



FINAL REPORT
LEGAL SERVICES CORPORATION
Office of Compliance and Enforcement

Indiana Legal Services, Inc.

April 12-16, 2010

Follow-Up Review

Recipient No. 515030

I. EXECUTIVE SUMMARY

Finding 1: Of the 19 corrective actions of the 2006 Final Report, five (5) were fully implemented, three (3) were partially implemented, nine (9) were not implemented, and two (2) were rendered moot due to regulatory and fiscal changes.

Finding 2: ILS' use of its automated case management system ("CMS") is insufficient to ensure that information necessary for the effective management of cases is accurately and recorded. As such, Corrective Actions 2 and 13 of the 2006 Final Report have not been implemented.

Finding 3: Case review, staff interviews, and review of program documents evidenced that ILS' intake procedures do not support the program's compliance-related requirements. As such, Corrective Action 8 of the 2006 Final Report has not been implemented.

Finding 4: Case review revealed that ILS is in substantial compliance with the income eligibility documentation requirements of 45 CFR § 1611.4, CSR Handbook (2001 Ed.), ¶ 5.3, CSR Handbook (2008 Ed.), § 5.3, and applicable LSC instructions for clients whose income does not exceed 125% of the Federal Poverty Guidelines. ILS has partially implemented Corrective 5 of the 2006 Final Report. Corrective Action 15 of the 2006 Final Report has been rendered moot by revisions to 45 CFR Part 1611.

Finding 5: Case review demonstrated that ILS is in compliance with the asset eligibility documentation requirements of by 45 CFR §§ 1611.3(c) and (d), CSR Handbook (2001 Ed.), ¶ 5.4, and CSR Handbook (2008 Ed.), § 5.4. The first part of Corrective Action 3 of the 2006 Final Report has been rendered moot by the revised 45 CFR Part 1611. ILS has not implemented second part of Corrective Action 3 and has fully implemented Corrective Action 4 of the 2006 Final Report.

Finding 6: ILS is in non-compliance with 45 CFR § 1626.6 (Restrictions on legal assistance to aliens). As such, the program has not implemented Corrective Action 16 of the 2006 Final Report.

Finding 7: ILS is in substantial compliance with the retainer requirements of 45 CFR § 1611.9. As such, ILS has fully implemented Corrective Action 9 of the 2006 Final Report.

Finding 8: ILS is in compliance with the requirements of 45 CFR Part 1636 (Client identity and statement of facts) as client statement of facts were present in files in which they were required.

Finding 9: ILS is in compliance with the requirements of 45 CFR § 1620.4 and § 1620.6(c) (Priorities in use of resources).

Finding 10: Case review evidenced that ILS is in substantial compliance with CSR Handbook (2001 Ed.), ¶ 5.1 and CSR Handbook (2008 Ed.), § 5.6 (Description of legal assistance provided). As such, ILS has fully implemented Corrective Actions 6 and 14 of the 2006 Final Report.

Finding 11: ILS' application of CSR case closure categories requires significant improvement in order to be fully consistent with Section VIII, CSR Handbook (2001 Ed.) and Chapters VIII and IX, CSR Handbook (2008 Ed.). As such, ILS has not implemented Corrective Action 7 of the 2006 Final Report.

Finding 12: ILS is in non-compliance with the timely case closure requirements of CSR Handbook (2001 Ed.), ¶ 3.3 and CSR Handbook (2008 Ed.), § 3.3. As such, the program has not implemented Corrective Action 1 of the 2006 Final Report.

Finding 13: Case review evidenced substantial compliance with the requirements of CSR Handbook (2001 Ed.), ¶ 3.2 and CSR Handbook (2008 Ed.), § 3.2 regarding duplicate cases.

Finding 14: Case review, staff interviews, and limited document review evidenced compliance with the requirements of 45 CFR Part 1608 (Prohibited political activities).

Finding 15: Case review evidenced compliance with the requirements of 45 CFR Part 1609 (Fee-generating cases).

Finding 16: A limited review of ILS' accounting and financial records, observations of the physical locations of program field offices, and interviews with staff evidenced compliance with 45 CFR Part 1610 (Use of non-LSC funds, transfer of LSC funds, program integrity) in reference to sharing physical space with a non-LSC entity engaged in restricted activities. In addition, Corrective Action 19 of the 2006 Final Report has been fully implemented as the program's written notification to non-LSC funders complies with 45 CFR § 1610.5.

Finding 17: ILS is in substantial compliance with the requirements of 45 CFR Part 1614 (Private attorney involvement). Corrective Actions 17 and 18 of the 2006 Final Report were partially implemented due to inconsistent accounting of PAI-related activities and timekeeping.

Finding 18: Limited document review evidenced that ILS is in substantial compliance with 45 CFR § 1627.4(a) which prohibits programs from utilizing LSC funds to pay membership fees or dues to any private or non-profit organization. However, ILS must take corrective action in reference to the one instance of non-compliance discovered in its accounting records.

Finding 19: A limited review of ILS accounting records revealed that ILS is not in compliance with the requirements of 45 CFR § 1630.3(b) (Cost standards and procedures).

Finding 20: Staff interviews and a limited review of program documentation evidenced that the ILS is not in compliance with 45 CFR Part 1635 (Timekeeping requirements). As such, Corrective Actions 10 and 11 of the 2006 Final Report have not been implemented.

Due to changes in the program's timekeeping system, Corrective Action 12 has been rendered moot.

Finding 21: ILS is in compliance with the requirements of 45 CFR Part 1642 (Attorneys' fees).

Finding 22: A limited review of ILS' internal controls evidenced adequate segregation of duties, internal controls, and defined procedures. However, some improvements are recommended.

Finding 23: A limited review of ILS' audited 2008 Financial Statement and draft 2009 Financial Statement disclosed that the program's Client Trust Fund asset account balance does not equal the liability account balance. Further, the liability account balance was not separately reported on the Statement of Financial Position.

Finding 24: Case review and staff interviews evidenced compliance with the requirements of 45 CFR Part 1612 (Restrictions on lobbying and certain other activities).

Finding 25: Case review and staff interviews evidenced compliance with the requirements of 45 CFR Parts 1613 and 1615 (Restrictions on legal assistance with respect to criminal proceedings, and actions collaterally attacking criminal convictions).

Finding 26: Case review and staff interviews evidenced compliance with the requirements of 45 CFR Part 1617 (Class actions).

Finding 27: Case review and staff interviews evidenced compliance with the requirements of 45 CFR Part 1632 (Redistricting).

Finding 28: Case review and staff interviews evidenced compliance with the requirements of 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings).

Finding 29: Case review and staff interviews evidenced compliance with the requirements of 45 CFR Part 1637 (Representation of prisoners).

Finding 30: Case review and staff interviews evidenced compliance with the requirements of 45 CFR Part 1638 (Restriction on solicitation).

Finding 31: Case review and staff interviews evidenced compliance with the requirements of 45 CFR Part 1643 (Restriction on assisted suicide, euthanasia, and mercy killing).

Finding 32: Case review and staff interviews evidenced compliance with the requirements of certain other LSC statutory prohibitions (42 USC 2996f § 1007 (a) (8) (Abortion), 42 USC 2996f § 1007 (a) (9) (School desegregation litigation), and 42 USC 2996f § 1007 (a) (10) (Military selective service act or desertion)).

II. BACKGROUND OF REVIEW

From April 12-16, 2010, the Legal Services Corporation's ("LSC") Office of Compliance and Enforcement ("OCE") conducted a Follow-Up Review ("FUR") on-site visit to Indiana Legal Services, Inc. ("ILS"). OCE performed an on-site Case Service Report/Case Management System ("CSR/CMS") review of ILS in 2005 and a Final Report was issued to the program in 2006 ("2006 Final Report"). The purpose of the 2010 FUR was to assess the program's compliance with the LSC Act, regulations, and other applicable laws and its implementation of the corrective actions of the 2006 Final Report. The visit was conducted by a team of five (5) attorneys, one (1) management consultant, and three (3) fiscal analysts. Four (4) of the attorneys and the three (3) fiscal analysts were OCE staff members; the remaining attorney and management consultant on the team were LSC consultants.

The 2010 on-site FUR was designed and executed to assess the program's compliance with basic client eligibility, intake, case management, regulatory and statutory requirements, the CSR Handbook (2008 Ed.), and to ensure that ILS had fully implemented the 19 corrective actions of the 2006 Final Report. Specifically, the review team assessed ILS for compliance with regulatory requirements 45 CFR Part 1611 (Financial Eligibility); 45 CFR Part 1626 (Restrictions on legal assistance to aliens); 45 CFR §§ 1620.4 and 1620.6 (Priorities in use of resources); CFR § 1611.9 (Retainer agreements); 45 CFR Part 1636 (Client identity and statement of facts); 45 CFR Part 1608 (Prohibited political activities); 45 CFR Part 1609 (Fee-generating cases); 45 CFR Part 1610 (Use of non-LSC funds, transfers of LSC funds, program integrity); 45 CFR Part 1614 (Private attorney involvement);¹ 45 CFR Part 1627 (Subgrants and membership fees or dues); 45 CFR Part 1635 (Timekeeping requirement); 45 CFR Part 1642 (Attorneys' fees);² 45 CFR Part 1630 (Cost standards and procedures); 45 CFR Part 1612 (Restrictions on lobbying and certain other activities); 45 CFR Parts 1613 and 1615 (Restrictions on legal assistance with respect to criminal proceedings and Restrictions on actions collaterally attacking criminal convictions); 45 CFR Part 1617 (Class actions); 45 CFR Part 1632 (Redistricting); 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings); 45 CFR Part 1637 (Representation of prisoners); 45 CFR Part 1638 (Restriction on solicitation); 45 CFR Part 1643 (Restriction on assisted suicide, euthanasia, or mercy killing); and 42 USC 2996f § 1007 (Abortion, school desegregation litigation and military selective service act or desertion).

The OCE team interviewed members of ILS' upper and middle management, staff attorneys and support staff. ILS' case intake, case acceptance, case management, and case closure practices and policies in all substantive units were assessed. In addition to interviews, a case file review was conducted. The sample case review period was from January 1, 2008 through February 28, 2010. Case file review relied upon randomly selected files as well as targeted files identified to test for compliance with LSC requirements, including eligibility, potential duplication, timely closing, and proper application of case closure categories. In the course of the on-site review, the OCE team reviewed approximately 835 case files which included 258 targeted files.

¹ In addition, when reviewing files with pleadings and court decisions, compliance with other regulatory restrictions was reviewed as more fully reported *infra*.

² On December 16, 2009, the enforcement of this regulation was suspended and the regulation was later revoked during the LSC Board of Directors meeting on January 30, 2010. During the instant visit, LSC's review and enforcement of this regulation was therefore only for the period prior to December 16, 2009.

ILS is a statewide LSC recipient with eight (8) field offices located in Indianapolis, Bloomington, Lafayette, South Bend, Merrillville, Fort Wayne, Evansville, and New Albany, IN. The program also provides legal assistance via substantive units including its Senior Law Project, Migrant Farmworker Law Center, Immigrants and Language Rights Center, Homeless Project, Consumer Law Center, and Foreclosure Legal Assistance Project.³

In 2008, ILS has reported 7,522 closed cases in its CSR data. ILS' Self-Inspection Certification Form evidenced a 2.4% error rate with exceptions noted in four (4) out of 167 files reviewed. Exceptions included 1 case in which there was no written evidence of advice or representation, 2 counsel & advice or limited action cases opened prior to 10/1/07 and not falling under the exception 3.3(a)(ii) of the 2008 CSR Handbook, and 1 extended service case in which assistance was completed and case closure occurred prior to 2008. In 2008, 76.1% of its representation was for limited service cases, and 23.9% for extended service cases. Its three (3) primary areas of representation were Family (44.4%), Consumer Finance (12.5%) and Housing (13.9%).

In 2009, ILS reported 7,821 closed cases in its CSR data. ILS' Self-Inspection Certification Form evidenced a 4.8% error rate with exceptions noted in nine (9) out of 187 files reviewed. Exceptions included 1 case in which household income exceeded 200% of the poverty guidelines, 1 non-telephone case lacking a citizenship attestation or documentation of alien eligibility, 5 cases in which there was no written evidence of advice or representation, and 2 counsel & advice or limited action cases in which assistance was completed and case closure occurred prior to 2009. In 2009, 79% of its representation was for limited service cases, and 21% for extended service cases. Its three primary areas of representation were Family (40.6%), Consumer Finance (15.5%) and Housing (13.9%). ILS' 2010 LSC funding consisted of a \$5,958,287 Basic Field Grant.

By letter dated February 17, 2010, OCE requested that ILS provide a list of all cases reported to LSC in its 2008 CSR data submission ("closed 2008 cases"), a list of all cases closed between January 1, 2009 and December 31, 2009 ("closed 2009 cases"), a list of all cases closed between January 1, 2010 and February 28, 2010 ("closed 2010 cases) and a list of all cases which remained open as of February 28, 2010 ("open cases"). OCE requested that the lists contain the client name, the file identification number, the name of the advocate assigned to the case, the opening and closing dates, the CSR case closing category assigned to the case and the funding code assigned to the case. In addition, OCE requested that ILS prepare two sets of each list - one for cases handled by ILS staff and the other for cases handled through ILS' PAI component. ILS was advised that OCE would seek access to such cases consistent with Section 509(h), Pub.L. 104-134, 110 Stat. 1321 (1996), LSC Grant Assurance Nos. 10, 11, and 12 and the LSC Access to Records (January 5, 2004) protocol. ILS was requested to promptly notify OCE, in writing, if it believed that providing the requested material, in the specified format, would violate the attorney-client privilege or would be otherwise protected from disclosure.

Thereafter, a representative sample of cases was created for review during the on-site visit. The sample was created proportionately among 2008, 2009, and 2010 closed cases and open cases, as well as a proportionate distribution of cases from ILS' field offices. The sample consisted

³ ILS substantive units report cases either as part of the field office in which they are located or as a separate unit.

largely of randomly selected cases, but, as noted above, also included targeted cases selected to test for compliance with the CSR instructions relative to timely closings, proper application of the CSR case closing categories, duplicate reporting, etc.

During the visit, access to case-related information was provided through staff intermediaries. Pursuant to the OCE and ILS agreement of March 31, 2010, ILS staff maintained possession of the file and discussed with the team the nature of the client's legal problem and the nature of the legal assistance rendered.⁴ All of the program's field offices were visited and ILS' management and staff cooperated fully in the course of the review process. As discussed in more detail below, ILS was made aware of any compliance issues discovered during the on-site visit. This was accomplished by informing intermediaries of any compliance issues during case review as well as ILS management.

At the conclusion of the visit on April 16, 2010, OCE conducted an exit conference during which ILS was made aware of any preliminary areas in which a pattern of non-compliance was found. No distinction in compliance between 2008, 2009, and 2010 cases was noted. ILS was advised that they would receive a Draft Report that would include all of OCE's findings and they would have an opportunity to submit comments, after which a Final Report would be issued.

ILS was provided a Draft Report ("DR") on June 29, 2010 and was given an opportunity to comment. ILS requested on July 27, 2010 60 days to comment on the Draft Report. The extension was granted. ILS' comments to the DR were received on September 30, 2009. The program's comments have been incorporated into this Final Report, where appropriate, and are affixed as an exhibit.

⁴ In those instances where it was evident that the nature of the problem and/or the nature of the assistance provided had been disclosed to an unprivileged third party, such discussion was more detailed, as necessary to assess compliance.

III. FINDINGS

Finding 1: Of the 19 corrective actions of the 2006 Final Report, five (5) were fully implemented, three (3) were partially implemented, nine (9) were not implemented, and two (2) were rendered moot due to regulatory and fiscal changes.

The 2010 FUR clearly evidenced that while the program has improved certain systems, its efforts have fallen short in reference to overall program implementation of the corrective actions of the 2006 Final Report. Of the 19 corrective actions of the 2006 Final Report, five (5) were fully implemented, three (3) were partially implemented, nine (9) were not implemented, and two (2) were rendered moot due to regulatory and fiscal changes.

In its comments to the Draft Report provided prior to the 2006 Final Report's release, ILS articulated a number of efforts, planned or in process, to strengthen its compliance with LSC regulations and requirements. It is evident, however, that not all program field offices have embraced the efforts made since the prior CSR/CMS review to bring the entire program into compliance. Inconsistencies involving intake policies, procedures, and forms were discovered in every field office and certain previously identified compliance issues continue to be problematic. As noted in the findings below, ILS management will be required to undertake additional efforts to fully implement any remaining corrective actions of the 2006 Final Report and any additional issues identified during the April 2010 on-site FUR.

In response to the DR, ILS stated that it has undertaken efforts to fully implement all corrective actions set forth in the 2006 Final Report and any additional issues identified during the April 2010 on-site FUR as more fully discussed in the responses to Corrective Action numbers 2 through 20 below.

Finding 2: ILS' use of its automated case management system ("CMS") is insufficient to ensure that information necessary for the effective management of cases is accurately and recorded. As such, Corrective Actions 2 and 13 of the 2006 Final Report have not been implemented.

Recipients are required to utilize an automated case management system ("CMS") and procedures which will ensure that information necessary for the effective management of cases is accurately and timely recorded in a case management system. At a minimum, such systems and procedures must ensure that management has timely access to accurate information on cases and the capacity to meet funding source reporting requirements. *See* CSR Handbook (2001 Ed.), ¶ 3.1 and CSR Handbook (2008 Ed.), § 3.1.

As a result of issues within the program regarding accurate CMS and file information, Corrective Action 2 of the 2006 Final Report required the program to:

Ensure that non-LSC funded, non-LSC eligible cases are not reported to LSC in the CSRs.

Additionally, Corrective Action 13 required ILS to:

Ensure that staff properly records all CSR reporting information in the CMS.

Since 2003, ILS has utilized an internet-based CMS. No defaults were identified within the CMS. ILS' methodology to deselect cases from CSR reporting is through the use of two fields: "Is Funded by LSC" and "Is Reportable by LSC." If the case is noted to be funded by LSC, the user must select from specific funding options, including LSC Basic, PAI, Migrant, Aging, and other local grants. If the "Is Reportable by LSC" box is not selected, a drop-down box of reasons the case is not reportable offers options such as Kennedy Amendment, Over-Income, Over-Asset, Referral, Senior-Over Asset, Senior Over-Income, and Technology.

