: The full board or just the  
7 committee?

8 MR. JEFFRESS: To the full board. It was a  
9 whole packet of materials that was sent to you from the  
10 president's office. This was one of the things in that  
11 packet. I may have a memo that describes the other  
12 things that were in that packet. The other things that  
13 were in that packet were the memo from Vic on locality  
14 pay, the proposed budgetary guidelines. It was sent out  
15 January 11th was the date.

16 MS. SINGLETON: I didn't get any of those, so  
17 that's all right. Go ahead.

18 MR. JEFFRESS: Well, I apologize. Mr.  
19 Chairman, with your permission, first I'd like to  
20 apologize for the absence of Alice Dickerson, our  
21 personnel director who I had hoped would be here and  
22 might no doubt be able to provide additional information

1 on the matter. She has had a family -- health issue  
2 come up in her family, and she's unable to attend today.

3           What I would propose to do is first give you a  
4 brief background on the process for revising a personnel  
5 manual, and then to go section-by-section, a very brief  
6 overview of what's in that section and what  
7 modifications have been made to that section.

8           MR. MEITES: Before you start, a threshold  
9 question is why and whether this is a board manual -- a  
10 board matter. After all, personnel issues  
11 are -- involve relations between management and staff,  
12 and normally we do not review matters at that level. So  
13 my question is, just before you start going through a  
14 review is why is this matter being brought before us?

15           MR. JEFFRESS: The previous manual was adopted  
16 by a previous board in 1997. So this revision was  
17 brought to you because the previous one had been board  
18 adopted. I'm sympathetic with your view that this is a  
19 level of detail that seems unusual for the board to be  
20 involved in, and if you would prefer that in the future  
21 that we follow a different process, I'm sure management  
22 would be open to that.

1           MR. MEITES: Well, I think that since our  
2 predecessors adopted it, we, subject to our  
3 parliamentary saying something, we should at least  
4 until the board decides, we should assume that it's our  
5 obligation to consider this. So, go ahead.

6           MR. JEFFRESS: Okay. Thank you.

7           MS. PHILLIPS: Before you go on, I notice here  
8 the title of LSC Employees Handbook and then on item 6,  
9 it says consideration to act on adoption of the  
10 Personnel Manual. Are there two different things, or  
11 are they the same thing, or?

12          MR. JEFFRESS: The current manual is entitled  
13 "Personnel Manual." On advice of outside counsel, we  
14 have revised it and are proposing the new document be  
15 entitled "Employee Handbook." It is the same set of  
16 personnel policies, but we are recommending that the  
17 title be changed.

18          MS. PHILLIPS: So there's another -- are you  
19 drawing it from something else?

20          MR. JEFFRESS: No. The Employee Handbook  
21 that's coming before you carries forward almost  
22 everything that was in the previous Personnel Manual,

1 adds some policies, some instructions to supervisors are  
2 set out or will be set out in a separate supervisory  
3 manual that doesn't contain personnel policies but is  
4 simply procedural steps for supervisors.

5 MS. PHILLIPS: So is it two policies?

6 MR. JEFFRESS: This is a complete set of  
7 policies. There will be some instructions to  
8 supervisors on how to implement these policies in a  
9 separate document, but this is the only set of policies.

10 MS. PHILLIPS: Okay.

11 MR. JEFFRESS: Just as way of background, I  
12 mentioned a previous board of directors in 1997 adopted  
13 the current manual that we are working with. President  
14 Barnett asked in 2005 that the manual be revised and the  
15 draft handbook that's before is the result of the  
16 process we have been through.

17 The process included initially discussions  
18 between our personnel director and me regarding areas  
19 where we knew the manual was updated or we needed to  
20 improve it. We solicited suggestions from management  
21 and the Office of Inspector General for modifications.

22 We produced a first draft, which got

1 circulated for comments throughout the managers and the  
2 Office of Inspector General which received a lot of  
3 detailed comment. We produced a second draft and  
4 circulated that again to managers and the Office of  
5 Inspector General, received more comments, and in  
6 particular some detailed comments on the second draft  
7 from the Office of Inspector General.

8 Alice and I worked through those comments and  
9 then met with David Maddox and Kirt West from the IG's  
10 office to work through those comments and produced a  
11 third draft of the document. We sent that third draft  
12 out for outside comment. We asked the chairman of the  
13 committee to comment on it, and we asked our outside  
14 counsel, Bruce Harrison, who represents LSC in employee  
15 matters, to comment on it and give us their feedback.

