

# LEGAL ASSISTANCE OF WESTERN NEW YORK, INC.®

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September 7, 2011

Submitted Via Email and Fax

Mark Freedman  
Senior Assistant General Counsel  
Legal Services Corporation  
3333 K Street, NW  
Washington, DC 20007

RE: Request for Comments – Poverty Data and LSC Funding Distribution

Dear Mr. Freedman:

Pursuant to the notice published by the Legal Services Corporation (LSC) in the Federal Register on August 9, 2011, the seven LSC grantees in New York State submit these comments for consideration by LSC's Board of Directors with regard to the proposal from LSC's management on the issue of poverty data and LSC funding distribution. Together, the seven LSC grantees submitting these comments provide civil legal services to the low-income communities in every county in New York State.

Our comments are submitted with regard to three of the recommendations made by LSC management: that funding be reallocated among geographic areas every three years based on updated poverty population determinations; that the first reallocation be phased in over two years in Fiscal Year 2013 and Fiscal Year 2014; and that the determination of the number of individuals in poverty in each LSC geographic area be made by the Bureau of the Census.

First, we urge the LSC Board of Directors to support the reallocation of LSC basic field funds among geographic areas across the United States one time every five years, not every three years as proposed by LSC management. We agree with the position taken on this issue by the National Legal Aid and Defender Association which concluded, after vigorous debate, that redistribution in shorter periods will be administratively burdensome and too disruptive for grantees.

Second, we urge the LSC Board of Directors to accept the recommendation of LSC management to phase in the first redistribution of LSC basic field funds to its grantees pursuant to the new process over a two year period, with 50% of the redistribution implemented in Federal Fiscal Year 2013 and 50% of the redistribution implemented in Federal Fiscal Year 2014. We urge the LSC Board of Directors to consider the factors weighed by LSC management in making this recommendation, including the magnitude of the disruption which will be caused to those grantees which will suffer large funding losses as a result of these changes.

We in New York State estimate that we will collectively lose approximately 20.93% of our LSC basic field funds, a loss of \$5,688,814. This loss will take place despite the high unmet need for civil legal

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services in New York State and despite the fact that the poverty population in New York State has risen over the past ten years. As noted in the November 2010 *Report to the Chief Judge of the State of New York* from the Task Force to Expand Access to Civil Legal Services in New York "...at best 20% of the need for civil legal services is being met", with 1.2 million low-income New Yorkers having three or more civil legal problems in 2009 and just over 260,000 cases being closed by New York Interest on Lawyer Account Fund grantees in that year. The number of persons below the poverty level in New York State increased by 3.07%, from 2,692,202 in 2000 to 2,774,886 in 2009. See the U.S. Census Bureau 2000 decennial census and the U.S. Census Bureau State and County Quick Facts for 2009 and 2010.

Finally, we believe that the LSC Board of Directors should not cede its authority to make the determination of the number of individuals in poverty in each geographic area to the Bureau of the Census. The role of the Bureau of the Census should be limited to one which is ministerial in nature – to provide the alternative data sets that are available for making this determination, including the American Community Survey, the Small Area Income and Poverty Estimates and any other data sets that may become available in the future. We believe that it is the responsibility of the LSC Board of Directors to determine the number of individuals in poverty in each LSC geographic area based on the best available data identified by LSC. LSC board members, management and staff, with a deep understanding of rural and urban service delivery issues are better positioned to make this decision every five years.

In sum, we urge the LSC Board of Directors to decide to reallocate funds every five years, to implement the first reallocation of funds over a two year period and to retain, not cede, its authority to determine the number of individuals in poverty in each LSC geographic area.

Thank you for your attention to these comments. If anyone has any questions about this letter, or needs additional information from us, please feel free to contact Ken Perri, the executive director of Legal Assistance of Western New York, Inc.<sup>®</sup>, who can be reached at 315-781-1465 x1713 or at [kperri@lawny.org](mailto:kperri@lawny.org).

Very truly yours,

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