Based on staff interviews and a comparison of the information yielded by the CMS to information contained in selected case files, ILS' use of its CMS is insufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded. Several instances of inconsistent information were noted, including issues involving incorrect placement on open and closed lists, incorrect funding coding, and CSR eligibility. *See*, for example, Case Nos. 07-09-0050919; 06-06-0034776; 07-03-0044428; 07-03-0044484; 08-05-0058828; 08-06-0060498; 08-05-0058829; 09-09-0018030; 05-09-0025075; 09-09-0018030; 05-09-0025075; 07-07-0048843; 07-09-0051111; 09-06-0074140; and 07-12-0053678.

Staff interviews and case review revealed that some staff lacks sufficient training on the use of the fields to deselect cases which are ineligible for CSR reporting. In one field office, for example, staff routinely selects the LSC Funding and LSC Reportable boxes during the initial entry of the intake information into the CMS. These fields were not reviewed by either the case handlers or management upon closure and, as a result, some non-LSC funded over-income and over-asset cases were included in CSRs. Other field offices correctly do not complete these boxes until the conclusion of the case so that an accurate determination can be made at that time.

In addition, case review revealed that the program failed to properly include many cases that were eligible for CSR reporting. For example, as noted in Finding 6 below, the Kennedy Amendment is still listed as a reason for deselecting cases from being reported in CSRs despite the fact that such cases have been considered reportable since the reauthorization of the Violence Against Women Act of 2006. *See* Program Letter 06-2. While most staff was aware that such cases should be reported to LSC, certain field offices used the Kennedy Amendment option to deselect these cases from CSRs. This field should be removed from the CMS as a reason for deselection to ensure that CSR-eligible Kennedy Amendment cases are reported to LSC. Several additional CSR-eligible cases were marked as non-LSC cases due to coding mistakes in the CMS. *See*, for example, Case Nos. 05-08-0024789; 09-07-0075895; 08-12-0067013; 09-07-0076103; 09-07-0075313; 09-02-0068825; 09-07-0075598; 08-10-0065540; 09-01-0067785; 10-02-0083377; and 09030070533. All cases should have been reported to LSC in the program's CSRs.

Based on the above, Corrective Actions 2 and 13 of the 2006 Final Report have not been implemented. Due to the number of errors evidenced in the course of case review, there is continued concern regarding ILS' ability to accurately report CSR statistics to LSC. ILS must provide training regarding proper coding of both staff and PAI cases, including accurate

deselection of cases ineligible for CSR reporting, in its CMS. Such training should include a directive that information in the case file must match information in the CMS. The training must occur within 2 months following receipt of the Final Report and must include all intake staff and staff with case coding responsibilities. The program must provide a copy of the training agenda and copies of signed staff attendance sheets to OCE within 2 weeks of the conclusion of the training. It is within the program's discretion to combine this training with the training on intake issues noted below or hold an entirely separate training.

Coding issues related to PAI are addressed in Finding 17 below.

In response to the DR, ILS stated that ILS's management subcommittee had undertaken to develop intake protocols, later referenced in response to recommendation 3, which will direct intake staff to select "LSC funding" and "LSC reportable" boxes at the conclusion of the case. The standard closing checklist, later referenced in response to recommendation 1, will further assist in the proper coding of staff and PAI closed cases and deselection of cases, when appropriate.

ILS further stated that ILS is currently developing and will conduct training on the proper coding and deselection of cases for all intake staff and staff with case closing responsibilities. ILS plans to record the training program for later use by staff and volunteers. The recording will be posted to the private side of the ILS website as a video and each office will have a training DVD. ILS will submit a copy within 2 weeks of the conclusion of the training, all of which will be completed no later than 2 months following receipt of the Final OCE Report.

Finding 3: Case review, staff interviews, and review of program documents evidenced that ILS' intake procedures do not support the program's compliance-related requirements. As such, Corrective Action 8 of the 2006 Final Report has not been implemented.

Inconsistent intake policies, procedures, and forms were one of the most significant issues noted in the 2006 Final Report. As a result, Corrective Action 8 directed the program to:

Standardize its intake sheets across the program and have management approval for all forms in use to ensure that program policies are consistently and accurately applied and that all forms include all required compliance elements.

LSC requires consistent intake screening in order to ensure that LSC's eligibility requirements are met and applied fairly to all applicants regardless of which intake staff or field office performs intake screening. Interviews with staff and management, case review, and review of program documents in the program's field offices revealed that despite an effort by ILS executive management to bring consistency to its intake screening policies, procedures, and forms since the time of the 2005 CSR/CMS review, the program has failed to implement Corrective Action 8 of the 2006 Final Report.

Inconsistencies in intake policies, procedures, and forms varied significantly throughout ILS' field offices and, often, within the same field office. Although some field offices were clearly more compliant than others, screening of applicants for income, assets, citizenship/alien

eligibility, and conflicts continues to be inconsistently performed from a program perspective. As a detailed description of the intake process of each ILS field office would be unwieldy, examples of specific policies, procedures, or forms will be utilized below to highlight specific areas that the program must address to fully implement uniform intake screening throughout the program. In brief, ILS' efforts in standardizing its intake policies, procedures, and forms have been unsuccessful due to two key issues: staff reluctance to adopt management's intake screening directives and a lack of management oversight as to individual field office's success in implementing intake and compliance directives.

ILS utilizes a decentralized intake system that includes telephone and in-person screening in field offices and substantive units. Both staff and volunteers are used to screen applicants for eligibility for legal services. Outreach is conducted in several field offices; however, any cases resulting from outreach efforts are subject to full intake screening.

Forms

A review of the program's intake system revealed that, despite a management directive requiring use of a standard intake form, there were different intake forms used in every ILS field office/substantive unit which varied in terms of screening for various core eligibility items. Aside from the program-mandated standard intake form, the majority of the intake forms collected were either outdated and/or insufficient in providing the level of eligibility detail required by program policy and as reflected in the CMS. Because some field offices rely solely on the CMS for intake while others use numerous independently created intake forms, it appears that applicants may receive a different level of eligibility screening depending on which ILS field office performs intake.

In those few ILS field offices/substantive units performing intake directly into the CMS, intake screening was performed in a more thorough and standardized manner. However, staff in the majority of the program's field offices expressed a strong preference for collecting eligibility information on paper intake forms, citing issues with the speed and reliability of the program's CMS.⁵ Interviews demonstrated that speed and reliability were not the sole reason for use of intake forms; staff also professed a strong comfort level with using paper intake forms that had been used for years.⁶ Interviews revealed that some staff was unaware that non-standard intake forms required approval by ILS management. Basic regulatory screening should not vary to the degree evidenced by the numerous ILS intake forms reviewed. The use of abbreviated, defective, and/or unauthorized intake forms should be ended immediately. ILS management must ensure that all non-standard intake forms are discontinued and should enforce the use of its standard intake form that fully articulates program eligibility policies.

⁵ The program's technology staff reported that changes are in the process to eliminate any difficulties experienced with the CMS in reference to speed and that by the end of summer 2010, such changes should be implemented.

⁶ Some applicants are screened by telephone and in-person by staff or volunteers using written intake forms while others are asked to complete the intake form themselves. Absent a thorough review of eligibility data with the applicant, which staff did not indicate was the practice, this latter method does not provide assurance that the questions are accurately and completely answered.

Policies and procedures

In reference to consistent application of the program's intake policies and procedures, staff interviews and review of program documents evidenced multiple approaches involving intake eligibility and screening. In addition to the inconsistent intake forms described above, the multitude of intake policies and procedures further increases concern for uniform intake screening, particularly for those field offices relying primarily on volunteers, including college and law students, to perform intake. Due to the level of inconsistency within the program staff in reference to intake, it is strongly recommended that ILS create a plan to standardize its intake training for volunteers.⁷ The program would also benefit from standardized written intake protocols to ensure that staff and volunteers across the program are asking the same questions and that new staff and volunteers are consistently trained.

In an example of inconsistent policies and procedures, staff interviews and case review evidenced that the determination of what constitutes a "household" for LSC eligibility purposes varies among ILS field offices. While LSC does not regulate the precise definition of "household", recipients are required to adopt a clear definition of this term. *See* 45 CFR Part 1611. According to staff interviews, many ILS intake staff used the ILS standard definition of "household". Others, however, did not consistently apply the proper definition, or actually ignored it, choosing instead to configure a household in a manner that most favored client eligibility. In one interview, staff indicated that the income of parents could be ignored so as to allow a dependent child to be income and asset-eligible. Another staff member reported that there were several circumstances, not including divorce or domestic abuse, in which the income of legally-bound persons, such as a husband and wife, might be separated so that the one spouse could be found to be client-eligible.⁸ Both scenarios are incorrect under ILS' eligibility policy and would lead to acceptance of applicants who are financially ineligible for services. Again, such inconsistent treatment can result in the same applicant being found eligible in one office and rejected by another.

Other policies and/or procedures that vary throughout the program included over-income case acceptance, definitions of assets, citizenship attestations, and conflicts checks. The failure of the program to consistently screen for intake eligibility has resulted in some significant and systematic non-compliance involving several regulations under 45 CFR Part 1600 *et seq.* and affecting both staff and PAI cases. These issues are described in more detail in the findings below.

It is worthy to note that intake deficiencies do not appear to be identified during the weekly case acceptance meetings held by the majority of ILS field offices/substantive units. As such, there is

⁷ Staff interviews revealed varying levels of training for volunteers. Many of the college and law student volunteers are only with ILS for a semester or so. As training takes time and the program is relying on the volunteers' ability to properly screen for eligibility, the program may wish to consider whether using volunteers for this purpose is efficient and effective.

⁸ It is standard and reasonable for a program to not consider the income of one spouse when the other spouse is applying for services and the spouse not seeking services is the perpetrator of domestic violence, or when the spouses are legally separated or one of them is seeking a divorce. However, when happily married and living together, under the ILS definition of "household", the income and assets of both members of a married couple must be considered as part of a consistent and compliant eligibility screening.

a need for training of all staff handling cases, not just intake staff, regarding proper intake screening policies, procedures, and forms. Such training, mandated below as a corrective action, should highlight the intake standards set forth in the ILS' Legal Work Management Manual, Section 300.00, which states that "the case handler shall recheck all aspects of client eligibility, including obtaining verification of citizenship or alien eligibility."

In reference to case closing procedures, staff is required to complete a compliance checklist form which records basic LSC regulatory requirements. However, review of program documents evidenced that there is no uniform closing checklist or memorandum; each office had its own form which encompassed different degrees of detail. Case review supported that field offices using a more detailed form had a higher rate of compliant cases than those field offices with a less detailed form. It is strongly recommended that ILS create and mandate use of a standard case closing compliance checklist in all field offices.

Regarding compliance training, all staff interviewed reported some type of training on the requirements of the CSR Handbook (2008 Ed.). However, as demonstrated by the compliance errors noted in the instant Draft Report, such training clearly had varying degrees of success.

As noted above, multiple intake policies, procedures, and forms are in use throughout the program. It appears that the procedures and methods used by ILS to date have not been effective in bringing about needed clarity, standardization, or efficiencies. Without improved implementation of compliance directives, and an oversight and enforcement process, ILS will continue to have compliance issues related to intake.

In order to ameliorate the issues regarding inconsistent intake, the program is required to review its intake policies, procedures, and forms to ensure they comport with all intake-related findings contained within the instant Draft Report and provide additional training(s) for all staff, not simply intake staff, regarding ILS' standard intake policies, procedures, and forms no later than 2 months following receipt of LSC's Final Report. The training(s) should include a directive that staff is required to use ILS' standard paper intake form for all intake screenings except those entered directly into the CMS. One month after any revisions to and training on the program's standard intake policies, procedures, and forms is completed, the program should provide OCE with a memorandum detailing such revisions and including copies of signed staff attendance sheets from the training(s). The memorandum should also include a section specifying plans to standardize the training for all volunteers that are used for intake. As an attachment to the memorandum, ILS must also provide a plan detailing what specific and periodic oversight executive management will undertake to ensure that intake staff and managing attorneys understand and will properly implement the program's standard intake policies, procedures, and forms. The plan must include a preliminary schedule of physical visits to all field offices by ILS executive management within a year from the date of the memorandum to ensure compliance with program directives regarding its standard intake policies, procedures, and forms. Additionally, it is highly recommended that the program adopt standard written intake protocols to govern the intake process and ensure that staff and volunteers across the program are covering intake issues in the same manner.

In response to the DR, ILS stated that, on July 16, 2010, it submitted a proposed draft standardized paper intake form for LSC approval. On August 4, OCE approved the submitted form. On August 5, ILS' Executive Director issued a directive memo to all staff mandating the use of the form and the discontinuance of all non-standard paper intake forms. The approved intake form and the Executive Director's memo are attached to ILS' comments to the DR. According to ILS, management will continue to monitor use of the new form to ensure compliance with the Executive Director's directive and to recommend any appropriate modifications to the standardized form that may become apparent during its use.

Also, the comments indicated that ILS has formed a new intake committee composed of case handlers and intake paralegals. Committee membership will be determined by proficiency and skill in conducting intake interviews and knowledge of ILS intake policies, procedures, and forms. The committee will be charged with the responsibility of reviewing ILS' existing policies, procedures and forms to ensure that they comport with all intake related findings in the DR. According to ILS within one month following the intake training, ILS will provide OCE with copies of the signed staff attendance sheets and a memorandum detailing any revisions to ILS intake policies, procedures and forms and the training on such revisions. The memorandum will include plans to standardize the training for all volunteers that are used for intake. The memorandum will include a plan detailing the periodic specific management oversight of all intake staff and managing attorneys to ensure that they understand and will properly implement ILS's policies, procedures and forms. The oversight plan will also include a schedule of visits to all ILS branch offices by the Executive Director or his designee within a year from the date of the memorandum to ensure compliance with the program directives or standardized intake.

In addition, ILS advised that the staff training will include the actions and directives taken by ILS in response to Corrective Actions 5 (standard intake form), 6 (applicants' income prospects), 7 (consistent use of the standard intake form), and 8 (attestation of citizenship or documentation verifying the eligible alien status) and recommendations 2 (standardized intake training for volunteers), 4 (group client intake forms with procedures and protocols), and 9 (standardized PAI intake and case oversight policies). This training will also be recorded for later use by staff and volunteers similar to the practice referenced in response to Corrective Action 2.

Finding 4: Case review revealed that ILS is in substantial compliance with the income eligibility documentation required by 45 CFR § 1611.4, CSR Handbook (2001 Ed.), ¶ 5.3, CSR Handbook (2008 Ed.), § 5.3, and applicable LSC instructions for clients whose income does not exceed 125% of the Federal Poverty Guidelines. ILS has partially implemented Corrective 5 of the 2006 Final Report. Corrective Action 15 of the 2006 Final Report has been rendered moot by revisions to 45 CFR Part 1611.

Recipients may provide legal assistance supported with LSC funds only to individuals whom the recipient has determined to be financially eligible for such assistance. *See* 45 CFR § 1611.4(a). Specifically, recipients must establish financial eligibility policies, including annual income ceilings for individuals and households, and record the number of members in the applicant's household and the total income before taxes received by all members of such household in order to determine an applicant's eligibility to receive legal assistance. *See* 45 CFR § 1611.3(c)(1),

CSR Handbook (2001 Ed.), ¶ 5.3, and CSR Handbook (2008 Ed.), § 5.3. For each case reported to LSC, recipients shall document that a determination of client eligibility was made in accordance with LSC requirements. *See* CSR Handbook (2001 Ed.), ¶ 5.2 and CSR Handbook (2008 Ed.), § 5.2.

In those instances in which the applicant's household income before taxes is in excess of 125% but no more than 200% of the applicable Federal Poverty Guidelines ("FPG") and the recipient provides legal assistance based on exceptions authorized under 45 CFR § 1611.5(a)(3) and 45 CFR § 1611.5(a)(4), the recipient shall keep such records as may be necessary to inform LSC of the specific facts and factors relied on to make such a determination. *See* 45 CFR § 1611.5(b), CSR Handbook (2001 Ed.), ¶ 5.3, and CSR Handbook (2008 Ed.), § 5.3.

For CSR purposes, individuals financially ineligible for assistance under the LSC Act may not be regarded as recipient "clients" and any assistance provided should not be reported to LSC. In addition, recipients should not report cases lacking documentation of an income eligibility determination to LSC. However, recipients should report all cases in which there has been an income eligibility determination showing that the client meets LSC eligibility requirements, regardless of the source(s) of funding supporting the cases, if otherwise eligible and properly documented. *See* CSR Handbook (2001 Ed.), ¶ 4.3(a) and CSR Handbook (2008 Ed.), § 4.3.

Corrective Action 5 of the 2006 Final Report required the program to:

Ensure that financial eligibility determinations are documented and are within the MIL [Maximum Income Level] and for those cases identified in this report lacking correct asset recordation that such cases are not reported to LSC.

Corrective Action 15 of the 2006 Final Report required ILS to:

Ensure that all of the relevant factors required by 45 CFR §§ 1611.5(b)(1) and (b)(2) [of the superseded 45 CFR Part 1611] are applied when providing assistance to clients whose income exceeds 125% but not 187.5% of the current Federal Poverty Guidelines.

Corrective Action 15 of the 2006 Final Report has been rendered moot by revisions to 45 CFR Part 1611.

ILS' revised Financial Eligibility Standards were adopted by its Board on December 9, 2005, and incorporated into a document entitled Eligibility Rules. According to staff, Maximum Income Guidelines are annually adopted by the board and incorporated in the Eligibility Rules document at Schedule A. In addition, ILS maintains income and asset guidelines that are programmed into the program's CMS.

Case review revealed that the program is in substantial compliance with 45 CFR § 1611.4, CSR Handbook (2001 Ed.), ¶ 5.3, CSR Handbook (2008 Ed.), § 5.3, and applicable LSC instructions for clients whose income did not exceed 125% of the poverty guidelines. However, some cases were discovered in which the client's household income exceeded the program's income guidelines without proper documentation of case acceptance. *See*, for example, Case Nos. 08-10-0065529, a closed 2008 case with documented income at 173% of the FPG and no application of

over-income factors; 08-03-0056763, a closed 2008 case with documented income of \$48,960 for a household of one, thereby exceeding 200% of the FPG; 08-07-0061611, a closed 2008 case with documented income at 163% of the FPG and no application of over-income factors; 09-01-0068512, a closed 2009 case with documented income of \$37,716 for a household of one, thereby exceeding 200% of the FPG, the program attempted to remedy this issue by applying over-income factors despite the fact the gross annual income exceeded 200%; and 08-10-0065311, a closed 2008 case with documented income at 186% of the FPG and no application of over-income factors. All noted over-income cases were coded with an LSC funding code but should have been funded with other grants and deselected from CSRs. Staff interviews revealed a misunderstanding as to the proper coding mechanisms to deselect cases from CSRs; as such, ILS should provide training as to properly coding over-income cases in order to prevent their inclusion in CSRs.