16 The two provided comments on that draft, and  
17 also responded to a series of questions that during the  
18 course of our development of it, we thought we should  
19 get some outside advice on. So we got feedback from Mr.  
20 Maddox and Mr. Harrison on that third draft.

21 Then Alice and I David Maddox from the  
22 Inspector General's office with input from Kirt produced

1 the Employee Handbook that is before you today, and  
2 which we have shared with all LSC employees, and the  
3 handbook comes to you with the endorsement of both the  
4 president and the Inspector General.

5 MR. MEITES: Before you go on --

6 MR. JEFFRESS: Yes?

7 MR. MEITES: Usually, members of the board do  
8 not get involved in actual preparation of materials for  
9 presentation to the board. The reason Chairman  
10 Strickland asked me to review a proposed draft, which I  
11 did, and I made a number of suggestions, but I believe  
12 that it is without prejudice for me to absolutely change  
13 my position at this time if it seems warranted. So I  
14 approach this with an open mind. Basically, I forgot  
15 what I had told you, so.

16 (Laughter.)

17 MR. JEFFRESS: And I might mention there was  
18 precedent, Mr. Chairman, for that. The previous board  
19 had a liaison to management on the personnel manual, and  
20 so you were asked to play that same role this time.

21 So, this past week, Alice Dickerson and I held  
22 an open session with the LSC staff for discussion by



1 employees of the handbook. We had a pretty extensive  
2 discussion here in this same room. About 20 employees  
3 showed up for the meeting and had a lot of comments.  
4 Some of the employees had been part of earlier reviews  
5 of the document. Some of them were reacting for the  
6 first time. And we did receive a number of good  
7 suggestions for clarification which we will be adding to  
8 the handbook. There were no suggestions for major  
9 policy changes, so I feel like the handbook before you  
10 is appropriate for your action, but there will be some  
11 clarifications to the items that are there I think to  
12 address some of the concerns of employees.

13 I was certainly very pleased with the input.  
14 I got very good feedback from employees about  
15 appreciating our openness to their suggestions for  
16 improvements in the document.

17 That completes the background. I doubt that  
18 any of you all are familiar with our current handbook,  
19 so I think simply telling you what's new in this  
20 probably wouldn't be sufficient, and that's why I would  
21 propose, if it's agreeable with the committee, to  
22 briefly go through each section, just mention the types

1 of topics that are in there, and then mention to you  
2 anything that's new or a significant change from past  
3 practice.

4 MS. PHILLIPS: I'm just confused when we go  
5 through this book here.

6 MR. JEFFRESS: Yes.

7 MS. PHILLIPS: Can the book -- can you number  
8 the book, the pages? Because it's confusing.

9 MR. JEFFRESS: We have numbered the pages --

10 MS. PHILLIPS: -- to sections and --

11 MR. JEFFRESS: Right. We have numbered the  
12 pages within each section because one of the  
13 difficulties we found in updating the old book was that  
14 with sequential page numbers, it was hard then to insert  
15 new things. So what we have numbered the pages is  
16 section by section. And Section 1 -- I mean, Section 1  
17 is, I believe there may only be one or two pages in that  
18 section, but the pages numbers are numbered within  
19 sections.

20 I realize it is a little awkward to work with,  
21 and I agree with you, Bernice, it's -- but in terms of  
22 keeping the manual updated, it's much easier if we

1 simply number the pages by each section rather than  
2 continuously.

3 MS. PHILLIPS: For who?

4 (Laughter.)

5 MR. JEFFRESS: It's difficult, I understand.  
6 It's easier to update for the next ten years. It's been  
7 ten years since it was last, you know, completely  
8 redone.

9 MS. PHILLIPS: So there's no way possible you  
10 can put numbers on each page --

11 MR. JEFFRESS: We certainly can put numbers on  
12 those pages if you prefer us to do that. In making the  
13 updates, we will -- we'd have to find a different way to  
14 do that, page 27A, B, C or something. But we could do  
15 that if that would be preferable.

16 MS. PHILLIPS: Thank you.

17 MS. BeVIER: I mean, could you do that for the  
18 board's review and then keep the numbering that you have  
19 for the purposes of possible updates?

