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March 29, 2012

Ms. Mattie Cohen
Office of Legal Affairs
Legal Services Corporation
3333 K Street, NW
Washington, DC 20007

RE: Proposed revisions to 45 CFR Parts, 1606, 1618, and 1623

Dear Ms. Cohen:

We write on behalf of Georgia Legal Services Program and Atlanta Legal Aid Society to express our concerns about several of the proposed revisions to the above-noted regulations.

As a threshold matter, we urge LSC to provide more information about the need for adopting additional sanctions options. The explanation in the Federal Register points out that most programs are in substantial compliance with the regulations and other provisions that define our functioning, and of the minority that have problems, most "work diligently and cooperatively" to correct their errors upon notice by LSC. With this introduction, it is difficult for programs to understand what might invoke these additional sanctions, or why LSC feels it needs to have additional arrows in its quiver.

And the sanctions are not minor. Even a 4% reduction in funding for our programs would likely mean significant layoffs of staff. In today's climate, where support for legal services for the poor is as low as it has been in quite some time, the threat of funding cuts is unnecessarily draconian. We suggest that a more productive approach where compliance issues are "material but not extreme, or multiple but not profuse, ... where the recipient does not voluntarily take corrective action in a timely manner," would be to provide notice of *potential* sanction to give the program an incentive restore good standing. This could take the form of a suspension of funding, to be earned back upon correction of errors. Even a short term suspension, coupled with a way to restore the suspended funds, would be a powerful motivator in these days of short funding.

 LSC

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The sanction of a funding reduction is all the more serious because the proposed regulation gives a program no real meaningful way to contest it. There is an opportunity to submit written material and to request a meeting with some unnamed person with unspecified authority at the Corporation. Neither suggests that LSC is really willing to work with the program to avoid the penalties. In addition, if the funding reductions proposed are indeed "lesser sanctions" not designed to respond to emergency situations, where for instance there is an imminent threat of misuse of Corporation funds, it also seems an overreaction to require program staff (and perhaps Board members) to attend a meeting at LSC's headquarters within five business days, especially given the high price of last minute airfares and the need to protect scarce resources. Yet any program faced with even a modest funding reduction would likely feel compelled to meet with LSC, even knowing that it appears likely to be a meaningless gesture.

We are also concerned at the scope of potential violations. We understand that we are accountable for violations of the regulations, but the possibility of being so severely sanctioned for a violation of a "guideline or instruction," which is no longer available on the LSC website and which may be subject to varying interpretations among LSC staff, vests LSC with inappropriately broad discretion.

We suggest an alternate approach, comparable to the progressive discipline that good managers use with offending staff. This would involve increasingly serious consequences for violations of a regulation, but culminating in a suspension of funding, during which time the program would be incentivized to perform by the possibility of recovering the suspended funding.

In conclusion, for the above-stated reasons, we urge you not to adopt the proposed new sanctions.

Very truly yours,



Phyllis J. Holmen
Executive Director, Georgia Legal Services Program



Steve Gottlieb *w/permission*
Executive Director, Atlanta Legal Aid Society

PJH:SG/dlr