Although case review evidenced substantial compliance with 45 CFR § 1611.4, CSR Handbook (2001 Ed.), ¶ 5.3, CSR Handbook (2008 Ed.) § 5.3, and applicable LSC instructions for clients whose income did not exceed 125% of the poverty guidelines, it is not possible to conclude that all cases reviewed were consistently screened pursuant to the program's income policy due to the number of intake forms identified and differing staff procedures regarding income screening. Interviews revealed differing practices among ILS field offices/substantive units and even among staff within the same field offices with respect to qualifying individuals whose income is between 125%-200%. Some staff stated that the regulatory factors are subtracted from the gross annual income to obtain an adjusted income and that the adjusted income must be under 125% to be LSC-eligible. Other staff, including ILS management staff, stated that only the presence of a regulatory factor is required. The program policy states that the expenses associated with the factors must reduce the applicant's income below the ceiling of 125%. It is noted that the CMS automatically subtracts the expenses to obtain an adjusted income and both the gross annual income and the adjusted income is preserved. All staff must use consistent procedures to qualify individuals between 125%-200% and such procedures must comply with ILS' financial eligibility policy.

In addition, as noted in Finding 3 above, case review and staff interviews revealed varying definitions of "household" income. *See* 45 CFR § 1611.3(c)(1). Case review revealed some cases in which it appeared that intake staff did not consider some individuals living in the household as part of the "household" for income purposes. A review of each such file did not indicate the reason for exclusion of household members in determining income eligibility. *See*, for example, Case Nos. 08-06-0059670, a case closed in 2009 in which the file indicates one "other" household member not counted in the household for income eligibility purposes; 08-03-0056844, a case closed in 2009 in which one "other" person was identified in the household not counted for the purposes of income eligibility; and 09-10-0079872, a case closed in 2010 in which ILS counted one individual for the purpose of income eligibility while excluding two others, the client's wife and grandson.

Based on the above, ILS has not implemented first part of Corrective Action 5 of the 2006 Final Report as it does not appear that the program is accurately documenting an applicant's actual income in all cases. In reference to the second part of Corrective Action 5, there were few CSR-reported cases which involved obviously incorrect asset documentation. *See* Finding 5 below for

a more detailed review of asset eligibility and documentation. As such, ILS has implemented the second part of Corrective Action 5 in reference to preventing “cases lacking correct asset recordation” from inclusion in the program’s CSRs.

In order to resolve the issue of inconsistent income screening, ILS is required to mandate use of its standard intake form for all intake screenings except those entered directly into the CMS, as discussed *supra*, and provide training to all intake staff on the use of the standard intake form. Only by using a standard intake form that contains all of the required income screening elements, including direction on how to apply/record them, can ILS ensure that all cases have been properly and fully screened for eligibility in every field office and substantive unit. In addition, the program must provide staff training on its income eligibility policy, including its over-income case acceptance policy and procedures. Such training should be included when performing training noted in Corrective Action 4 below.

No issues were noted with group eligibility; however, intake staff evidenced little to no experience regarding intake screening for a group and was generally unaware of how to conduct such a screening. Staff consistently stated that they would bring a group representation request to the attention of management. It is recommended that ILS prepare a group client process and form so that ILS field offices and substantive units have the ability to efficiently and properly screen a group client in the future, if desired.

In an additional income-related issue, ILS staff indicated that it does not inquire as to the income prospects of applicants.⁹ In addition, a place to note prospective income is not included in the CMS. Based on 45 CFR § 1611.7(a) and LSC’s Office of Legal Affairs Advisory Opinion AO-2009-1006, ILS must screen applicants for prospective income. As such, the program must update its intake policy reflect that intake staff must inquire as to an applicant’s income prospects and provide training to intake staff regarding the same. Training on income screening should be included when performing the staff training required by Finding 3 above.

In response to the DR, ILS stated that, as indicated in response to Corrective Action 3, ILS has already mandated the use of the standard intake form by all staff. As indicated in response to Corrective Action 4, ILS will provide training to all intake staff to ensure consistent use of the standard intake form in all ILS offices. The training will specifically address the application of the ILS’ eligibility policy, including its over-income case acceptance policy.

Also, in response to the DR, ILS stated that ILS’ Eligibility Rule II.A.1 states in part, that “Future income is to be projected on the basis of the applicant’s reasonable expectation of future income.” 45 CFR § 1611.7(a) and LSC Advisory Opinion 2009-1006 require ILS to make a reasonable inquiry into the income prospects of each applicant for legal assistance. ILS’ Eligibility rule II.A.1 complies with the requirements of the regulation and the interpretation of the regulation as found in the Advisory Opinion. Finding 4 of the DR identified certain intake staff that did not inquire as to the income prospects of an applicant. The LSC-approved ILS standard intake form now states, “Do you have any employment prospects or do you anticipate

⁹ There is, however, one field office that routinely asks and documents prospective income on its paper intake form but does not capture such information in the CMS - again highlighting the inconsistency of intake screening within the program.

income in the near future”? And, if the applicant has no income, there is a follow up question, “How are you living from one day to the next?” The applicant’s responses to these questions are to be entered in “File Facts” in Legal Files. The intake protocols will require intake staff to ask, as suggested by A0-2009-1006, “Do you have any reason to believe that your income is likely to change significantly in the near future?” ILS will provide training, referenced in response to Corrective Action 4, that intake staff must inquire as to the applicant’s income prospect as a part of the income screening process.

Finding 5: Case review demonstrated that ILS is in compliance with asset eligibility documentation as required by 45 CFR §§ 1611.3(c) and (d), CSR Handbook (2001 Ed.), ¶ 5.4, and CSR Handbook (2008 Ed.), § 5.4. The first part of Corrective Action 3 of the 2006 Final Report has been rendered moot by the revised 45 CFR Part 1611. ILS has not implemented second part of Corrective Action 3 and has fully implemented Corrective Action 4 of the 2006 Final Report.

As part of its financial eligibility policies, recipients are required to establish reasonable asset ceilings in order to determine an applicant’s eligibility to receive legal assistance. *See* 45 CFR § 1611.3(d)(1). For each case reported to LSC, recipients must document the total value of assets except for categories of assets excluded from consideration pursuant to its Board-adopted asset eligibility policies. *See* CSR Handbook (2001 Ed.), ¶ 5.4 and CSR Handbook (2008 Ed.), § 5.4.

In the event that a recipient authorizes a waiver of the asset ceiling due to the unusual circumstances of a specific applicant, the recipient shall keep such records as may be necessary to inform LSC of the reasons relied on to authorize the waiver. *See* 45 CFR § 1611.3(d)(2).

The revisions to 45 CFR Part 1611 changed the language regarding assets from requiring the recipient’s governing body to establish, “specific and reasonable asset ceilings, including both liquid and non-liquid assets,” to “reasonable asset ceilings for individuals and households.” *See* 45 CFR § 1611.6 in prior version of the regulation and 45 CFR § 1611.3(d)(1) of the revised regulation. Both versions allow the policy to provide for authority to waive the asset ceilings in unusual or meritorious circumstances. The older version of the regulation allowed such a waiver only at the discretion of the Executive Director. The revised version allows the Executive Director or his/her designee to waive the ceilings in such circumstances. *See* 45 CFR § 1611.6(e) in prior version of the regulation and 45 CFR § 1611.3(d)(2) in the revised version. Both versions require that such exceptions be documented and included in the client’s files.

Corrective Action 3 of the 2006 Final Report required ILS to:

Ensure that its asset policy is revised to include limits on non-liquid personal property pursuant to 45 CFR § 1611.6(a). Following the revision and approval by the board of directors, ILS should review the asset policy with all individuals who perform intake and train for consistency in screening and recordation.

Corrective Action 4 of the 2006 Final Report required ILS to:

Ensure that asset eligibility determinations are documented and for those case files identified in this report lacking documentation, do not report these cases to LSC.

The Financial Eligibility Standards approved by the ILS Board of Directors on December 9, 2005, establishes an asset ceiling of \$3,000. Exempt from consideration is the applicant's or the applicant's family's principle residence; automobiles and other vehicles used for transportation; reasonable equity value in work-related equipment, provided that the owner is attempting to produce income consistent with its fair market value; and tangible property of up to \$8,000. Interviews revealed that staff is well-versed in program asset ceilings and exclusions. The Financial Eligibility Standards also provide that an applicant whose income is solely derived from TANF or SSI is financially eligible for legal assistance without an independent determination of assets. Despite the exemption, staff stated that they conduct an asset screening in this circumstance.

Case review revealed that ILS is in substantial compliance with revised 45 CFR §§ 1611.3(c) and (d), CSR Handbook (2001 Ed.), ¶ 5.4, and CSR Handbook (2008 Ed.), § 5.4.¹⁰ However, some exceptions were identified. *See*, for example, Case Nos. 07-04-0045577, a closed 2008 case with documented assets of \$8,000; 08-03-0056763, a closed 2008 case with documented assets of \$4,000; and 09-09-00078170, a closed 2009 case with assets exceeding the ceiling. All were over the asset ceiling and coded with an LSC funding code but should have been funded by other grants and deselected from CSRs. Staff interviews revealed a misunderstanding as to the proper coding mechanisms to deselect cases from CSRs; as such, ILS should provide training as to properly coding over-asset cases in order to prevent their inclusion in CSRs.

Although case review revealed substantial compliance with 45 CFR §§ 1611.3(c) and (d), CSR Handbook (2001 Ed.), ¶ 5.4, and CSR Handbook (2008 Ed.), § 5.4 with few instances of non-compliance, it is not possible to conclude that all cases reviewed were consistently screened pursuant the program's asset policy due to the many intake forms identified and differing staff procedures regarding asset screening. *See* Finding 3 above. As such, ILS has not fully implemented the part of Corrective Action 3 involving staff training for "consistency in screening and recordation." The part of Corrective Action 3 related to revision of the asset policy has been rendered moot by revisions to 45 CFR Part 1611. In reference to Corrective Action 4, as there were few cases reviewed which lacked asset documentation, ILS has fully implemented Corrective Action 4 of the 2006 Final Report.

In order to ameliorate the issue of inconsistent asset screening and recordation, ILS is required to adopt one standard paper intake form for all intake screenings except those entered directly into the CMS, as discussed *supra*, and provide training to all intake staff on use of the standard intake form. As noted in Finding 3 above, adoption of a standard intake form that contains all required asset screening elements, including directions on how to apply/record them, will assist ILS in ensuring that all cases have been properly and fully screened in every field office and substantive unit. Training on asset screening should be included when performing the staff training required by Finding 3 above.

¹⁰ The revised 45 CFR § 1611.2 defines assets as meaning cash or other resources of the applicant or members of the household that are readily convertible to cash, which are currently and actually available to an applicant. Accordingly, the terms "liquid" and "non-liquid" have been eliminated.

In response to the DR, ILS stated that, as indicated in response to Corrective Action 4, ILS will provide training to all intake staff to ensure consistent use of the standard intake form in all ILS offices.

Finding 6: ILS is in non-compliance with 45 CFR § 1626.6 (Restrictions on legal assistance to aliens). As such, the program has not implemented Corrective Action 16 of the 2006 Final Report.

The level of documentation necessary to evidence citizenship or alien eligibility depends on the nature of the services provided. With the exception of brief advice or consultation by telephone, which does not involve continuous representation, LSC regulations require that all applicants for legal assistance who claim to be citizens execute a written attestation. *See* 45 CFR § 1626.6. Aliens seeking representation are required to submit documentation verifying their eligibility. *See* 45 CFR § 1626.7. In those instances involving brief advice and consultation by telephone, which does not involve continuous representation, LSC has instructed recipients that the documentation of citizenship/alien eligibility must include a written notation or computer entry that reflects the applicant's oral response to the recipient's inquiry regarding citizenship/alien eligibility. *See* CSR Handbook (2001 Ed.), ¶ 5.5 and CSR Handbook (2008 Ed.), § 5.5; *See also*, LSC Program Letter 99-3 (July 14, 1999). In the absence of the foregoing documentation, assistance rendered may not be reported to LSC. *See* CSR Handbook (2001 Ed.), ¶ 5.5 and CSR Handbook (2008 Ed.), § 5.5.

Corrective Action 16 of the 2006 Final Report required ILS to:

Ensure that all clients seen in the office for assistance attest to their citizenship in writing. If an attestation is not obtained when a client is seen in person, such cases should not be reported to LSC in the CSR and cannot be charged to LSC funds.

Case review revealed several staff and PAI cases that lacked evidence of citizenship/eligible alien screening. *See*, for example, Case Nos. 09-03-0070460; 09-07-0075861; 09-03-0070610; 07-03-0044095; 10-01-0082170; 09-03-0071166; 07-07-0048843; 07-12-005-3856; 07-07-0048338; 09-08-0076321; 10-02-0084095; 10-01-0082637; 08-11-0066361; 08-03-0056654; and 08-07-0061489. In addition, review of program documentation revealed at least one attestation form used by a substantive unit is non-compliant.¹¹ Further, interviews indicated that some staff in various field offices misunderstood the requirement for obtaining citizenship attestations and did not always obtain attestations when meeting with applicants or clients in person.¹²

¹¹ The citizenship attestation form in the program's Immigration and Language Rights Center is deficient in that the applicant is asked to certify that they are a citizen, legal permanent resident or are present in the U.S with another type of immigration status. As CSR Handbook (2008 Ed.), § 5.5 does not permit written attestation of alien eligibility, the unit was instructed to use the standard ILS citizenship attestation for new cases.

¹² Managing attorneys in the field offices where such issues were discovered indicated that improvements would be implemented immediately.

Based on case review, staff interviews, and document review, it is evident that Corrective Action 16 of the 2006 Final Report has not been fully implemented. While it appears that some training regarding citizenship/alien eligibility has been conducted since the time of the prior CSR/CMS review, it does not appear to have been successful throughout the program and ILS has not provided adequate oversight that citizenship/alien eligibility requirements were being met. As such, the program has not fully implemented Corrective Action 16 of the 2006 Final Report and is required to ensure that citizenship and alien eligibility screening is consistently performed in all field offices, including mandating the use of a standard citizenship form in field offices, substantive units, and outreach efforts. In addition, ILS must provide additional training regarding citizenship/alien eligibility and oversight field office progress in fulfilling citizenship/alien eligibility requirements. Such training should be included when performing the staff training required by Finding 3 above.

In a related issue, the Kennedy Amendment was still listed in as a reason to deselect cases from the program's CSRs in the CMS despite the fact that such cases have been considered reportable since the reauthorization of the Violence Against Women Act of 2006. *See* Program Letter 06-2. While most staff was aware that such cases should be reported to LSC, certain field offices deselect Kennedy Amendment cases from CSRs as guided by the CSR deselection drop-down box. *See*, for example, Case Nos. 08-05-0059362; 08-01-0054606; 09-06-0074737; and 06-06-0034776 which were all incorrectly deselected from CSRs. This field must be removed to ensure that all CSR-eligible Kennedy Amendment cases are properly reported to LSC.

In response to the DR, ILS stated that staff training, referenced in Corrective Action 4, will address 45 CFR Part 1626 which requires all applicants to provide written attestation of their citizenship or documentation verifying the eligible alien status of the applicant. ILS management will monitor compliance with this requirement on an ongoing basis.

Also, in response to the DR, ILS advised that while virtually all staff knew the Kennedy Amendment cases were reportable to LSC, Legal Files continued to list "Kennedy Amendment" as a reason to deselect such cases as LSC reportable. During the FUR, the OCE Team Leader called attention to the fact that Legal Files mistakenly permitted Kennedy Amendment cases to be deselected for that reason alone. That oversight was immediately corrected on April 15, 2010. During the OCE visit, the Kennedy Amendment option was removed from the Legal Files "Eligibility non-reportable" pick-list. Attached to the comments to the DR as Appendix B is a screen shot of the current Legal Files "Eligibility non-reportable" pick-list which indicates the removal of the Kennedy Amendment option.

Finding 7: ILS is in substantial compliance with the retainer requirements of 45 CFR § 1611.9. As such, ILS has fully implemented Corrective Action 9 of the 2006 Final Report.

Pursuant to 45 CFR § 1611.9, recipients are required to execute a retainer agreement with each client who receives extended legal services from the recipient. The retainer agreement must be in a form consistent with the applicable rules of professional responsibility and prevailing practices in the recipient's service area and shall include, at a minimum, a statement identifying the legal

problem for which representation is sought, and the nature of the legal service to be provided. *See* 45 CFR § 1611.9(a).

The retainer agreement is to be executed when representation commences or as soon thereafter is practical and a copy is to be retained by the recipient. *See* 45 CFR §§ 1611.9(a) and (c). The lack of a retainer does not preclude CSR reporting eligibility.¹³ Cases without a retainer, if otherwise eligible and properly documented, should be reported to LSC.

Corrective Action 9 of the 2006 Final Report required the program to:

Ensure that executed retainer agreements include the appropriate scope of representation.

Case review revealed that retainer agreements were present in the majority of cases in which they were required and the scope and/or subject matter of the representation was sufficiently articulated. *See*, however, Case Nos. 08-12-0067111 and 09-03-0071166, closed 2009 cases without a required retainer; and 07-12-0053856 and 07-07-0048338, open cases without a required retainer. *See also*, for example, Case Nos. 08-01-0055041, 09-02-0069495, 07-01-0041637, 07-11-0053265, 08-02-0055270; 09-09-0077955; and 07-06-0047138 in which either the scope and/or subject matter of the representation was insufficiently described.

Case review revealed that some of the above-referenced cases in which the scope of the representation was deemed insufficient were migrant unit cases. Interviews with migrant unit staff indicated that the unit consistently limits the scope of its initial retainer agreements to “investigation”. Migrant unit intake workers, often summer interns, generally conduct intake in the field and are not able make a case acceptance determination on behalf of ILS staff attorneys. At a later time, when an ILS migrant attorney decides to accept the case for more extended representation following a successful investigation, it becomes very difficult to execute new and more descriptive retainer agreements with migrant clients that move frequently and often live out of state. As a result, many migrant unit retainers do not fully comply with the regulation as the scope of representation is insufficiently descriptive.