20 MR. JEFFRESS: I will have a hard time doing  
21 that in the next few minutes.

22 MS. BeVIER: Yeah. No, I --

1           MR. GARTEN:  In other words, for discussion  
2 purposes.

3           MS. BeVIER:  Yeah.

4           MR. JEFFRESS:  It would have been nice for  
5 discussion purposes.  I understand what you're saying.  
6 But, again, I will say Section 7, page 5, and I believe  
7 it will be relatively easy to turn to those page numbers  
8 when I get there.

9           MR. MEITES:  We'll do our best, and if we lose  
10 track, we'll let you know.  Go ahead.

11          MR. JEFFRESS:  Okay.  Then let me start then  
12 with the preface, which is the first page of what's  
13 before you.  And the preface simply describes the  
14 handbook and what's in it.  It states that it's not a  
15 contract.  It expresses LSC's commitment to a workplace  
16 free from discrimination and harassment.  It's basically  
17 the same introductory kind of preface that we've had in  
18 the past.

19          The next three pages are simply table of  
20 contents, and rather than go through the table of  
21 contents, I'm going to go straight to the first section  
22 and then in each section, we'll describe what's in that

1 section.

2           Section 1 is the applicability of the  
3 handbook. Again, it describes the handbook. It  
4 explicitly states that this is not a contract, that LSC  
5 is an at-will employer, that LSC is committed to equal  
6 opportunity workplace and committed to the consistent  
7 and impartial administration of our policies.

8           One change in the applicability section, and  
9 this may get to the point you were making, Mr. Chairman,  
10 is how the handbook is to be modified. The existing  
11 Personnel Manual assigned responsibilities for  
12 modifications to the handbook to the joint decision of  
13 the president and the Inspector General, or to the  
14 board, if those two officials do not agree.

15           The draft handbook before you provides that  
16 minor changes to policy may be made by the president or  
17 the Inspector General for their respective employees,  
18 but reserves major policy changes to board action. This  
19 was done both to maintain the authority of the board  
20 over major personnel policy decisions, and also to avoid  
21 assigning responsibility for operational decisions to  
22 the Inspector General.

1           Assigning operational responsibilities to the  
2 IG is not permitted by the Inspector General Act, as  
3 indicated in the memo which I wrote to Helaine and which  
4 has been shared with you. Kirt and I have discussed  
5 this issue more than once. He concurs with the role as  
6 it's defined her for personnel issues. As he and I have  
7 discussed, there remain issues that we're working on  
8 with respect to the appropriate roles for management and  
9 the IG on administrative and program issues. We're both  
10 committed to resolving those issues with conversations  
11 and discussions just as we resolved the issues presented  
12 by this revision to the Personnel Manual.

13           But the change here is the applicability of  
14 the handbook. The president and the IG may make minor  
15 changes with respect to their staff, with major policy  
16 changes reserved for board action.

17           MR. MEITES: You're referring to the  
18 second-to-last paragraph on page -- Section 1, page 1,  
19 "Major provisions of this handbook relating to personnel  
20 action or policies may be suspended, modified, amended,  
21 waived or departed from only with the approval of the  
22 board of directors except as enumerated below?"

1           MR. JEFFRESS: That's correct. That's the  
2 changed paragraph.

3           MR. MEITES: What that contemplates is the  
4 board will retain a role over what are called "major  
5 changes?"

6           MR. JEFFRESS: That's correct.

7           MR. MEITES: Fine. Thank you.

8           MR. JEFFRESS: If there are no questions, I'll  
9 go on then to Section 2, Employment Policies. This  
10 section contains some of the basic employment policies  
11 of the Corporation, including at-will employment, equal  
12 employment opportunity, anti-harassment policy,  
13 cooperation with the Inspector General. The only  
14 change -- well, the change in the previous manual is  
15 that the anti-harassment policy was not in the previous  
16 manual, although LSC had adopted such a policy in 2001,  
17 it had not been made a part of the Personnel Manual. We  
18 have made that a part of the manual. We have updated  
19 the wording throughout, and we did add, to the very last  
20 sentence, Section 2, page 4, on cooperation with the  
21 Inspector General, earlier -- or last year we ensured  
22 that employees were informed that no retaliation would

1 be taken against any employee who cooperated with an  
2 investigation by Congress, and we added that to this  
3 assurance in this section.