This issue of insufficient description of the scope of representation, which also arises to a lesser extent in other ILS field offices/units, is due primarily to the format of the standard ILS retainer. The standard retainer format requires that boxes be checked for several scopes of representation, including “investigation”, “negotiation”, “administrative hearing”, “administrative appeal”, “document preparation”, “trial court litigation”, “appeal to [the appropriate appeal court]”, and “other”. In order to cure the non-compliance that occurs when the retainer agreement scope of representation no longer matches the actual extended representation provided, it is highly recommended that ILS: (1) add to its format an additional box(es) that includes both investigation and a description of extended representation; (2) mandate use of the “other” box to describe the contemplated representation if a client subsequently might be difficult to meet again in person; or (3) replace the check boxes with blank lines for the case handler to describe the scope and subject matter of the representation. Without a change in the standard retainer agreement, the program, and especially the migrant unit, will continue to have a certain number

¹³ However, a retainer is more than a regulatory requirement. It is also a key document clarifying the expectations and obligations of both client and program, thus assisting in a recipient’s risk management.

of non-compliant retainer agreements for those cases in which extended representation occurs after an initial investigation.

As the number of cases failing to either contain a retainer agreement or sufficiently describe the scope and/or subject matter of the representation did not rise to the level of a pattern of non-compliance, ILS has fully implemented Corrective Action 9 and is in substantial compliance with 45 CFR § 1611.9. However, it is strongly recommended that the program make revisions to its standard retainer agreement to provide the space/ability to sufficiently describe the scope of an extended representation contemplated following successful investigation of the merits of the case.

In response to the DR, ILS stated that ILS accepts this recommendation. According to ILS, an ILS managers' subcommittee has revised the standard ILS retainer agreement to provide space and the ability to sufficiently describe the scope of an extended representation following an investigation as to the merits of the client's case. The revised retainer agreement also includes a reference to attorneys' fee, which ILS may now consider because of the LSC Board action repealing 45 CFR Part 1642 and adopting conforming amendments to 45 CFR Part 1609 allowing LSC recipients to claim, collect and retain attorneys' fees. On September 16, 2010, ILS submitted the proposed revised retainer agreement to OCE for approval. On September 29, OCE submitted comments suggesting additional language to be added to the proposed revised retainer agreement.¹⁴ OCE's comments regarding the retainer agreement were forwarded to the ILS managers' subcommittee for further action. The revised retainer agreement incorporating OCE's comments was resubmitted to OCE for approval. A copy of the proposed revised retainer agreement, as submitted in September, is attached with the comments as Appendix M.

Finding 8: ILS is in compliance with the requirements of 45 CFR Part 1636 (Client identity and statement of facts) as client statement of facts were present in files in which they were required.

LSC regulations require that recipients identify by name each plaintiff it represents in any complaint it files, or in a separate notice provided to the defendant, and identify each plaintiff it represents to prospective defendants in pre-litigation settlement negotiations. In addition, the regulations require that recipients prepare a dated, written statement signed by each plaintiff it represents, enumerating the particular facts supporting the complaint. *See* 45 CFR §§ 1636.2(a) (1) and (2).

The statement is not required in every case. It is required only when a recipient files a complaint in a court of ILS or otherwise initiates or participates in litigation against a defendant, or when a recipient engages in pre-complaint settlement negotiations with a prospective defendant. *See* 45 CFR § 1636.2(a).

¹⁴ On September 29, 2010, ILS was advised that the submitted retainer was not compliant because it did not document the legal issue sought as required by 45 CFR § 1611.9. On October 12, 2010, ILS submitted a second version of the revised retainer. OCE advised ILS, on October 12, 2010, that the submitted retainer was compliant with 45 CFR § 1611.9.

No corrective actions were noted regarding client statement of facts in the 2006 Final Report. Case review evidenced that a statement of facts or verified complaint was present when required in all cases reviewed. As such, ILS is in compliance with 45 CFR Part 1636.

Finding 9: ILS is in compliance with the requirements of 45 CFR § 1620.4 and § 1620.6(c) (Priorities in use of resources).

LSC regulations require that recipients adopt a written statement of priorities that determines the cases which may be undertaken by the recipient, regardless of the funding source. *See* 45 CFR § 1620.3(a). Except in an emergency, recipients may not undertake cases outside its priorities. *See* 45 CFR § 1620.6.

No corrective actions were noted regarding program priorities in the 2006 Final Report. Prior to the 2010 FUR visit, ILS provided OCE with its Board-approved priorities for review. Interviews with intake staff evidenced a good understanding of ILS priorities and case review revealed no cases outside of program priorities. As such, the program is in compliance with 45 CFR § 1620.4 and § 1620.6(c).

There are no recommendations or corrective actions required.

Finding 10: Case review evidenced that ILS is in substantial compliance with CSR Handbook (2001 Ed.), ¶ 5.1 and CSR Handbook (2008 Ed.), § 5.6 (**Description of legal assistance provided**). As such, ILS has fully implemented Corrective Actions 6 and 14 of the 2006 Final Report.

LSC regulations specifically define “case” as a form of program service in which the recipient provides legal assistance. *See* 45 CFR §§ 1620.2(a) and 1635.2(a). Consequently, whether the assistance that a recipient provides to an applicant is a “case”, reportable in the CSR data depends, to some extent on whether the case is within the recipient’s priorities and whether the recipient has provided some level of legal assistance, limited or otherwise.

If the applicant’s legal problem is outside the recipient’s priorities, or if the recipient has not provided any type of legal assistance, it should not report the activity in its CSR. For example, recipients may not report the mere referral of an eligible client as a case when the referral is the only form of assistance that the applicant receives from the recipient. *See* CSR Handbook (2001 Ed.), ¶ 7.2 and CSR Handbook (2008 Ed.), § 7.2.

Recipients are instructed to record client *and* case information, either through notations on an intake sheet or other hard-copy document in a case file, or through electronic entries in its CMS database, or through other appropriate means. For each case reported to LSC such information shall, at a minimum, describe, *inter alia*, the level of service provided. *See* CSR Handbook (2001 Ed.), ¶ 5.1(c) and CSR Handbook (2008 Ed.), § 5.6.

Corrective Action 6 of the 2006 Final Report required the program to:

Ensure that cases which have been rejected are not reported to LSC even if legal advice has been provided.

Corrective Action 14 of the 2006 Final Report required the program to:

Ensure that the legal assistance provided is documented in the case file and that those case files identified in this report lacking documented legal assistance are not reported to LSC in CSRs. Ensure that at a minimum, the pamphlets and letters sent to clients are sufficiently specific to the client's actual legal problem so as to constitute "counseling of the client on action(s) to take to address a legal problem. If not, such activities should be counted as a matter rather than a case. If appropriate, revise the language in its advice letters to clarify ILS is not denying the request for assistance but is providing advice only. Further, ILS must review divorce and bankruptcy cases closed in 2005 as "counsel and advice," and determine whether they are in compliance with CSR Handbook (2001 Ed.), Section VIII and 45 CFR §§ 1620.2(a) and 1635.2(a). If not, any such service should be counted as matters and therefore recoded in the ACMS so that they are not reported as cases in the CSR. As part of this corrective action, a review of all files at the time of closing is necessary.

Case review revealed that program has improved in reference to compliance with documenting legal assistance provided to its clients. While there were some non-compliant cases discovered within the case sample, the number of case files failing to document the provision of legal assistance did not evidence a pattern of non-compliance. *See*, however, Case Nos. 08-11-0066030, a 2009 closed case; 09-09-0078678, a 2010 closed case; 09-03-0071197, a 2009 closed case; 09-09-0078030, a 2009 closed case; 07-07-0048893, a 2010 closed case; 08-08-0062458, a 2008 closed case; and open cases 05-11-0027076 and 08-08-0062253 which did not adequately document the legal assistance provided to the client.¹⁵ As such, ILS is in substantial compliance with CSR Handbook (2001 Ed.), ¶ 5.1(c) and CSR Handbook (2008 Ed.), § 5.6 and has fully implemented Corrective Actions 6 and 14 of the 2006 Final Report. However, it is recommended that the program provide additional training on proper documentation of legal assistance in conjunction with the trainings required by the corrective actions below.

In a related issue, there were some PAI cases lacking documentation of legal assistance. This will be more fully detailed in Finding 17 below.

In response to the DR, ILS stated that it accepts this recommendation. According to ILS, the ILS training, referenced in response to Corrective Action 10, will include additional training on the proper documentation of the level of the legal assistance provided to the clients in both staff and PAI cases.

¹⁵ The majority of these cases were incorrectly reported to LSC in the program's CSRs.

Finding 11: ILS' application of CSR case closure categories requires significant improvement in order to be fully consistent with Section VIII, CSR Handbook (2001 Ed.) and Chapters VIII and IX, CSR Handbook (2008 Ed.). As such, ILS has not implemented Corrective Action 7 of the 2006 Final Report.

The CSR Handbook defines the categories of case service and provides guidance to recipients on the use of the closing codes in particular situations. Recipients are instructed to report each case according to the type of case service that best reflects the level of legal assistance provided. *See* CSR Handbook (2001 Ed.), ¶ 6.1 and CSR Handbook (2008 Ed.), § 6.1.

As correct selection of closing codes was an issue during the 2005 CSR/CMS Review, Corrective Action 7 of the 2006 Final Report required the program to:

Provide staff training regarding CSR Handbook closing codes.

Case files reviewed during the 2010 FUR demonstrated that ILS' application of the CSR case closing categories continued to be inconsistent with CSR Handbook (2001 Ed.), Section VIII and CSR Handbook (2008 Ed.), Chapters VIII and X. There were numerous instances of case closing code errors in both staff and PAI cases, particularly in reference to closing codes B – Limited Action, K – Other, and L – Extensive Representation. *See*, for example, Case Nos. 08-10-0065529; 09-07-0076188; 09-01-006825; 10-02-0083442; 08-04-0057841; 09-05-0072778; 08-08-0062220; 07-07-0049121; 07-08-0050186; 08-06-0060102; 08-08-0062458; 06-08-0037402; 07-06-0047599; 08-03-0056844; 08-02-0056060; 05-08-0024789; 09-10-0079773; 08-09-0064294; 08-12-0067111; 08-06-0060358; and 08-12-0067384.

As the number of staff and PAI cases lacking correct closing codes clearly evidences a pattern of non-compliance with CSR Handbook (2008 Ed.), Chapter VII, ILS has failed to implement Corrective Action 7 of the 2006 Final Report and the program is required to provide additional training and oversight as to correct use of closing codes consistent with CSR Handbook (2008 Ed.) Chapters VIII and X. Training on closing codes should be completed by the program no later than 2 months following receipt of the Final Report. The training must include all staff charged with case closing responsibilities and the program must provide a copy of the training agenda and copies of signed staff attendance sheets to OCE within 2 weeks of the conclusion of the training. It is within the program's discretion to combine this training with the training on intake issues noted above or hold an entirely separate training. ILS is further required to review all closed 2010 staff and PAI cases prior to its 2010 CSR submission to ensure that the closing codes selected accurately reflect the level of legal assistance provided.

In response to the DR, ILS reported that it had complied with Corrective Action 7 from the 2006 OCE Final Report requiring the program to provide staff training on the CSR Handbook closing codes. Since the issuance of the 2006 Final Report, LSC has issued the revised CSR Handbook (2008 Ed.). The ILS South Bend Office Managing Attorney attended the 2008 CSR Handbook training in Chicago. The Managing Attorney then returned to the program to conduct an organization-wide CSR Handbook training which addressed the new closing codes. Each office had a CSR Handbook responsible person designated to handle each office's questions about the new CSR Handbook. LSC also offered to provide CSR Handbook training to ILS. ILS accepted the offer and requested LSC's assistance with training. While that training has not yet been

provided by LSC, ILS was informed that OCE has approved a CSR Handbook webinar training for ILS staff.

Also, ILS stated in its response that the Committee on Dormancy and Untimeliness (CODAU) report, later referenced in Corrective Action 11, addresses the ILS plan to review all 2010 closed cases prior to ILS' 2010 CSR submission, to ensure proper case closing codes. The CODAU report also addresses the need for continued oversight because training alone will not eliminate the closing code problem. The CODAU plan is attached to the comments to the DR as Appendix C.

Finding 12: ILS is in non-compliance with the timely case closure requirements of CSR Handbook (2001 Ed.), ¶ 3.3 and CSR Handbook (2008 Ed.), § 3.3. As such, the program has not implemented Corrective Action 1 of the 2006 Final Report.

To the extent practicable, programs shall report cases as having been closed in the year in which assistance ceased, depending on case type. Cases in which the only assistance provided is counsel and advice, brief service, or a referral after legal assessment (CSR Categories, A, B, and C), should be reported as having been closed in the year in which the counsel and advice, brief service, or referral was provided. *See* CSR Handbook (2001 Ed.), ¶ 3.3(a).¹⁶ There is, however, an exception for cases opened after September 30, and those cases containing a determination to hold the file open because further assistance is likely. *See* CSR Handbook (2001 Ed.), ¶ 3.3(a) and CSR Handbook (2008 Ed.), § 3.3(a). All other cases (CSR Categories D through K, 2001 CSR Handbook and F through L, 2008 CSR Handbook) should be reported as having been closed in the year in which the recipient determines that further legal assistance is unnecessary, not possible or inadvisable, and a closing memorandum or other case-closing notation is prepared. *See* CSR Handbook (2001 Ed.), ¶ 3.3(b) and CSR Handbook (2008 Ed.), § 3.3(b). Additionally, LSC regulations require that systems designed to provide direct services to eligible clients by private attorneys must include, among other things, case oversight to ensure timely disposition of the cases. *See* 45 CFR § 1614.3(d)(3).

Both timely case closure and dormancy were significant issues for ILS during the 2005 CSR/CMS Review. As a result, Corrective Action 1 of the 2006 Final Report required the program to:

Ensure that cases handled are closed in a timely manner to avoid dormancy and not report those case files identified as dormant to LSC in the CSRs; where appropriate, ensure that case files being held open for an extended period of time include notations in the file or the ACMS as to the reason the files are open so as to demonstrate that the file is not dormant. As part of this, a review of all open files is warranted.

¹⁶ The time limitation of the 2001 Handbook that a brief service case should be closed "as a result of an action taken at or within a few days or weeks of intake" has been eliminated. However, cases closed as limited action are subject to the time limitation on case closure found in CSR Handbook (2008 Ed.), § 3.3(a) this category is intended to be used for the preparation of relatively simple or routine documents and relatively brief interactions with other parties. More complex and/or extensive cases that would otherwise be closed in this category should be closed in the new CSR Closure Category L (Extensive Service).

Case review revealed numerous instances of dormant and untimely closed cases. *See*, for example, dormant Case Nos. 07-03-0044095, an open case in which no work on the case has occurred since 2007; 04-10-0012222, an open case in which the last activity in the file was in 2008; 08-10-0064892, an open case in which the last activity in file was in 2008; 06-02-0030639, an open case in which the last activity in file was in 2008; 05-04-0019817, an open case in which no work on the case has occurred since 2005; 05-09-0025075, an open case in which the last activity in the file was in 2005; 07-07-0048843, an open case in which the last activity occurred in 2008; 06-10-0039227, an open case in which the last activity in the case occurred in 2005; 03-07-0052642, a case opened in 2003 with no activity within the last few years; 04-08-0010365, an open case with no activity since 2006; 04-07-009004, an open case with no activity since 2007; and 08-09-0064098, an open brief services case in which the last activity in file was in 2009. *See also*, for example, untimely closed Case Nos. 06-11-0040524, untimely closed in 2008; 06-10-0039161, untimely closed in 2008; 07-09-0051173, untimely closed in 2009; 07-07-0048379, untimely closed in 2009; 06-03-0031090, untimely closed in 2010; 07-06-0047480, untimely closed in 2010; 08-10-0065490, untimely closed in 2010; 06-07-0036295, untimely closed in 2010; 06-05-0034219, untimely closed in 2010; 04-10-0012844, untimely closed in 2010; 07-04-0045452, untimely closed in 2010; and 07-09-0050833 untimely closed in 2010.

As evidenced by a significant pattern of dormant/untimely closed cases, ILS is in non-compliance with the requirements of CSR Handbook (2001 Ed.), ¶ 3.3 and CSR Handbook (2008 Ed.), § 3.3 and has failed to implement Corrective Action 1 of the 2006 Final Report. Clearly, the system(s) implemented by the program to ensure an end to dormancy and untimely case closure were entirely ineffective.¹⁷ In addition, all of the untimely closed cases were reported to LSC in the program's CSRs which seriously calls into question the accuracy of ILS' CSR statistics.

As such, the program is required to perform the following corrective action in reference to dormancy and untimely case closure:

- a. Direct each field office/substantive unit to complete a review of its open cases to identify and administratively close all dormant cases so they are not reported in future CSRs. This open case review must be completed no later than 2 months after receipt of LSC's Final Report. Upon completion, ILS must submit a written certification to the Director of the Office of Compliance and Enforcement that all dormant cases have been eliminated from its case lists and marked for deselection from future program CSRs.
- b. Direct each field office/substantive unit to complete a review of all 2010 closed cases to identify and deselect any untimely closed cases prior to the CSR to be submitted in 2011. This closed case review must be completed no later than December 31, 2010. Upon completion, ILS must submit a written certification to the Director of the Office of

¹⁷ Some of the dormant and untimely closed cases discovered were handled by certain substantive units that report directly to ILS' executive director. In the course of ameliorating this issue, the program should pay special attention to such units to ensure appropriate oversight.

Compliance and Enforcement that all untimely closed cases have been eliminated from its case lists and marked for deselection from future program CSRs.

c. Create and implement a plan to oversight dormancy and untimely case closure in all ILS field offices/substantive units. Such plan should be included in the program's comments to the instant Draft Report.¹⁸

d. Provide training to staff regarding timely case closure parameters within 2 months following receipt of the Final Report. The training must include all staff charged with case oversight responsibilities (including managing attorneys, case handlers, and other staff that oversight or close cases) and the program must provide a copy of the training agenda and copies of signed staff attendance sheets to OCE within 2 weeks of the conclusion of the training. It is within the program's discretion to combine this training with the training on intake issues noted above or hold an entirely separate training.

In response to the DR, ILS created an ad-hoc management committee, the Committee on Dormancy and Untimeliness (CODAU), to address the corrective measures identified in this portion of the report. CODAU submitted a plan to appropriately respond to this Corrective Action. The CODAU plan was approved on September 15, 2010 and is incorporated herein by reference. *See* Appendix C of ILS' comments. The CODAU plan is comprehensive and addresses Corrective Action 11(a), (b) & (c).

ILS advised that the CODAU plan does not specifically address training {Corrective Action 11(d)}. The training to address timely case closing parameters will be combined with the CSR Handbook training, referenced in response to Corrective Action 10. The training will include all staff charged with case oversight responsibilities as designated in the CODAU plan. ILS will submit a copy of the training agenda and signed staff attendances sheets to OCE within 2 weeks of the conclusion of the training.

ILS will also submit a written certification (as that term is clarified in the letter attached to the comments to the DR as Appendix D) to the Director of OCE that all dormant cases and untimely closed cases have been eliminated from cases lists and marked for deselection from future program CSRs.

Finding 13: Case review evidenced substantial compliance with the requirements of CSR Handbook (2001 Ed.), ¶ 3.2 and CSR Handbook (2008 Ed.), § 3.2 regarding duplicate cases.

Through the use of automated case management systems and procedures, recipients are required to ensure that cases involving the same client and specific legal problem are not recorded and

¹⁸ For example, the plan might include a review of all open cases without a time entry for the past 6 months with managing attorneys (or other designated staff) reviewing such identified case files for follow-up. The plan must also include a method by which to eliminate untimely closed cases from the program's CSRs.

reported to LSC more than once. *See* CSR Handbook (2001 Ed.), ¶ 3.2 and CSR Handbook (2008 Ed.), § 3.2.

When a recipient provides more than one type of assistance to the same client during the same reporting period, in an effort to resolve essentially the same legal problem, as demonstrated by the factual circumstances giving rise to the problem, the recipient may report only the highest level of legal assistance provided. *See* CSR Handbook (2001 Ed.), ¶ 6.2 and CSR Handbook (2008 Ed.), § 6.2.

When a recipient provides assistance more than once within the same reporting period to the same client who has returned with essentially the same legal problem, as demonstrated by the factual circumstances giving rise to the problem, the recipient is instructed to report the repeated instances of assistance as a single case. *See* CSR Handbook (2001 Ed.), ¶ 6.3 and CSR Handbook (2008 Ed.), § 6.3. Recipients are further instructed that related legal problems presented by the same client are to be reported as a single case. *See* CSR Handbook (2001 Ed.), ¶ 6.4 and CSR Handbook (2008 Ed.), § 6.4.

No corrective actions were noted regarding duplicate case reporting in the 2006 Final Report. Case review during the FUR revealed very few duplicate case files within the case sample. *See*, for example, Case No. 06-11-0040524, which was a duplicate of Case No. 06-10-0039161. Staff interviews indicate that each file is reviewed prior to case closure for duplication based on client name and problem code. As such, ILS is in compliance with the requirements of CSR Handbook (2001 Ed.), ¶ 3.2 and CSR Handbook (2008 Ed.), § 3.2.

There are no recommendations or corrective actions required.

Finding 14: Case review, staff interviews, and limited document review evidenced compliance with the requirements of 45 CFR Part 1608 (Prohibited political activities).

LSC regulations prohibit recipients from expending grants funds or contributing personnel or equipment to any political party or association, the campaign of any candidate for public or party office, and/or for use in advocating or opposing any ballot measure, initiative, or referendum. *See* 45 CFR Part 1608.

Case review and a limited review of accounting records and documentation for the period of 2008 through March 2010 and interviews with staff disclosed that ILS does not appear to have expended any grant funds, or used personnel or equipment in prohibited activities in violation of 45 CFR § 1608.3(b). The on-site review team, however, noted certain political campaign posters displayed in the office of ILS' Director of Administration. Subsequent inquiry revealed that the Director of Administration has served on the Washington Township Board (District 2), an elected, partisan position, since 1990 and the posters were from his most recent campaign. The Director of Administration's last re-election was in 2007 with the next election scheduled for 2011. ILS management advised that ILS resources including company time, facilities, or equipment have never been used for this political campaign or for any political activities.

ILS communicates its prohibited political activity policy to new employees with a dedicated paragraph in its New Employee Packet which outlines, along with other topics, ILS' policy on prohibited political activities as described under 45 CFR Part 1608. Currently, an ILS staff member completes a checklist for each new employee to record that they received the New Employee Packet and the ILS Priority Agreement. However, the employee does not sign an acknowledgement for the New Employee Packet. In order to substantiate receipt and review of the materials, it is recommended that ILS have new employees sign an acknowledgement that they have reviewed the New Employee Packet.

ILS is in compliance with 45 CFR Part 1608. There are no recommendations or corrective actions required.

Finding 15: Case review evidenced compliance with the requirements of 45 CFR Part 1609 (Fee-generating cases).

Except as provided by LSC regulations, recipients may not provide legal assistance in any case which, if undertaken on behalf of an eligible client by an attorney in private practice, reasonably might be expected to result in a fee for legal services from an award to the client, from public funds or from the opposing party. *See* 45 CFR §§ 1609.2(a) and 1609.3.

Recipients may provide legal assistance in such cases where the case has been rejected by the local lawyer referral service, or two private attorneys; neither the referral service nor two private attorneys will consider the case without payment of a consultation fee; the client is seeking Social Security, or Supplemental Security Income benefits; the recipient, after consultation with the private bar, has determined that the type of case is one that private attorneys in the area ordinarily do not accept, or do not accept without pre-payment of a fee; the Executive Director has determined that referral is not possible either because documented attempts to refer similar cases in the past have been futile, emergency circumstances compel immediate action, or recovery of damages is not the principal object of the client's case and substantial attorneys' fees are not likely. *See* 45 CFR §§ 1609.3(a) and 1609.3(b).

None of the case files reviewed involved legal assistance with respect to a fee-generating case. ILS staff indicated that the program does not handle any fee-generating cases unless allowed under the exceptions noted in the regulation.

There are no recommendations or corrective actions required.

Finding 16: A limited review of ILS' accounting and financial records, observations of the physical locations of program field offices, and interviews with staff evidenced compliance with 45 CFR Part 1610 (Use of non-LSC funds, transfer of LSC funds, program integrity) in reference to sharing physical space with a non-LSC entity engaged in restricted activities. In addition, Corrective Action 19 of the 2006 Final Report has been fully implemented as the program's written notification to non-LSC funders complies with 45 CFR § 1610.5.

LSC regulation 45 CFR Part 1610 was adopted to implement Congressional restrictions on the use of non-LSC funds and to assure that no LSC funded entity engages in restricted activities. Essentially, recipients may not themselves engage in restricted activities, transfer LSC funds to organizations that engage in restricted activities, or use resources to subsidize the restricted activities of another organization.

The regulations contain a list of restricted activities. *See* 45 CFR § 1610.2. The list includes lobbying, participation in class actions, representation of prisoners, legal assistance to aliens, drug related evictions, and the restrictions on claiming, collecting or retaining attorneys' fees.

Recipients are instructed to maintain objective integrity and independence from any organization that engages in restricted activities. In determining objective integrity and independence, LSC looks to determine whether the other organization receives a transfer of LSC funds, and whether such funds subsidize restricted activities, and whether the recipient is legally, physically, and financially separate from such organization.

Whether sufficient physical and financial separation exists is determined on a case by case basis and is based on the totality of the circumstances. In making the determination, a variety of factors must be considered. The presence or absence of any one or more factors is not determinative. Factors relevant to the determination include:

- i) the existence of separate personnel;
- ii) the existence of separate accounting and timekeeping records;
- iii) the degree of separation from facilities in which restricted activities occur, and the extent of such restricted activities; and
- iv) the extent to which signs and other forms of identification distinguish the recipient from the other organization.

See 45 CFR § 1610.8(a); *see also*, OPO Memo to All LSC Program Directors, Board Chairs (October 30, 1997).

Recipients are further instructed to exercise caution in sharing space, equipment and facilities with organizations that engage in restricted activities, particularly if the recipient and the other organization employ any of the same personnel or use any of the same facilities that are accessible to clients or the public. But, as noted previously, standing alone, being housed in the same building, sharing a library or other common space inaccessible to clients or the public may be permissible as long as there is appropriate signage, separate entrances, and other forms of identification distinguishing the recipient from the other organization, and no LSC funds

subsidize restricted activity. Organizational names, building signs, telephone numbers, and other forms of identification should clearly distinguish the recipient from any organization that engages in restricted activities. *See* OPO Memo to All LSC Program Directors, Board Chairs (October 30, 1997).

While there is no *per se* bar against shared personnel, generally speaking, the more shared staff, or the greater their responsibilities, the greater the likelihood that program integrity will be compromised. Recipients are instructed to develop systems to ensure that no staff person engages in restricted activities while on duty for the recipient, or identifies the recipient with any restricted activity. *See* OPO Memo to All LSC Program Directors, Board Chairs (October 30, 1997).

Corrective Action 19 of the 2006 Final Report required the program to:

Ensure that written notification is provided to its non-LSC funding sources, informing them of the application of LSC's restrictions regarding the use of their funds.

Based on a limited review of the program's chart of accounts and detailed general ledger for 2008 and 2009, observations of the physical locations of ILS' field offices, and interviews with ILS staff, the program does not appear to be engaged in any restricted activity which would present 45 CFR Part 1610 compliance issues.

In an additional requirement supporting program integrity, 45 CFR § 1610.5 and Program Letter 96-3, dated June 14, 1996, requires LSC recipients to notify in writing all funding sources of the applications of LSC restrictions to their funding. Funding sources to be notified include state and local government funders and contractors, IOTA programs, foundations, others who contract with the program for the program to provide services, and individual contributors, including law firms or clients or other sources of funds, such as bequests, greater than \$250. From a limited review of a list of contributors of \$250 and above and related donor letters, it was determined that ILS provides written notification to its non-LSC funding sources of LSC's conditions, restrictions, and prohibitions concerning the use of their funds as required by 45 CFR § 1610.5. This disclosure is contained as a footnote in the letter to funding contributors. As such, the program has fully implemented Corrective Action 19 of the 2006 Final Report and is in compliance with 45 CFR § 1610.5.

However, while ILS maintains copies of its list for contributors over \$250, the program does not generally maintain copies of all letters sent to such contributors. For the review, for example, ILS provided one contributor letter from 2009 along with four letters from April, 2010. It is recommended that ILS maintain copies of all letters for contributors over \$250 to fully evidence its compliance with 45 CFR § 1610.5.

In response to the DR, ILS stated that ILS accepts this recommendation. According to ILS, it routinely sends thank you letters, signed by the Executive Director, to all contributors regardless of the contribution amount. Each letter to a contributor making a contribution of over \$250 includes the following statement:

“Your contribution is subject to the restriction and prohibitions found in 45 CFR Part 1610 which governs Legal Services Corporation (LSC) funds and organizations that receive LSC funds such as Indiana Legal Services, Inc. (ILS). IRS tax regulations require that each contribution of \$250 or more be acknowledged with a receipt. ILS is a registered 501C (3), not-for-profit organization; your contribution to ILS is tax deductible. This letter serves as your receipt for tax purposes and also serves as verification that ILS did not provide any goods or services to you as a consideration for your contribution.”

Copies of these thank you letters have been and will continue to be maintained by ILS to fully evidence its compliance with 45 CFR § 1610.5.

Finding 17: ILS is in substantial compliance with the requirements of 45 CFR Part 1614 (Private attorney involvement). Corrective Actions 17 and 18 of the 2006 Final Report were partially implemented due to inconsistent accounting of PAI-related activities and timekeeping.

LSC regulations require LSC recipients to devote an amount of LSC and/or non-LSC funds equal to 12.5% of its LSC annualized basic field award for the involvement of private attorneys in the delivery of legal assistance to eligible clients. This requirement is referred to as the "PAI" or private attorney involvement requirement.

Activities undertaken by the recipient to involve private attorneys in the delivery of legal assistance to eligible clients must include the direct delivery of legal assistance to eligible clients. The regulation contemplates a range of activities, and recipients are encouraged to assure that the market value of PAI activities substantially exceed the direct and indirect costs allocated to the PAI requirement. The precise activities undertaken by the recipient to ensure private attorney involvement are, however, to be determined by the recipient, taking into account certain factors. *See* 45 CFR §§ 1614.3(a), (b), (c), and (e)(3). The regulations, at 45 CFR § 1614.3(e)(2), require that the support and expenses relating to the PAI effort must be reported separately in the recipient’s year-end audit. The term “private attorney” is defined as an attorney who is not a staff attorney. *See* 45 CFR § 1614.1(d). Further, 45 CFR § 1614.3(d)(3) requires programs to implement case oversight and follow-up procedures to ensure the timely disposition of cases to achieve, if possible, the results desired by the client and the efficient and economical utilization of resources.

Recipients are required to develop a PAI Plan and budget. *See* 45 CFR § 1614.4(a). The annual plan shall take into consideration the legal needs of eligible clients in the geographical area, the delivery mechanisms potentially available to provide the opportunity for private attorneys to meet legal needs, and the results of consultation with significant segments of the client community, private attorneys and bar associations, including minority and women’s bar associations. The recipient must document that its proposed annual Plan has been presented to all local bar associations and the Plan shall summarize their response. *See* 45 CFR §§ 1614.4(a) and (b).

Due to PAI issues identified during the 2005 CSR/CMS review, Corrective Action 17 of the 2006 Final Report required the program to:

Ensure that PAI time recorded by attorneys and paralegals are specific and contemporaneously recorded on timesheets and that all attorney and paralegal PAI time is actual time charged and not estimates of their time charged to PAI.

In addition, Corrective Action 18 of the 2006 Final Report required the program to:

Ensure that all PAI-related expenses are included in the overall PAI calculation, all non-LSC and LSC-related PAI expenses should be included.

ILS' PAI component is uniquely structured in that it is subject to governance by the state of Indiana. In 1998, the Indiana Supreme Court created a new *pro bono* program encompassing the entire state. The Indiana *Pro Bono* Commission is led by members appointed by the Indiana Supreme Court and the Indiana Bar Foundation; four of the members are representatives of legal services organizations. The state was divided into 14 judicial districts, each of which has a *pro bono* committee composed of a judge, representatives of bar associations and legal services providers, community representatives, and a recipient of *pro bono* legal services. Each district committee is required to submit an annual *pro bono* plan and budget, and employ an administrator to coordinate the activities of the committee. Some districts require its activities to be the only *pro bono* activities in the area; as such ILS' activity in those areas is limited solely to referral.¹⁹ According to ILS management, the 2010 PAI plan would be submitted with the next grant application in June 2010 for the 2011 grant award period.

As each district has its own distinct policies and procedures, the analysis below focuses solely on observed compliance issues regarding intake screening and case oversight. ILS' PAI component generally focuses on referrals to private attorneys. However, in some instances, field offices may provide some legal assistance prior to referral to private attorneys.

Field offices identify cases appropriate for referral to the administrator after intake and group acceptance. The administrator in turn places these cases with a *pro bono* attorney. Depending on the ILS field office, some cases are handled by private attorneys who provide follow-up and case closure information to program staff, while other cases are referred with no information regarding the placement or status of the cases provided ILS. The latter cases are subsequently closed as "rejected".

As PAI cases are screened under the same inconsistent policies, procedures, and forms as described in Finding 3 above, the same eligibility-related compliance issues apply to PAI cases. Case review revealed that while the majority of field offices were properly handling PAI referrals, there were a few field offices that were incorrectly closing them as cases under the K – Other code without evidence of legal assistance provided by a private attorney. *See*, for example, Case Nos. 08-07-0061611, a closed 2008 case; 08-07-0058353, a closed 2008 case; 07-11-0053418, a closed 2008 case; and 09-01-0068500, a closed 2009 case. Interviews in field offices

¹⁹ ILS does not use contract private attorneys in the delivery of legal assistance to eligible clients at present.

incorrectly closing such cases revealed a basic misunderstanding of the use of the K – Other code and the requirement that documented legal assistance must be provided for a case to qualify as a CSR-reportable case. Staff was advised to review similarly closed 2010 closed cases and deselect them from CSRs.

In addition, as noted in Finding 2 above, some coding issues were discovered in reference to PAI cases. Several files were coded as PAI although the file reflected the legal assistance was provided by an ILS staff attorney. *See*, for example, Case Nos. 07-03-0044428, a closed 2008 case; 08-05-0058828, a closed 2008 case; 08-06-0060498, a closed 2008 case; 09-06-0074919, a closed 2009 case, 08-11-0066361, a closed 2008 case; 08-07-0061489, a closed 2008 case; and 08-05-0058829, a closed 2008 case.

Some ILS field offices operated in-house *pro bono* referral programs that were closed fairly recently. As a result, there are some open cases still pending. Accordingly, those field offices are conducting oversight and closing cases once the legal assistance concludes. These remaining cases are closed as CSR cases and oversight of these cases complies with 45 CFR § 1614.3(d)(3).

ILS also counts some cases undertaken by its Immigrants and Language Rights Center (ILRC) as PAI. On occasion, the ILRC managing attorney refers cases to private attorneys in the community who are interested in immigration cases. Case review evidenced that ILRC PAI cases were in compliance with oversight requirements.

As the number of errors found in PAI cases did not rise to the level of a pattern of non-compliance, it is strongly recommended that ILS standardize its PAI policies and procedures to the fullest extent possible while still accounting for varying local practices in the different jurisdictions. Further, it is strongly recommended that ILS provide training to all staff on case oversight, including proper coding of the case as staff or PAI, accurate selection of case closing codes, and timely case closure to ensure PAI issues do not arise in the future.

In a related issue, the Indianapolis office has a *pro bono* component offsite operated entirely by Indiana University's Law Clinic. Staff interviews indicate that three (3) attorneys were hired full time by the law clinic to provide legal services for LSC eligible clients through interns at the law clinic program. Intake on some cases occurs entirely at the law school clinic. ILS does not provide any oversight in the eligibility determination of clients accepted by the law school clinic although the managing attorney at Indianapolis advised that eligibility training was provided to the attorneys supervising the interns.

PAI cases are also initiated in the Indianapolis field office by referral to the law school clinic PAI component. These cases are tested for eligibility by ILS. There is no in-house methodology for tracking these cases other than a case list provided to ILS by the law school clinic which includes both those cases in which intake occurs at the law school clinic and those cases referred by ILS. ILS oversight as required by § 1614.3(b)(3) is nonexistent in regard to these PAI cases.