4 MS. PHILLIPS: Are we going section by  
5 section?

6 MR. JEFFRESS: Yes.

7 MS. PHILLIPS: Okay. Are you finished with  
8 Section --

9 MR. JEFFRESS: I am finished with Section 2  
10 unless there are questions.

11 MS. PHILLIPS: I have a question. On page 3  
12 of Section 2, I would suggest that -- I want to add to  
13 the fourth paragraph at the bottom of the page between  
14 the words "employee" and "supervisor" --

15 MR. MEITES: Wait. You're in the paragraph  
16 starting "The OIG receives?" Is that the paragraph? Or  
17 the last paragraph?

18 MS. PHILLIPS: No. The last paragraph.

19 MS. BeVIER: The second-to-the-bottom line.

20 MR. MEITES: Go ahead, please.

21 MS. PHILLIPS: The fourth paragraph at the  
22 bottom of the page between the words "employee" and



1 "supervisor." I mean, well, supervisor I think -- hold  
2 on one second. I want -- well, what I want is the new  
3 sentence to read, "No employees, officer, supervisor or  
4 manager shall be questioned -- should question any  
5 employee about his or her contact with the OIG, or  
6 pressure the employee to reveal the nature of the  
7 contact." See? Where "No employee," the last -- well,  
8 not the last -- well, yeah, the last sentence.

9 I think "officer" should go in there.

10 MR. MEITES: Okay. Other changes?

11 MS. PHILLIPS: And another change, "officer"  
12 should also go in where it says -- wait a minute. I did  
13 this last night, so --

14 MR. MEITES: That's okay. Take your time.

15 MS. PHILLIPS: So bear with me. "No employee,  
16 officer or supervisor or manager shall take" -- shall  
17 take. I don't know. I think "officer" -- I don't know.  
18 I know "officer" should go in between "employee" and  
19 "supervisor."

20 MR. MEITES: All right. Charles?

21 MS. SINGLETON: May I ask a question about  
22 Bernice's proposed change?

1 MR. MEITES: Sure. Go ahead, Sarah.

2 MS. SINGLETON: This is Sarah, I'm sorry. Do  
3 we have any officers who are not employees?

4 MR. MEITES: Employee is, I think Bernice's  
5 point is "employee" sounds like more like lower level  
6 staff.

7 MS. PHILLIPS: Right.

8 MR. MEITES: And "officer" is -- makes clear  
9 that it covers everyone who is employed by the  
10 Corporation. Is that your thought?

11 MS. PHILLIPS: Right. Exactly. Does that  
12 make sense to you?

13 MS. SINGLETON: It makes sense. I'm just  
14 wondering if we have a category. I really want, to  
15 answer your question, do we have category of people who  
16 aren't covered by "employee" or "manager" who are  
17 officers? Are there such people?

18 MR. MEITES: Well, in fact, the  
19 president -- we state that all employees are employees  
20 at will. The president is not an employee at will. The  
21 president has a contract. And so the suggestion that  
22 the previous section suggests that employees are only

1 the at-will personnel of the corporation, which would  
2 mean that Bernice has probably come across a category  
3 that may not be covered by the word "employee."

4 MS. SINGLETON: Well, then I think we have a  
5 bigger problem than whether or not to put "officers" in.  
6 If we define "employees" to only include at-will  
7 employees, and we have certain employees who have  
8 contracts, that some of the provisions of the manual  
9 apply to both employees, or is that correct?

10 MR. MEITES: Charles, why don't you respond to  
11 this?

12 MR. JEFFRESS: Certainly, Mr. Chairman. This  
13 sentence was meant to include officers. There was no  
14 thought whatsoever that an officer was not included by  
15 the definitions -- I mean, by the words in this  
16 sentence, "No employee, supervisor or manager." All the  
17 officers here are all three of those things as far as I  
18 can tell. So I don't believe -- I'm happy to accept  
19 Bernice's suggestion. I don't believe it changes at all  
20 the intent of the sentence, and if it helps clarify it,  
21 I don't see any harm in it. But I would -- I believe I  
22 would take issue with your position that officers are

1 not employees, supervisor or manager. I think they are,  
2 and I think they are covered by this language.