Case review of a limited number of law school clinic cases revealed compliance issues involving untimely case closure, dormancy, and failure to document evidence of legal assistance. *See*, for example, Case Nos. 06-03-0031090, untimely closed in 2010; 05-11-0027076, an open file

which is dormant; and 06-01-29104, an untimely closed 2010 case which failed to document evidence of legal assistance.

ILS is required to provide its basis for characterizing the law school clinic as PAI in its comments to the instant Draft Report. In addition, the program should provide a description of its planned efforts to fully oversight law school clinic cases, including what methods are in place to ensure proper intake screening, supervision of legal assistance, and case closing.

In reference fiscal PAI issues, ILS' 2009 draft audit and 2008 audited Financial Statements reflected that the program properly presents its PAI activity. The program uses separate fund columns in its financial statements to report LSC and non-LSC activity and PAI and non-PAI activity. The program reported in 2009 and 2008, PAI expenditures of \$435,432 and \$440,487, respectively. Due to its unique PAI structure, ILS requested and was granted partial waivers from LSC of \$230,000 (2009) and \$205,000 (2008) to reduce its PAI requirement for fiscal year 2009 and 2008 to \$383,012 and \$405,007, respectively.

Review of program documentation revealed that ILS has ensured that PAI time recorded by attorneys and paralegals is specific and that all attorney and paralegal PAI time is actual time charged and not estimates of time charged. However, attorney and paralegal PAI time is not contemporaneously recorded on time records. As such, the program has only partially implemented Corrective Action 17. ILS is required to implement measures to ensure attorneys and paralegals report their time contemporaneously.

In reference to Corrective Action 18, review of the PAI cost allocation worksheet for non-direct costs revealed that the program allocates non-related PAI costs for travel, litigation, staff training, and conferences to PAI. As a result, ILS is over-counting and incorrectly reporting PAI-related expenses in its calculation of its overall PAI allocation. All costs that can be readily identifiable as PAI should be charged directly to PAI and should not be included in the program's non-direct cost allocation. Additionally, review of the PAI cost allocation worksheet for direct costs revealed that the amount reported as direct attorney salaries differs from the amount reported in the 2009 draft audit Financial Statement. This difference of (\$6,263) does not affect the 12.5% PAI requirement. In brief, review of the general ledger and invoices revealed that the program is over-counting PAI by including non-related PAI costs, and under-counting PAI by not including related PAI costs. Further, review of the program's 2009 draft audit and 2008 audited Financial Statements revealed that the amount reported as PAI is being underreported because the *pro bono* costs for certain Districts are not included in the total PAI expense. As a result, the program has partially implemented Corrective Action 18 and is required to exclude all non-related PAI expenses in its overall calculation and include all PAI related expenses in the overall PAI calculation (all non-LSC and LSC-related expenses).

In response to the DR, ILS stated that as noted in Finding 17 case referred by the ILS Indianapolis branch office to the Indiana University's Law Clinic are treated by ILS as a pro bono component of the LSC 12.5% PAI regulatory requirement. Page 31 of the DR stated, "there is no private attorney involvement as contemplated by 1614.2(a) since the three (3) attorneys hired by the law school clinic are full-time staff attorneys and have no private attorney law practice". ILS respectfully disagrees with this aspect of Finding 17. 45 CFR Part 1614

requires funds to be made available to encourage the involvement of private attorney in the delivery of legal assistance to eligible clients through compensated and pro-bono mechanisms. Private attorney is defined in 45 CFR § 1614.1(d) as an attorney who is not a staff attorney. ILS refers clients to the Clinic for direct delivery of legal assistance to eligible clients as required by 45 CFR § 1614.3, which outlines the required range of activities describing private attorney involvement. The Clinic's cases are closed as ILS cases and reportable to LSC. When services are provided to clients by the Clinic, the law students are supervised by clinical professors who are private attorneys, as defined in 45 CFR 1614.1(d), because they are not staff attorneys. Law professors who supervise students in a clinical setting must be lawyers. Staff attorney is defined in 45 CFR § 1600.1 as "attorney more than half of whose annual professional income is derived from the proceeds of a grant from (LSC)..." The Clinical professors are not staff attorneys within the definition of 45 CFR 1600.1 since their income is derived from the law school, not ILS's LSC funds. The Clinic further serves the law school's inspirational goal that all laws students should engage in a variety of pro bono activities, including clinical activities, prior to law school graduation. The purpose of 45 CFR Part 1614 is to make ILS more resourceful and the Clinic allows ILS to provide services to additional clients. OCE agrees with ILS' explanation and that portion of the finding was deleted.

On August 20, 2010, the ILS Indianapolis office Managing Attorney met with the Civil Law Clinic professors from Indiana University- Indianapolis School of Law. The meeting was held to address Corrective Action 12 requiring ILS to develop a plan to fully oversight Clinic cases. The parties developed and agreed to the process described in the "Plan to Fully Oversight Law School Clinic Cases," attached to the comments to the DR as Appendix E.

In addition, in response to the DR, ILS stated that the regulation (45 CFR 1614.3(e)(i)) regarding private attorney involvement requires "...any direct or indirect time of staff attorneys or paralegals...to be allocated as a cost to PAI, such costs must be documented by time sheets accounting for the time those employees have spent on PAI activities." The OCE site visit team's review of program documentation revealed that ILS attorneys and paralegals record their actual PAI time and such time specific to PAI activities. ILS case handlers enter their PAI time into a Legal Files "Activity pick-list" with 20 separate PAI activity options. While ILS PAI timekeeping now accurately documents PAI activities as required by 45 CFR 1614.3(e)(i), ILS still needs to ensure that such recorded time is contemporaneously entered. On August 17, 2010, ILS reissued its timekeeping memo of April 15, 2005 detailing the specifics of the contemporaneous timekeeping for ILS case handlers including that of PAI timekeeping, a copy of which is attached with the comments to the DR as Appendix F. The requirements for contemporaneous timekeeping will also be included as part of the other staff training described in this response. ILS currently has a "PAI Time Charged" report in Legal Files which documents PAI activities for accounting purposes. The ILS Database Administrator will be directed to create a new Legal Files report that will identify PAI time entries that were not contemporaneously entered. With this new report, the administration's secretary will identify, on a weekly basis, case handlers with PAI time entries that were not entered contemporaneously. The administration secretary will then contact case handlers deficient in their contemporaneous PAI timekeeping responsibilities along with their supervisors and will remind them of the necessity to enter time contemporaneously. Each time a deficiency is noted for a case handler, a notation will be placed in the case handler's personnel file documenting continued oversight on

this issue. The administration secretary will inform the Executive Director and the supervisor if the case handler is contacted about contemporaneous timekeeping deficiencies 3 times in a quarter of the calendar year. The supervisor will immediately institute the appropriate disciplinary action pursuant to the ILS Grievance and Disciplinary Policies when the case handler is cited for such timekeeping deficiencies.

Also, in response to the DR, ILS advised that it has revamped its PAI cost allocation worksheet to now include direct and indirect allocations for the Pro Bono District staff housed in ILS branch offices. The worksheet now excludes indirect allocation of travel, litigation or staff training/conference expenses. The allocation process has been simplified so that direct personnel PAI expenses are divided by total organization personnel expenses by a factor to be applied to no-direct costs. Enclosed with the comments to the DR as Appendix G is the summary page from the January 2010 through July 2010 PAI worksheet.

Lastly, in response to the DR, ILS stated that ILS accepts LSC's recommendation regarding intake and referral of pro-bono cases. According to ILS, to the extent feasible, notwithstanding the differences in local practice around Indiana and the 14 judicial district pro-bono plans approved by the Indiana Pro Bono Commission, ILS will standardize its treatment of intake and referral of applicants to pro bono plan administrators to conform to the intake policies, procedures and protocols of cases that are handled by ILS staff. In those cases when ILS provides advice prior to the referral of the client to a pro bono plan administrator, ILS will develop organization-wide policies to standardize case oversight to ensure the proper case coding as a staff or PAI case, accurate selection of case closing codes, timely case closure and deselection of cases ineligible for CSR reporting. The ILS staff training, referenced in response to Corrective Action 4, will include directives on these standardized PAI intake and case oversight policies.

Finding 18: Limited document review evidenced that ILS is in substantial compliance with 45 CFR § 1627.4(a) which prohibits programs from utilizing LSC funds to pay membership fees or dues to any private or non-profit organization. However, ILS must take corrective action in reference to the one instance of non-compliance discovered in its accounting records.

LSC regulation 45 CFR § 1627.4(a) requires that:

- a) LSC funds may not be used to pay membership fees or dues to any private or nonprofit organization, whether on behalf of a recipient or an individual.
- b) Paragraph (a) of this section does not apply to the payment of membership fees or dues mandated by a government organization to engage in a profession, or to the payment of membership fees or dues from non-LSC funds.

A limited review of ILS' accounting records and the detailed general ledger for 2008 through March 2010 disclosed one instance of noncompliance with 45 CFR § 1627.4(a), where a non-

mandatory annual membership due was paid with LSC funds. The \$100 payment was charged to a funding code that is paid with LSC funds although this membership was not mandated by a government organization to engage in a profession. Although the limited review did not reveal a pattern of non-compliance related to this regulation, ILS management is required to ensure, in policy and in practice, that LSC funds are not used to pay membership fees or dues to any private or nonprofit organization, whether on behalf of a recipient or an individual. *See* 45 CFR § 1627.4 (Subgrants and membership fees or dues). In addition, ILS must submit documentation, with its comments to the instant Draft Report, that it has credited its LSC account in the amount of \$100.

In a related issue, ILS had an LSC-approved subgrant for 2008 with the Marion County Bar Association. No details about this agreement, however, were provided in ILS' 2008 audited Financial Statement. The program is required to instruct its independent auditor that all subgrant agreement(s) must be noted in all future ILS' audited Financial Statements. *See* 45 CFR § 1627.3(c).

In response to the DR, ILS stated that, as of September 14, 2010, ILS credited its LSC account in the amount of \$100, using ILS' general fund, for the mistaken payment of membership dues using LSC funds. Going forward, all membership dues will be paid from the ILS general fund. Enclosed with the comments to the DR, as Appendix H, is a journal entry batch #002843 documenting the credit of \$100.

In addition, in response to the DR, ILS stated that in a letter dated September 2, 2010, a copy of which is enclosed with the comments to the DR as Appendix I, the ILS Controller contracted the ILS auditing firm, Blue & Co., and provided them with the language of Corrective Action 16. The Controller informed Blue and & Co. that the Marion County Bar Association subgrant agreement, approved by LSC for 2008, was not separately noted in the 2008 audited Financial Statement, but rather was included in the Private Attorney Involvement column of the Statement of Activities in compliance with standard accounting practices. ILS has not had a subgrant agreement since 2008. The letter to Blue & Co., by reference to Corrective Action 16, provides the necessary instruction to the ILS auditors that any future subgrants must be expressly noted in future ILS audited Financial Statements.

Finding 19: A limited review of ILS accounting records revealed that ILS is not in compliance with the requirements of 45 CFR § 1630.3(b) (Cost standards and procedures).

LSC regulation 45 CFR § 1630.3(b) states, in part, that a cost is considered reasonable, if in its nature or amount, it does not exceed that which would be incurred by a prudent person under the same or similar circumstances prevailing at the time the decision was made to incur the cost.

A limited review of ILS' credit card payments from 2008 and 2009 revealed that ILS has incurred avoidable fees in the form of several finance charges and, in one instance, a late fee assessment.

While the charges were small in nature, under \$500 in aggregate, ILS may not use LSC funds to pay for such avoidable credit card fees. *See* 45 CFR § 1630.3(b). ILS is required to submit documentary evidence to LSC in its comments to the instant Draft Report that it has credited its LSC account in the amount of the credit card finance charges and late fees in 2008 and 2009.

In response to the DR, ILS stated that, as of September 14, 2010, ILS credited its LSC account in the amount of \$842.42, using ILS' general fund, for the mistaken payment of credit card finance charges, late fees and other fees in 2008 and 2009 using LSC funds. Attached with the comments to the DR, as Appendix J, is the journal entry batch #002809 documenting the credit of \$842.42.

Finding 20: Staff interviews and a limited review of program documentation evidenced that the ILS is not in compliance with 45 CFR Part 1635 (Timekeeping requirements). As such, Corrective Actions 10 and 11 of the 2006 Final Report have not been implemented. Due to changes in the program's timekeeping system, Corrective Action 12 has been rendered moot.

The timekeeping requirement, 45 CFR Part 1635, is intended to improve accountability for the use of all funds of a recipient by assuring that allocations of expenditures of LSC funds pursuant to 45 CFR Part 1630 are supported by accurate and contemporaneous records of the cases, matters, and supporting activities for which the funds have been expended; enhancing the ability of the recipient to determine the cost of specific functions; and increasing the information available to LSC for assuring recipient compliance with Federal ILS and LSC rules and regulations. *See* 45 CFR § 1635.1.

Specifically, 45 CFR § 1635.3(a) requires that all expenditures of funds for recipient actions are, by definition, for cases, matters, or supporting activities. The allocation of all expenditures must satisfy the requirements of 45 CFR Part 1630. Time spent by attorneys and paralegals must be documented by time records which record the amount of time spent on each case, matter, or supporting activity. Time records must be created contemporaneously and account for time by date and in increments not greater than one-quarter of an hour which comprise all of the efforts of the attorneys and paralegals for which compensation is paid by the recipient. Each record of time spent must contain: for a case, a unique client name or case number; for matters or supporting activities, an identification of the category of action on which the time was spent. The timekeeping system must be able to aggregate time record information on both closed and pending cases by legal problem type. Recipients shall require any attorney or paralegal who works part-time for the recipient and part-time for an organization that engages in restricted activities to certify in writing that the attorney or paralegal has not engaged in restricted activity during any time for which the attorney or paralegal was compensated by the recipient or has not used recipient resources for restricted activities.

As timekeeping was an issue during the 2005 CSR/CMS Review, three corrective actions related to timekeeping were required by the 2006 Final Report.

Corrective Action 10 of the 2006 Final Report required the program to:

Ensure that case handlers account for a 7.5 hour workday.

Corrective Action 11 of the 2006 Final Report required the program to:

Ensure that time records are created contemporaneously and ensure that time charged to every case activity be identified by case name or number.

Corrective Action 12 of the 2006 Final Report required the program to:

Ensure that management reviews time slips according to the timekeeping policy as outlined in the Accounting Policies and Procedures Manual.

In reference to Corrective Action 10, program documents reviewed revealed that some case handlers are still not accounting for a 7.5 hour workday. In addition, in reference to Corrective Action 11, a review of the program's timekeeping system evidenced that ILS has adequately ensured that the time charged to every case activity has been identified by case name and number but has failed at the required contemporaneous creation of time records. As such, ILS has not implemented Corrective Actions 10 and 11 of the 2006 Final Report and is out of compliance with 45 CFR Part 1635. The program is required to implement and enforce a timekeeping policy that requires all case handlers to account for a 7.5 hour workday using contemporaneously created time records.

Corrective Action 12, which required management review of time slips, has been rendered moot as discussions with the program's controller revealed that ILS' timekeeping is now performed electronically.

A limited review of ILS' timekeeping records provided verification that the program maintains time spent by attorneys and paralegals electronically and that the timekeeping system in place is capable of recording time spent on each case, matter, or supporting activity. A random sample of approximately 15 attorney timesheets was compared to the time recorded in cases files. A review of the sample evidenced that the hours reported on the timekeeping records appears reasonably comparable to work performed on the actual cases reviewed. However, as noted above, documentation revealed that staff does not routinely enter time information as the time reported in the timekeeping system is not in sequential date order. Documentation further evidenced that time is sometimes entered into Legal Files prior to conducting activity on a particular case.

In a related issue, a limited review of ILS' policies and procedures for part-time case handlers revealed that ILS is not in compliance with 45 CFR § 1635.3(d) as part-time case handlers did not routinely sign and submit their quarterly certification for 2008, 2009, and 2010. ILS is required to put into place controls to ensure part-time case handlers timely sign and submit their quarterly certifications.

In response to the DR, ILS stated that, as noted in Finding 20 on page 35 of the draft OCE report, "the program is required to implement and enforce a timekeeping policy that requires all case handlers to account for a 7.5 hour workday using contemporaneously created time records." ILS

respectfully disagrees with the 7.5 hour workday aspect of Finding 20. Regulation 45 CFR Part 1635 addresses the requirements of LSC timekeeping. The regulation does not address what constitutes a workday. ILS personnel Manual Article 4.01 establishes that an ILS workweek consists of 37.5 hours a week.” Article 5.02 states that exempt employees are expected to put in a “minimum work effort of 37.5 hours per week. The United States Department of Labor has issued guidelines, based on Fair Labor Standards Act (FLSA), regarding what constitutes a workweek and minimum wage compliance. The FLSA Guidelines define a workweek as “seven consecutive, regular, recurring, 24 hour periods, totaling 168 hours (and) is the unit of time used for determining minimum wage compliance. The computation and recording of hours worked should be done on a workweek basis...” The April 15, 2005 timekeeping memo, attached with the comments to the DR as Appendix F, referenced the time records required to be compensated with LSC funds. That memo states that case handlers are compensated on the basis of a 7.5 hour workday and such time records must reflect “37.5 hours of time spent each week on cases, matters, support activities and/or leave time....” The 2005 timekeeping memo further states that “it is acceptable to have some days less than 7.5 hours so long as your total for the week sums to 37.5 hours.” Based on the advice of outside counsel, each ILS worksheet begins on Sunday 12:00 am and ends on Saturday 11:59 pm. ILS work time may be accounted for at any time within that 168 workweek. LSC agrees with ILS’ explanation and that portion of the finding has been deleted.

ILS currently has a “Time Records List” report in Legal Files which documents all time entries on a daily basis. The ILS Database Administrator will be directed to create a new Legal Files report that will identify time entries from the “Time Records List” that were not contemporaneously entered. With this new report, the administration secretary will identify, on a weekly basis case handlers with time entries that were not enter contemporaneously. The administration’s secretary will then contact case handlers who are deficient in their contemporaneous timekeeping responsibilities along with their supervisors and will remind them of the necessity to enter time contemporaneously. The administration secretary will inform the Executive Director and the supervisor if the case handler is contacted about contemporaneous timekeeping deficiencies 3 times in any quarter of the calendar year. The supervisor will immediately institute the appropriate disciplinary action pursuant to the ILS Grievance and Disciplinary Policies when the case handler is cited for such timekeeping deficiencies.

In addition, in response to the DR, ILS advised that it understood that part-time case handlers had to certify on a quarterly basis that they did not engage in restricted activities when they were employed in their other part-time capacity by an organization engaged in such activities. To the best of our knowledge and belief, none of the ILS part-time case handlers engage in such activities. However, ILS now understands that LSC interprets 45 CFR §1635.3(d) to mean that any outside employment needs to be reported and employment by an outside law firm is deemed to be such an organization. Consequently, on September 21, 2010, ILS mandated the use of the LSC certification form, as posted to the LSC website, effective October 1, 2010 and each quarter thereafter. Each quarter, the Executive Director will send all part-time case handlers a reminder to complete the certification form. A current list of part-time case handlers will be provided by the Controller to the Executive Director for use when notifying the part-time case handlers. The signed certification forms will be sent to the Executive Director and retained in each part-time case handler’s personnel file.

Finding 21: ILS is in compliance with the requirements of 45 CFR Part 1642 (Attorneys' fees).

Prior to December 16, 2009, except as otherwise provided by LSC regulations, recipients could not claim, or collect and retain attorneys' fees in any case undertaken on behalf of a client of the recipient. *See* 45 CFR § 1642.3.²⁰ However, with the enactment of LSC's FY 2010 consolidated appropriation, the statutory restriction on claiming, collecting or retaining attorneys' fees was lifted. Thereafter, at its January 30, 2010 meeting, the LSC Board of Directors took action to repeal the regulatory restriction on claiming, collecting or retaining attorneys' fees. Accordingly, effective March 15, 2010, recipients are able to claim, collect and retain attorneys' fees for work performed, regardless of when such work was performed.²¹

A limited review of ILS' 2008 and 2009 fiscal records and interviews with the program's controller evidenced that there were no attorneys' fees awarded, collected, and retained for cases serviced prior to December 16, 2009. In addition, case review revealed no cases dated prior to December 16, 2009 in which attorneys' fees were claimed, collected, or retained. As such, ILS is in compliance with the former CFR Part 1642.

There are no recommendations or corrective actions required.

Finding 22: A limited review of the ILS' internal controls evidenced adequate segregation of duties, internal controls, and defined procedures. However, some improvements are recommended.

Following a limited review of ILS' internal controls and a limited review of payments, and as discussed on-site with the program's controller, it is recommended that ILS make improvements to its segregation of duties and internal controls in the following areas: journal entries should be reviewed by the Director of Administration; trial balances should be reviewed by the Director of Administration; bank statements should be opened by someone other than the person preparing the bank reconciliation; and all invoices should be stamped paid to avoid duplicate payments.

In response to the DR, ILS stated that ILS accepts this recommendation. According to ILS, journal entries are now being reviewed and the reports initialed by the Director of Administration (DOA). The DOA now reviews an electronic version of the monthly trial balance. The DOA now opens all bank statements before they are forwarded to the Controllers for reconciliation.

²⁰ The regulations define "attorneys' fees" as an award to compensate an attorney of the prevailing party made pursuant to common law or Federal or State law permitting or requiring the award of such fees or a payment to an attorney from a client's retroactive statutory benefits. *See* 45 CFR § 1642.2(a).

²¹ LSC further determined that it would not take enforcement action against any recipient that filed a claim for, or collected or retained attorneys' fees during the period December 16, 2009 and March 15, 2010. Claims for, collection of, or retention of attorneys' fees prior to December 16, 2009 may, however, result in enforcement action. In addition, the regulatory provisions regarding accounting for and use of attorneys' fees and acceptance of reimbursement remain in force and violation of these requirements, regardless of when they occur, may subject the recipient to compliance and enforcement action. *See* LSC Program Letter10-1 (February 18, 2010).

ILS further states that the administration secretary who collates the accounts payable checks and documentation is now stamping “Paid” on all paid invoices, in addition to maintaining a copy of the payment checks with the invoices as has been done in the past.

Finding 23: A limited review of ILS’ audited 2008 Financial Statement and draft 2009 Financial Statement disclosed that the program’s Client Trust Fund asset account balance does not equal the liability account balance. Further, the liability account balance was not separately reported on the Statement of Financial Position.

Based on discussions with the program’s controller, the amount reported on the general ledger in the Client Trust Fund asset account is \$700 more than the amount reported in the liability account because ILS’ bank requires them to maintain a minimum balance to avoid being excess bank fees and/or charges. The Accounting Guide for LSC Recipients requires that an offsetting liability account be separately reported on the Statement of Financial Position. ILS includes and reports the offsetting liability account balance on the line item for accounts payable and accrued expenses. However, ILS should inform its auditors to separately report any offsetting liability in the Client Trust Fund account on all future Statements of Financial Position.

In response to the DR, ILS stated that in a letter dated September 2, 2010, a copy of which is attached with the comments to the DR as Appendix I, the ILS controller contacted the ILS auditing firm, Blue & Co., and informed them of Corrective Action 20. The Controller instructed that the ILS future audited Statements of Financial Position should break out any offsetting liability in any ILS Client Trust Fund account.

Finding 24: Case review and staff interviews evidenced compliance with the requirements of 45 CFR Part 1612 (Restrictions on lobbying and certain other activities).

The purpose of this part is to ensure that LSC recipients and their employees do not engage in certain prohibited activities, including representation before legislative bodies or other direct lobbying activity, grassroots lobbying, participation in rulemaking, public demonstrations, advocacy training, and certain organizing activities. This part also provides guidance on when recipients may participate in public rulemaking or in efforts to encourage State or local governments to make funds available to support recipient activities, and when they may respond to requests of legislative and administrative officials.

Case review and interviews with ILS management revealed no evidence that the program is involved in any lobbying or other prohibited activities.

There are no recommendations or corrective actions required.

Finding 25: Case review and staff interviews evidenced compliance with the requirements of 45 CFR Parts 1613 and 1615 (Restrictions on legal assistance with respect to criminal proceedings, and actions collaterally attacking criminal convictions).

Recipients are prohibited from using LSC funds to provide legal assistance with respect to a criminal proceeding. *See* 45 CFR § 1613.3. Nor may recipients provide legal assistance in an action in the nature of a habeas corpus seeking to collaterally attack a criminal conviction. *See* 45 CFR § 1615.1.

Case review and staff interviews did not evidence any program involvement in providing legal assistance with respect to a criminal proceeding, or a collateral attack in a criminal conviction.

There are no recommendations or corrective actions required.

Finding 26: Case review and staff interviews evidenced compliance with the requirements of 45 CFR Part 1617 (Class actions).

Recipients are prohibited from initiating or participating in any class action. *See* 45 CFR § 1617.3. The regulations define “class action” as a lawsuit filed as, or otherwise declared by a court of competent jurisdiction, as a class action pursuant Federal Rules of Civil Procedure, Rule 23, or comparable state statute or rule. *See* 45 CFR § 1617.2(a). The regulations also define “initiating or participating in any class action” as any involvement, including acting as co-counsel, amicus curiae, or otherwise providing representation relative to the class action, at any stage of a class action prior to or after an order granting relief. *See* 45 CFR § 1617.2(b)(1).²² None of the reviewed files involved initiation or participation in a class action. ILS staff stated that the program was not involved in any class actions.

There are no recommendations or corrective actions required.

Finding 27: Case review and staff interviews evidenced compliance with the requirements of 45 CFR Part 1632 (Redistricting).

Recipients may not make available any funds, personnel, or equipment for use in advocating or opposing any plan or proposal, or representing any party, or participating in any other way in litigation, related to redistricting. *See* 45 CFR § 1632.3.

Case review and staff interviews revealed no ILS participation in litigation related to redistricting.

There are no recommendations or corrective actions required.

²² It does not, however, include representation of an individual seeking to withdraw or opt out of the class or obtain the benefit of relief ordered by the court, or non-adversarial activities, including efforts to remain informed about, or to explain, clarify, educate, or advise others about the terms of an order granting relief. *See* 45 CFR § 1617.2(b)(2).

Finding 28: Case review and staff interviews evidenced compliance with the requirements of 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings).

Recipients are prohibited from defending any person in a proceeding to evict the person from a public housing project if the person has been charged with, or has been convicted of, the illegal sale, distribution, manufacture, or possession with intent to distribute a controlled substance, and the eviction is brought by a public housing agency on the basis that the illegal activity threatens the health or safety or other resident tenants, or employees of the public housing agency. *See* 45 CFR § 1633.3.

Case review and staff interviews evidenced that ILS is not involved in the defense of any such eviction proceeding.

There are no recommendations or corrective actions required.

Finding 29: Case review and staff interviews evidenced compliance with the requirements of 45 CFR Part 1637 (Representation of prisoners).

Recipients may not participate in any civil litigation on behalf of a person incarcerated in a federal, state, or local prison, whether as plaintiff or defendant; nor may a recipient participate on behalf of such incarcerated person in any administrative proceeding challenging the condition of the incarceration. *See* 45 CFR § 1637.3.

None of the cases reviewed involved participation in civil litigation, or administrative proceedings, on behalf of an incarcerated person. ILS staff indicated the program does not represent prisoners regarding the circumstances noted above.

There are no recommendations or corrective actions required.

Finding 30: Case review and staff interviews evidenced compliance with the requirements of 45 CFR Part 1638 (Restriction on solicitation).

In 1996, Congress passed, and the President signed, the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (the "1996 Appropriations Act"), Pub. L. 104-134, 110 Stat. 1321 (April 26, 1996). The 1996 Appropriations Act contained a new restriction which prohibited LSC recipients and their staff from engaging a client which it solicited.²³ This restriction has been contained in all subsequent appropriations acts.²⁴ This new restriction is a strict prohibition from being involved in a case in which the program actually solicited the client. As stated clearly and concisely in 45 CFR § 1638.1: "This part is designed to ensure that recipients and their employees do not solicit clients."

²³ *See* Section 504(a)(18).

²⁴ *See* Pub. L. 108-7, 117 Stat. 11 (2003) (FY 2003), Pub. L. 108-199, 118 Stat. 3 (2004) (FY 2004), Pub. L. 108-447, 118 Stat. 2809 (2005) (FY 2005), and Pub. L. 109-108, 119 Stat. 2290 (2006) (FY 2006).

Staff interviews stated that the program does not participate in the solicitation of clients. In addition, none of the case files reviewed indicated program involvement in such activity.

There are no recommendations or corrective actions required.

Finding 31: Case review and staff interviews evidenced compliance with the requirements of 45 CFR Part 1643 (Restriction on assisted suicide, euthanasia, and mercy killing).

No LSC funds may be used to compel any person, institution or governmental entity to provide or fund any item, benefit, program, or service for the purpose of causing the suicide, euthanasia, or mercy killing of any individual. No may LSC funds be used to bring suit to assert, or advocate, a legal right to suicide, euthanasia, or mercy killing, or advocate, or any other form of legal assistance for such purpose. *See* 45 CFR § 1643.3.

None of the case files reviewed involved activities related to assisted suicide, euthanasia, and mercy killing. ILS staff noted that the program does not participate in such activity.

There are no recommendations or corrective actions required.

Finding 32: Case review and staff interviews evidenced compliance with the requirements of certain other LSC statutory prohibitions (42 USC 2996f § 1007 (a) (8) (Abortion), 42 USC 2996f § 1007 (a) (9) (School desegregation litigation), and 42 USC 2996f § 1007 (a) (10) (Military selective service act or desertion)).

Section 1007(b) (8) of the LSC Act prohibits the use of LSC funds to provide legal assistance with respect to any proceeding or litigation which seeks to procure a non-therapeutic abortion or to compel any individual or institution to perform an abortion, or assist in the performance of an abortion, or provide facilities for the performance of an abortion, contrary to the religious beliefs or moral convictions of such individual or institution. Additionally, Public Law 104-134, Section 504 provides that none of the funds appropriated to LSC may be used to provide financial assistance to any person or entity that participates in any litigation with respect to abortion.

Section 1007(b) (9) of the LSC Act prohibits the use of LSC funds to provide legal assistance with respect to any proceeding or litigation relating to the desegregation of any elementary or secondary school or school system, except that nothing in this paragraph shall prohibit the provision of legal advice to an eligible client with respect to such client's legal rights and responsibilities.

Section 1007(b) (10) of the LSC Act prohibits the use of LSC funds to provide legal assistance with respect to any proceeding or litigation arising out of a violation of the Military Selective Service Act or of desertion from the Armed Forces of the United States, except that legal assistance may be provided to an eligible client in a civil action in which such client alleges that

he was improperly classified prior to July 1, 1973, under the Military Selective Service Act or prior law.

All of the case files reviewed demonstrated compliance with the above-referenced LSC statutory prohibitions. In addition, program management indicated that the program does not participate in any activities related to the cited statutory prohibitions.

There are no recommendations or corrective actions required.

IV. RECOMMENDATIONS²⁵

Consistent with the findings of this report, it is recommended that ILS take the following actions:

1. Create and mandate use of a standard case closing compliance checklist in all field offices.

In response to the DR, ILS stated that ILS accepts this recommendation. According to ILS, a managers' subcommittee developed a uniform standard case closing compliance checklist, a copy of which is attached with the comments to the DR as Appendix K.

2. Create a plan to standardize intake training for volunteers.

In response to the DR, ILS stated that ILS accepts this recommendation. According to ILS, a plan to standardize intake training for volunteers will be implemented as part of the actions to be taken by ILS to address Corrective Action 4.

3. Adopt standard written intake protocols to govern the intake process and ensure that staff and volunteers across the program are covering intake issues in the same manner.

In response to the DR, ILS stated that ILS accepts this recommendation. According to ILS, the managers' subcommittee prepared a report on intake policies, procedures and forms with addresses standardized intake procedures for use by staff and volunteers in all branch offices. A copy of the subcommittee's report is attached as Appendix L. The subcommittee is in the process of developing the recommended intake training protocols. The training protocols will incorporate the use of the new standardized intake form, the revised standard retainer agreement and the information provided by LSC during its webinar training on the 2008 CSR Handbook, referenced in response to Corrective Action 10.

4. Prepare a group client process and form so that ILS field offices and substantive units have the ability to efficiently and properly screen a group client.

In response to the DR, ILS stated that ILS accepts this recommendation. According to ILS, it will prepare a group client intake form with accompanying procedures and protocols to enable all offices, centers and projects to properly screen a group client. This process will be part of the development of the new ILS intake protocols, referenced in response to recommendation 3. The group client intake form and protocols will be included with the training plans that ILS prepares for all staff and volunteers, referenced in response to Corrective Action 4.

5. Revise its standard retainer agreement to provide the space/ability to sufficiently describe the scope of an extended representation contemplated following successful investigation of the merits of the case.

²⁵ Items appearing in the "Recommendations" section are not enforced by LSC and therefore the program is not required to take any of the actions or suggestions listed in this section. Recommendations are offered when useful suggestions or actions are identified that, in OCE's experience, could help the program with topics addressed in the report. Often recommendations address potential issues and may assist a program to avoid future compliance errors. By contrast, the items listed in "Required Corrective Actions" must be addressed by the program, and will be enforced by LSC.

In response to the DR, ILS stated that ILS accepts this recommendation. According to ILS, an ILS managers' subcommittee has revised the standard ILS retainer agreement to provide space and the ability to sufficiently describe the scope of an extended representation following an investigation as to the merits of the client's case. The revised retainer agreement also includes a reference to attorneys' fee, which ILS may now consider because of the LSC Board action repealing 45 CFR Part 1642 and adopting conforming amendments to 45 CFR Part 1609 allowing LSC recipients to claim, collect and retain attorneys' fees. On September 16, 2010, ILS submitted the proposed revised retainer agreement to OCE for approval. On September 29, OCE submitted comments suggesting additional language to be added to the proposed revised retainer agreement.²⁶ OCE's comments regarding the retainer agreement were forwarded to the ILS manager's subcommittee for further action. The revised retainer agreement incorporating OCE's comments was resubmitted to OCE for approval. A copy of the proposed revised retainer agreement, as submitted in September is attached with the comments as Appendix M.

6. Maintain copies of all letters for contributors over \$250 to fully evidence its compliance with 45 CFR § 1610.5.

In response to the DR, ILS stated that ILS accepts this recommendation. According to ILS, it routinely sends thank you letters, signed by the Executive Director, to all contributors regardless of the contribution amount. Each letter to a contributor making a contribution of over \$250 includes the following statement:

“Your contribution is subject to the restriction and prohibitions found in 45 CFR Part 1610 which governs Legal Services Corporation (LSC) funds and organizations that receive LSC funds such as Indiana Legal Services, Inc. (ILS). IRS tax regulations require that each contribution of \$250 or more be acknowledged with a receipt. ILS is a registered 501C (3), not-for-profit organization; your contribution to ILS is tax deductible. This letter serves as your receipt for tax purposes and also serves as verification that ILS did not provide any goods or services to you as a consideration for your contribution.”

Copies of these thank you letters have been and will continue to be maintained by ILS to fully evidence its compliance with 45 CFR § 1610.5.

7. Require new employees to sign an acknowledgement that they have reviewed the New Employee Packet.

In response to the DR, ILS stated that ILS accepts this recommendation. According to ILS, as a matter of ILS' policy, each new ILS employee is given a New Employee Packet. The Packet included a checklist identifying each of the separate materials included in the Packet. Language was added to the Payroll and Benefit Form Checklist that now requires each new employee to

²⁶ On September 29, 2010, ILS was advised that the submitted retainer was not compliant because it did not document the legal issue sought as required by 45 CFR § 1611.9. On October 12, 2010, ILS submitted a second version of the revised retainer. OCE advised ILS, on October 12, 2010, that the submitted retainer was compliant with 45 CFR § 1611.9.

sign an acknowledgment that she/he has received and reviewed the New Employee Packet. A copy of the revised checklist form is attached with the comments to the DR as Appendix N.

8. Make improvements to its segregation of duties and internal controls in the following areas: journal entries should be reviewed by the Director of Administration; trial balances should be reviewed by the Director of Administration; bank statements should be opened by someone other than the person preparing the bank reconciliation; and all invoices should be stamped paid to avoid duplicate payments.

In response to the DR, ILS stated that ILS accepts this recommendation. According to ILS, journal entries are now being reviewed and the reports initialed by the Director of Administration (DOA). The DOA now reviews an electronic version of the monthly trial balance. The DOA now opens all bank statements before they are forwarded to the Controllers for reconciliation.