3 MR. MEITES: Well, the problem I have,  
4 Charles, in Section 2.1, it states: "Employees are  
5 employed at the will of LSC."

6 MR. JEFFRESS: Yes.

7 MR. MEITES: And that is not an accurate  
8 description of the president. She is not employed at  
9 will. She is a contractual employee.

10 MR. JEFFRESS: Would you consider her, though,  
11 a manager?

12 MR. MEITES: I don't know.

13 MS. PHILLIPS: I wouldn't. I wouldn't.

14 CHAIRMAN STRICKLAND: In the broad sense,  
15 certainly she's THE manager.

16 MR. MEITES: But in our lexicon, the managers  
17 report to the president.

18 MS. PHILLIPS: Right.

19 MR. JEFFRESS: Well, I think adding "officer,"  
20 there's no problem with that, but I'm concerned about  
21 Sarah's interpretation that if the implication is that  
22 when we have stated in this manual officers -- I mean,

1 employees and managers, that that does not include  
2 officers, then we may have a much more significant  
3 problem.

4 MR. MEITES: Well, that's where Sarah, I take  
5 Sarah's point that you are going to have to review the  
6 manual to make sure that everyone -- in the provisions  
7 that are meant to cover everyone, that everyone is  
8 covered. And the sense of the meaning seems to be that  
9 employees and managers may not describe the entire  
10 galaxy of persons who work for the Corporation. And I  
11 don't want you to have to go through now.

12 MR. JEFFRESS: Might I suggest one way to deal  
13 with that is to add a sentence somewhere in the front of  
14 the manual that suggests, that states where these  
15 policies are expressed except for perhaps the contract  
16 issue, the word "employee" is to be interpreted as  
17 meaning officers, managers, employees.

18 MR. MEITES: Well, I don't want to do  
19 wordsmithing --

20 MR. JEFFRESS: Right. Mm-hmm.

21 MR. MEITES: Because this is something you're  
22 going to have to review to make sure that there's not a

1 problem.

2 MR. JEFFRESS: Okay.

3 MR. MEITES: But you get our issue here?

4 MR. JEFFRESS: I do.

5 MR. MEITES: That said, back to Bernice.

6 MR. JEFFRESS: Well, I'm not clear on whether  
7 there are still modifications to the wording of the  
8 section in addition to the addition of "officer," it  
9 sounded like Bernice had some other sentences, some  
10 other phrases.

11 MR. MEITES: I was going to ask Bernice to --

12 MS. PHILLIPS: Okay.

13 MR. JEFFRESS: Okay.

14 MS. PHILLIPS: Just bear with me one moment.

15 (Pause.)

16 MR. MEITES: Let me put an idea before the  
17 house. Bernice tells me that she has a number of  
18 comments, and she would like an opportunity to go  
19 through her comments and perhaps sit down with Charles  
20 and review them rather than having us do this as  
21 meeting. That would mean we would not be able to make a  
22 recommendation on the Personnel Manual at this meeting.

1           On the other hand, I certainly want to make  
2   sure Bernice, indeed anybody else who has comments has a  
3   chance to talk to Charles and see if there are  
4   items -- just as I went through the manual  
5   myself -- there are items that can be resolved just by  
6   clarifications.

7           It's now twenty to five. We're only on  
8   Section 2. What I would suggest is we defer this item  
9   till the April meeting again, but that Bernice, indeed  
10  anybody else on the committee or the board who wants to  
11  take some time to go over this and send -- either call  
12  or send them to Charles, have a chance to do so. Does  
13  that make sense, Lillian?

14           MS. BeVIER: That makes very good sense, but I  
15  would suggest that any changes in this document that  
16  emerge from that be noted to the board before the  
17  meeting so that they can, you know.

18           MR. JEFFRESS: What we can send you is a track  
19  changed version.

20           MR. MEITES: Right. A redline.

21           MR. JEFFRESS: So that you don't have to look  
22  at it again.

1 MS. BeVIER: Absolutely. That's fine.

2 MR. MEITES: Do the rest of the  
3 committee -- does that make sense? Well, then, we'll  
4 defer further action, and we encourage people to  
5 communicate with Charles on that point.

6 Let's go back to -- thank you, Bernice. Let's  
7 go back to the agenda. We're getting there, guys. Item  
8 number 7, Consider and act on response to OIG's Fiscal  
9 Practices Report recommendation regarding locality pay  
10 for LSC President.

11 Perhaps, Kirt, if you could come forward on  
12 that, and Charles, I don't know if we need Vic as well,  
13 but I want to make a short statement before we entertain  
14 this. This is an item that kind of bounced around  
15 between the Finance Committee and Ops and Regs, and I  
16 think it implicates both committees, but the conclusion  
17 between Mike and myself was that we at least should  
18 start the discussion at this committee, although it may  
19 well have financial implications that the Finance  
20 Committee would also like to consider.

21 We have received a briefing memo from Vic  
22 about this issue. I met with a number of members of the



1 staff last night, along with Frank, and we were briefed  
2 on the issue. I spoke briefly with Vic earlier  
3 today -- to Kirt earlier today about locality pay.

4 I've not talked to my committee about this,  
5 but it is quite a complicated issue, and I'm sure you're  
6 all eager to learn all the details. Some of it is very  
7 difficult to convey orally. Let me just leave it at  
8 that. There are a number of statutes and regulations  
9 which seem, at least on first blush, to require  
10 interpretation.

11 My sense of the matter -- and I know that the  
12 IG and management are continuing to have discussions  
13 about whether there's a solution to what seems to be a  
14 problem that could be presented to us, rather than us  
15 trying to puzzle out the solution ourselves.

16 What I would propose to our committee, and I  
17 would like to hear from Vic and Kirt about this, is that  
18 we give the IG and the staff more time to talk about  
19 this issue and then bring it back to us.

20 There's one oddity here, because of the nature  
21 of the issue involved, both Kirt and Vic are  
22 personally -- it has personal implications for them and

1 indeed for a number of members of senior management in  
2 the IG. And we haven't quite faced up to that point as  
3 yet, although it may be necessary for our committee to  
4 suggest that the board engage someone outside our own  
5 organization to help us with this.

6 But my suggestion, and I have urged we defer  
7 so many things to April that we may have to have a  
8 special meeting of our committee before April to get  
9 some of this off our list. But we've done that before.

10 We can have a specific meeting. But before I ask the  
11 committee their views, let me ask Vic and Kirt and  
12 Charles whether you all think more time would help you  
13 in presenting the issue to us.

14 MR. FORTUNO: I think that that would be  
15 preferable, certainly from my standpoint. I think it  
16 gives us an opportunity to explore it more thoroughly  
17 ourselves, and the conflict is there, and it's something  
18 that the board needs to decide, that is, we are persons  
19 who would be affected by whatever decision is made, so  
20 you may want to get an independent opinion on this.

21 But to the extent that you want something from  
22 us and you want us to discuss possible solutions that

1 you can consider and discuss with someone who advises  
2 you independently, I think it would be helpful to give  
3 us the additional time to engage in those discussions  
4 and come back to you with, if you want something from  
5 us, something more concrete.

6 MR. MEITES: Kirt?

7 MR. WEST: I would second what Vic says,  
8 particularly with respect to the issue of a conflict. I  
9 mean, it is a definite problem when you have  
10 self-interest involved that you can't be as objective as  
11 you would. And I think any of the attorneys in the room  
12 would feel the same way if it's an issue that has a  
13 personal impact on them.

14 I think we can discuss it, but I think we, you  
15 know, you need to understand -- and I think you  
16 do -- that we're doing that with this, you know, caveat  
17 possible impairment, and, you know, we've disclosed it.

18 I think that's probably the most important thing, get  
19 it out there. I mean, my view is not the road. You're  
20 going to have to go outside to get an opinion.

21 In the meanwhile, I think we can explore.  
22 There's -- I mean, just some practical, you know, things

1 we can explore to see if there's some fixes before you  
2 go out and get the outside opinion. But, actually, Vic  
3 and I were talking about it, you may want to actually  
4 get two opinions. One is as to the legal issue, and  
5 then as to how you, you know, if there are workarounds.

6 MR. MEITES: Mike, you had a question or  
7 comment?

8 MR. McKAY: Well, we are on notice that  
9 there's a conflict, I understand. I think it's a clear  
10 conflict. But I think Vic's memo is a good start. We  
11 probably ought to go ahead and get that, if as you point  
12 out, and I agree, that there are statutes and  
13 regulations that require interpretation, that we ought  
14 to get it to someone and get the interpretation.

15 In many ways, Vic's done the work. We need  
16 someone to look at it and make whatever changes are  
17 appropriate and get it back to us so we're all operating  
18 from the same sheet of music on the legal interpretation  
19 side.

20 MR. MEITES: Let me ask -- let's ask about  
21 that question. If that's the sense of the committee,  
22 then we should recommend to the board tomorrow that it

1 authorize the engagement of someone. Is that where  
2 we're at on that issue?

3 MR. MCKAY: It is if I can just amend one  
4 thing.

5 MR. MEITES: Please.

6 MR. MCKAY: Encourage us to look at the  
7 opportunity to find perhaps someone else in government  
8 rather than going outside, to outside counsel, to try to  
9 keep our costs down. If possible. I mean, it is  
10 something that perhaps has been reviewed by someone else  
11 before. But if not, we go to outside law firm.

12 MR. MEITES: Okay.

13 MR. WEST: I might add, Mike, I think that my  
14 experience in these kinds of issues that the comptroller  
15 general would probably be the appropriate person. In my  
16 other experience, that's who I think we'd send those  
17 kinds of issues to.

18 MR. MEITES: It might be a place to start at  
19 least to get resources. And the second is that we defer  
20 this. But let me -- I think we should have a meeting of  
21 our committee before the next board meeting, and it's  
22 now the end of January. If we say middle of March, that

1 gives us six weeks after the meeting for the board  
2 meeting.

3 MS. BeVIER: Well, the question is, can the  
4 staff get to us what we need --

5 MR. MEITES: That's exactly right. If we give  
6 you, say, a mid-March date for our meeting, can we get a  
7 response from -- well, you already have Vic. Kirt's  
8 input, and I don't know, could we get something from the  
9 controller general by then?

10 MR. WEST: I would doubt you'd get something  
11 from the controller general. I think that -- I mean, we  
12 could -- we can get you the name of the people you need  
13 to contact. Or, I mean, we could -- I don't think  
14 there's any problem in us sending it over. You know, we  
15 can send it over and say we need an answer, or Frank  
16 could send it over as the chair.

17 MR. McKAY: If we meet the third week in March  
18 then we're asking for something in two months. I used  
19 to work in government. Two months is a long time.

20 MR. MEITES: Lillian?

21 MS. BeVIER: I think that one of the  
22 things -- I completely concur of course in saving the

1 resources of the Corporation, but I do think that the  
2 implications of this issue are significant practically  
3 for our employees, and that what we need is perhaps  
4 someone who is -- has got a practical bent and is, you  
5 know, sort of -- someone in the private sector is what  
6 I'm thinking that might be actually more flexible.

7 MR. MCKAY: Well, I'm more enthusiastic about  
8 things going to the private sector, for the record. I  
9 want to make sure you know.

10 MS. BeVIER: Right. I know.

11 (Laughter.)

12 MS. BeVIER: Well, I mean -- and it is, it's  
13 really just a question of what we want is a solution to  
14 this problem if one can be responsibly and with  
15 integrity devised.

16 MR. MEITES: Frank?

17 CHAIRMAN STRICKLAND: I was going to say,  
18 maybe what is being said without saying it here is that  
19 the controller general's approach might be too  
20 governmental. I don't mean that critically of the  
21 controller general, but there is that mindset that  
22 exists I think.

1 MS. BeVIER: Right.

2 CHAIRMAN STRICKLAND: And maybe we need  
3 something independent.

4 MR. MEITES: Well, let me make this  
5 suggestion. Why don't we defer this to the board and  
6 get the sense of where the board's at? But you  
7 certainly can get us the statutes and the regulations by  
8 our meeting in March. And, Kirt, if you have any kind  
9 of submission, that would be helpful as well.

10 So, let's defer -- my recommendation is we  
11 defer this, but we do anticipate we will have a meeting  
12 in mid-March to consider everything we've deferred  
13 somewhere.

14 CHAIRMAN STRICKLAND: May I ask one other  
15 question? We've had full disclosure of the conflict.  
16 So armed with that disclosure, is there -- would there  
17 be any harm -- I mean, let's say these guys put their  
18 heads together and they come up with a solution. Is  
19 there any harm in asking them to look for a solution and  
20 then --

21 MR. MEITES: Oh, no, no. That --

22 CHAIRMAN STRICKLAND: And then ask -- and tee



1 it up, let us take a look at it, or is that?

2 MR. MEITES: Absolutely. Because when I  
3 began, the hope was that they could use the time to see  
4 if they could figure a way --

5 CHAIRMAN STRICKLAND: If we could have that  
6 proposed solution reviewed by the independent counsel  
7 to --

8 MR. MEITES: Right. So that why don't you  
9 aim -- get the materials together and work to see if you  
10 can come up with a proposed solution, which we'll take  
11 up at our meeting in March? Is that satisfactory? All  
12 right. So we will defer further discussion of this,  
13 Charles?

14 MR. JEFFRESS: I appreciate your point,  
15 Chairman Strickland. I agree that if we could frame the  
16 question before we go to outside counsel, I think that  
17 would be helpful.

18 In terms of your proposed meeting in  
19 mid-March, the regulatory agenda was one of the things  
20 you had postponed until your next meeting. That  
21 typically is done at a board meeting. Would that also  
22 be on the agenda?

1           MR. MEITES: No. My sense is the regulatory  
2 agenda, I want to do in conjunction with the board  
3 meeting so board members who want to -- will be here if  
4 they want to participate. At our one other Ops and Regs  
5 special meeting, other members of the board did not  
6 attend. So I would like to focus -- well, some did.  
7 That's right. Some did, but not all. So I'd like to  
8 focus -- let's see. What have we deferred?

9           MR. JEFFRESS: We did the Employee Manual and  
10 the locality pay.

11          MR. MEITES: And the locality pay. If that  
12 makes sense, we'll just focus on those two issues?

13          MR. JEFFRESS: And one further word, Mr.  
14 Chairman, if I could speak to Sarah Singleton. Are you  
15 still on the line?

16          MS. SINGLETON: Yes I am.

17          MR. JEFFRESS: I was told that your package of  
18 board book inserts was sent to the same address that  
19 your board book was sent to, which apparently was  
20 different from your regular address, so that may be --

21          MS. SINGLETON: That's right. Does anybody  
22 show a date it was received?

1           MR. JEFFRESS: No, we did not do a tracking on  
2 that.

3           MS. SINGLETON: Okay. That's all right.

4           MR. JEFFRESS: But I believe the locality pay,  
5 the Employee Manual have both been deferred now, so  
6 we'll make sure you get them before the next meeting.

7           MS. SINGLETON: Okay.

8           MR. JEFFRESS: And the budget guidelines I  
9 think are going to be a relatively simple matter  
10 tomorrow.

11           MS. BeVIER: I have a question actually. I  
12 would have thought that the -- I mean, of course the  
13 board is going to be involved in the review of the  
14 regulatory agenda, but it does seem to me that the  
15 preliminary work on that should be done at the committee  
16 level, and that we should do that in March. I mean, I  
17 think we could begin that process. And the board  
18 members can join -- they can come as they did last time  
19 or they can join by phone if they're interested in the  
20 committee process, but then the committee will report  
21 thoroughly to --

22           MR. MEITES: If that makes sense, I didn't

1 want to overload us, but we could get as far as we can  
2 at that special meeting.

3 MS. BeVIER: Yeah. I think that would be  
4 worthwhile, a better use of our time.

5 MR. MEITES: We'll give that a try then. All  
6 right. So we'll aim for all three at our special  
7 meeting.

8 Okay. Any public comment on locality pay  
9 issue?

10 (No response.)

11 MR. MEITES: All right. And we'll find a date  
12 and place in mid-March for our committee to have its  
13 next meeting.

14 Okay. That gets us to 8. Any public comment  
15 on any other matter?

16 (No response.)

17 MR. MEITES: Hearing none, 9, consider and act  
18 on any other business. Is there any other business?

19 (No response.)

20 MR. MEITES: Hearing none, I will accept a  
21 motion to adjourn.

22

1 M O T I O N

2 MS. BeVIER: So moved.

3 MR. MEITES: And I'd like to point out it is  
4 two minutes to five. Is there a motion to adjourn?

5 MS. BeVIER: I move we adjourn.

6 MR. McKAY: Second.

7 MR. MEITES: Adjourned.

8 (Whereupon, at 4:59 p.m., the meeting was  
9 concluded.)

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