ILS further states that the administration secretary who collates the accounts payable checks and documentation is now stamping "Paid" on all paid invoices, in addition to maintaining a copy of the payment checks with the invoices as has been done in the past.

9. Standardize its PAI policies and procedures to the fullest extent possible while still accounting for varying local practices in the different jurisdictions. Further, it is strongly recommended that ILS provide training to all staff on case oversight, including proper coding of the case as staff or PAI, accurate selection of case closing codes, and timely case closure to ensure PAI issues do not arise in the future.

In response to the DR, ILS stated that ILS accepts LSC's recommendation regarding intake and referral of pro-bono cases. According to ILS, to the extent feasible, notwithstanding the differences in local practice around Indiana and the 14 judicial district pro-bono plans approved by the Indiana Pro Bono Commission, ILS will standardize its treatment of intake and referral of applicants to pro bono plan administrators to conform to the intake policies, procedures and protocols of cases that are handled by ILS staff. In those cases when ILS provides advice prior to the referral of the client to a pro bono plan administrator, ILS will develop organization-wide policies to standardize case oversight to ensure the proper case coding as a staff or PAI case, accurate selection of case closing codes, timely case closure and deselection of cases ineligible for CSR reporting. The ILS staff training, referenced in response to Corrective Action 4, will include directives on these standardized PAI intake and case oversight policies.

10. Provide additional training on proper documentation of legal assistance in conjunction with the trainings required by the corrective actions below.

In response to the DR, ILS stated that it accepts this recommendation. According to ILS, the ILS training, referenced in response to Corrective Action 10, will include additional training on the proper documentation of the level of the legal assistance provided to the clients in both staff and PAI cases.

V. REQUIRED CORRECTIVE ACTIONS

Consistent with the findings of this report, ILS is required to take the following corrective actions:

1. To the extent they are not duplicated in the corrective actions below, ensure that all outstanding Corrective Actions of the 2006 Final Report are fully implemented.

In response to the DR, ILS stated that it has undertaken efforts to fully implement all corrective actions set forth in the 2006 Final Report and any additional issues identified during the April 2010 onsite FUR.

2. Provide training regarding proper coding of both staff and PAI cases, including accurate deselection of cases ineligible for CSR reporting, in its CMS. Such training should include a directive that information in the case file must match information in the CMS. The training must occur within 2 months following receipt of the Final Report and must include all intake staff and staff with case coding responsibilities. The program must provide a copy of the training agenda and copies of signed staff attendance sheets to OCE within 2 weeks of the conclusion of the training. It is within the program's discretion to combine this training with the training on intake issues noted below or hold an entirely separate training.

In response to the DR, ILS stated that ILS' management subcommittee had undertaken to develop intake protocols, later referenced in response to recommendation 3, which will direct intake staff to select "LSC funding" and "LSC reportable" boxes at the conclusion of the case. The standard closing checklist, later referenced in response to recommendation 1, will further assist in the proper coding of staff and PAI closed cases and deselection of cases, when appropriate.

ILS further stated that ILS is currently developing and will conduct training on the proper coding and deselection of cases for all intake staff and staff with case closing responsibilities. ILS plans to record the training program for later use by staff and volunteers. The recording will be posted to the private side of the ILS website as a video and each office will have a training DVD. ILS will submit a copy within 2 weeks of the conclusion of the training, all of which will be completed no later than 2 months following receipt of the Final OCE Report.

3. Ensure that all non-standard intake forms are discontinued and enforce the use of the standard ILS intake form that fully articulates program eligibility policies.

In response to the DR, ILS stated that on July 16, 2010, it submitted a proposed draft standardized paper intake form for LSC approval. On August 4, OCE approved the submitted form. On August 5, ILS' Executive Director issued a directive memo to all staff mandating the use of the form and the discontinuance of all non-standard paper intake forms. The approved intake form and the Executive Director's memo are attached to the ILS' comments to the DR. According to ILS, management will continue to monitor use of the new form to ensure compliance with the Executive Director's directive and to recommend any appropriate modifications to the standardized form that may become apparent during its use.

4. Review its intake policies, procedures, and forms to ensure they comport with all intake-related findings contained within the instant Draft Report and provide additional training(s) for all staff, not simply intake staff, regarding ILS's standard intake policies, procedures, and forms no later than 2 months following receipt of LSC's Final Report. The training(s) should include a directive that staff is required to use ILS' standard paper intake form for all intake screenings except those entered directly into the CMS. One month after any revisions to and training on the program's standard intake policies, procedures, and forms is completed, the program should provide OCE with a memorandum detailing such revisions and include copies of signed staff attendance sheets from the training(s). The memorandum should also include a section specifying plans to standardize the training for all volunteers that are used for intake. As an attachment to the memorandum, ILS must also provide a plan detailing what specific and periodic oversight executive management will undertake to ensure that intake staff and managing attorneys understand and will properly implement the program's standard intake policies, procedures, and forms. The plan must include a preliminary schedule of physical visits to all field offices by ILS executive management within a year from the date of the memorandum to ensure compliance with program directives regarding its standard intake policies, procedures, and forms.

Also, ILS stated that ILS has formed a new intake committee composed of case handlers and intake paralegals. Committee membership will be determined by proficiency and skill in conducting intake interviews and knowledge of the ILS intake policies, procedures and forms. The committee will be charged with the responsibility of reviewing ILS' existing policies, procedures and forms to ensure that they comport with all intake related findings in the DR. According to ILS within one month following the intake training, ILS will provide OCE with copies of the signed staff attendance sheets and a memorandum detailing any revisions to ILS intake policies, procedures and forms and the training on such revisions. The memorandum will include plans to standardize the training for all volunteers that are used for intake. The memorandum will include a plan detailing the periodic specific management oversight of all intake staff and managing attorneys to ensure that they understand and will properly implement ILS's policies, procedures and forms. The oversight plan will also include a schedule of visits to all ILS branch offices by the Executive Director or his designee within a year form the date of the memorandum to ensure compliance with the program directives or standardized intake.

In addition, ILS advised that the staff training will include the actions and directives taken by ILS in response to Corrective Actions 5 (standard intake form), 6 (applicants' income prospects), 7 (consistent use of the standard intake form), and 8 (attestation of citizenship or documentation verifying the eligible alien status) and recommendations 2 (standardized intake training for volunteers), 4 (group client intake forms with procedures and protocols), and 9 (standardized PAI intake and case oversight policies). This training will also be recorded for later use by staff and volunteers similar to the practice referenced in response to corrective action 2.

5. Mandate use of its standard intake form for all intake screenings except those entered directly into the CMS and provides training to all intake staff on consistent use of the standard intake form in reference to ILS' income eligibility policy, including its over-income case acceptance

policy and procedures. Such training should be included when performing the training required in Corrective Action 4.

In response to the DR, ILS stated that, as indicated in response to Corrective Action 3, ILS has already mandated the use of the standard intake form by all staff. As indicated in response to Corrective Action 4, ILS will provide training to all intake staff to ensure consistent use of the standard intake form in all ILS offices. The training will specifically address the application of the ILS' eligibility policy, including its over-income case acceptance policy.

6. Update its intake policy to reflect that intake staff must inquire as to an applicant's income prospects and provide training to intake staff regarding the same. Training on prospective income screening should be included when performing the training required in Corrective Action 4.

Also, in response to the DR, ILS stated that ILS' Eligibility Rule II.A.1 states in part, that "Future income is to be projected on the basis of the applicant's reasonable expectation of future income." 45 CFR § 1611.7(a) and LSC Advisory Opinion -2009-1006 require ILS to make a reasonable inquiry into the income prospects of each applicant for legal assistance. ILS' Eligibility rule II.A.1 complies with the requirements of the regulation and the interpretation of the regulation as found in the Advisory Opinion. Finding 4 of the DR identified certain intake staff that did not inquire as to the income prospects of an applicant. The LSC-approved ILS standard intake form now states, "Do you have any employment prospects or do you anticipate income in the near future"? And, if the applicant has no income, there is a follow up question, "How are you living from one day to the next?" The applicant's responses to these questions are to be entered in "File Facts" in Legal Files. The intake protocols will require intake staff to ask, as suggested by A0-2009-1006, "Do you have any reason to believe that your income is likely to change significantly in the near future?" ILS will provide training, referenced in response to Corrective Action 4, that intake staff must inquire as to the applicant's income prospect as a part of the income screening process.

7. Provide training to all intake staff on consistent use of the standard intake form in reference to ILS' eligibility policy. Such training should be included when performing the training required in Corrective Action 4.

In response to the DR, ILS stated that as indicated in responses to Corrective Action 4, ILS will provide training to all intake staff to ensure consistent use of the standard intake form in all ILS offices.

8. Provide training regarding citizenship/alien eligibility and oversight field office progress in fulfilling citizenship/alien eligibility requirements. Such training should be included when performing the training required in Corrective Action 4.

In response to the DR, ILS stated that staff training, referenced in Corrective Action 4, will address 45 CFR Part 1626 which requires all applicants to provide written attestation of their citizenship or documentation verifying the eligible alien status of the applicant. ILS management will monitor compliance with this requirement on an ongoing basis.

9. Remove the Kennedy Amendment as a reason to deselect cases from the program's CSRs in the CMS to ensure that all, otherwise CSR-reportable, Kennedy Amendment cases are properly reported to LSC.

Also, in response to the DR, ILS advised that while virtually all staff knew the Kennedy Amendment cases were reportable to LSC, Legal Files continued to list "Kennedy Amendment" as a reason to deselect such cases as LSC reportable. During the FUR, the OCE Team Leader called attention to the fact that Legal Files mistakenly permitted Kennedy Amendment cases to be deselected for that reason alone. That oversight was immediately corrected on April 15, 2010. During the OCE visit, the Kennedy Amendment option was removed from the Legal Files "Eligibility non-reportable" pick-list. Attached to the comments to the DR, as Appendix B, is a screen shot of the current Legal Files "Eligibility non-reportable" pick-list which indicates the removal of the Kennedy Amendment option.

10. Provide training and continued oversight as to correct use of closing codes consistent with CSR Handbook (2008 Ed.), Chapters VIII and X. Training on closing codes should be completed by the program no later than 2 months following receipt of the Final Report. The training must include all staff charged with case closing responsibilities and the program must provide a copy of the training agenda and copies of signed staff attendance sheets to OCE within 2 weeks of the conclusion of the training. It is within the program's discretion to combine this training with the training on intake issues noted above or hold an entirely separate training. ILS is further required to review all closed 2010 staff and PAI cases prior to its 2010 CSR submission to ensure that the closing codes selected accurately reflect the level of legal assistance provided.

In response to the DR, ILS complied with Corrective Action 7 from the 2006 OCE Final Report requiring the program to provide staff training on the CSR Handbook closing codes. Since the issuance of the 2006 Final Report, LSC has issued the revised CSR Handbook (2008 Ed.). The ILS South Bend Office Managing Attorney attended the 2008 CSR Handbook training in Chicago. The Managing Attorney then returned to the program to conduct an organization-wide CSR Handbook training which addressed the new closing codes. Each office had a CSR Handbook responsible person designated to handle each office's questions about the new CSR Handbook. LSC also offered to provide CSR Handbook training to ILS. ILS accepted the offer and requested LSC's assistance with training. While that training has not yet been provided by LSC, ILS was informed that OCE has approved a CSR Handbook webinar training for ILS staff.

Also, ILS stated in its response that the Committee on Dormancy and Untimeliness (CODAU) report, later referenced in Corrective Action 11, addresses the ILS plan to review all 2010 closed cases prior to ILS' 2010 CSR submission, to ensure proper case closing codes. The CODAU report also addresses the need for continued oversight because training alone will not eliminate the closing code problem. The CODAU plan is attached to the comments to DR as Appendix C.

11. Take the following corrective measures in reference to dormancy/untimely case closure:

- a. Direct each field office/substantive unit to complete a review of its open cases to identify and administratively close all dormant cases so they are not reported in future CSRs. This open case review must be completed no later than 2 months after receipt of

LSC's Final Report. Upon completion, ILS must submit a written certification to the Director of the Office of Compliance and Enforcement that all dormant cases have been eliminated from its case lists and marked for deselection from future program CSRs.

b. Direct each field office/substantive unit to complete a review of all 2010 closed cases to identify and deselect any untimely closed cases prior to the CSR to be submitted in 2011. This closed case review must be completed no later than December 31, 2010. Upon completion, ILS must submit a written certification to the Director of the Office of Compliance and Enforcement that all untimely closed cases have been eliminated from its case lists and marked for deselection from future program CSRs.

c. Create and implement a plan to oversight dormancy and untimely case closure in all ILS field offices/substantive units. Such plan should be included in the program's comments to the instant Draft Report.²⁷

d. Provide training to staff regarding timely case closure parameters within 2 months following receipt of the Final Report. The training must include all staff charged with case oversight responsibilities (including managing attorneys, case handlers, and other staff that oversight or close cases) and the program must provide a copy of the training agenda and copies of signed staff attendance sheets to OCE within 2 weeks of the conclusion of the training. It is within the program's discretion to combine this training with the training on intake issues noted above or hold an entirely separate training.

In response to the DR, ILS created an ad-hoc management committee, the Committee on Dormancy and Untimeliness (CODAU), to address the corrective measures identified in this portion of the report. CODAU submitted a plan to appropriately respond to this corrective action. The CODAU plan was approved on September 15, 2010 and is incorporated herein by reference. The CODAU plan is comprehensive and addresses Corrective Action 11(a), (b) & (c).

ILS advised that the CODAU plan does not specifically address training {Corrective Action 11(d)}. The training to address timely case closing parameters will be combined with the CSR Handbook training, referenced in response to Corrective Action 10. The training will include all staff charged with case oversight responsibilities as designated in the CODAU plan. ILS will submit a copy of the training agenda and signed staff attendances sheets to OCE within 2 weeks of the conclusion of the training.

ILS will also submit a written certification (as that term is clarified in the letter attached to the comments to the DR as Appendix D) to the Director of OCE that all dormant cases and untimely closed cases have been eliminated from our cases lists and marked for deselection from future program CSRs.

²⁷ For example, the plan might include a review of all open cases without a time entry for the past 6 months with managing attorneys (or other designated staff) reviewing such identified case files for follow-up. The plan must also include a method by which to eliminated untimely closed cases from the program's CSRs.

12. Provide its basis for characterizing the law school clinic as PAI in its comments to the instant Draft Report. In addition, the program should provide a description of its planned efforts to fully oversight law school clinic cases, including what methods are in place to ensure proper intake screening, supervision of legal assistance, and case closing.

In response to the DR, ILS stated that that as noted in Finding 17 cases referred by the ILS Indianapolis branch office to the Indiana University's Law Clinic are treated by ILS as a pro bono component of the LSC 12.5% PAI regulatory requirement. Page 31 of the DR states, "there is no private attorney involvement as contemplated by 1614.2(a) since the three (3) attorneys hired by the law school clinic are full-time staff attorneys and have no private attorney law practice". ILS respectfully disagrees with this aspect of Finding 17. 45 CFR Part 1614 requires funds to be made available to encourage the involvement of private attorney in the delivery of legal assistance to eligible clients through compensated and pro-bono mechanisms. Private attorney is defined in 45 CFR § 1614.1(d) as an attorney who is not a staff attorney. ILS refers clients to the Clinic for direct delivery of legal assistance to eligible clients as required by 45 CFR § 1614.3, which outlines the required range of activities describing private attorney involvement. The Clinic's cases are closed as ILS cases and reportable to LSC. When services are provided to clients by the Clinic, the law students are supervised by clinical professors who are private attorneys, as defined in 45 CFR 1614.1(d), because they are not staff attorneys. Law professors who supervise students in a clinical setting must be lawyers. Staff attorney is defined in 45 CFR § 1600.1 as "attorney more than half of whose annual professional income is derived from the proceeds of a grant form (LSC)..." The Clinical professors are not staff attorneys within the definition of 45 CFR 1600.1 since their income is derived from the law school, not ILS' LSC funds. The Clinic further serves the law school's inspirational goal that all laws students should engage in a variety of pro bono activities, including clinical activities, prior to law school graduation. The purpose of 45 CFR Part 1614 is to make ILS more resourceful and the Clinic allows ILS to provide services to additional clients. LSC agreed with ILS' comments and modified the finding accordingly.

On August 20, 2010, the ILS Indianapolis office Managing Attorney met with the Civil Law Clinic professors from Indiana University- Indianapolis School of Law. The meeting was held to address Corrective Action 12 requiring ILS to develop a plan to fully oversight Clinic cases. The parties developed and agreed to the process described in the "Plan to Fully Oversight Law School Clinic Cases," attached to the comments to the DR as Appendix E.

13. Implement measures to ensure attorneys and paralegals report their PAI time contemporaneously.

In response to the DR, ILS stated that the regulation (45 CFR § 1614.3(e)(i)) regarding private attorney involvement requires "...any direct or indirect time of staff attorneys or paralegals...to be allocated as a cost to PAI, such costs must be documented by time sheets accounting for the time those employees have spent on PAI activities." The OCE site visit team's review of program documentation revealed that ILS attorney and paralegals record their actual PAI time and such time specific to PAI activities. ILS case handlers enter their PAI time into a Legal Files "Activity pick-list with 20 separate PAI activity options. While ILS PAI timekeeping now accurately documents PAI activities as required by 45 CFR § 1614.3(e)(i), ILS still needs to

ensure that such recorded time is contemporaneously entered. On August 17, 2010, ILS reissued its timekeeping memo of April 15, 2005 detailing the specifics of the contemporaneous timekeeping for ILS case handlers including that of PAI timekeeping, a copy of which is attached with the comments to the DR as Appendix F. The requirements for contemporaneous timekeeping will also be included as part of the other staff training described in this response. ILS currently has a "PAI Time Charged" report in Legal Files which documents PAI activities for accounting purposes. The ILS Database Administrator will be directed to create a new Legal Files report that will identify PAI time entries that were not contemporaneously entered. With this new report, the administration secretary will identify, on a weekly basis, case handlers with PAI time entries that were not entered contemporaneously. The administration secretary will then contact case handlers deficient in their contemporaneous PAI timekeeping responsibilities along with their supervisors and will remind them of the necessity to enter time contemporaneously. Each time a deficiency is noted for a case handler, a notation will be placed in the case handler's personnel file documenting continued oversight on this issue. The administration secretary will inform the Executive Director and the supervisor if the case handler is contacted about contemporaneous timekeeping deficiencies three (3) times in a quarter of the calendar year. The supervisor will immediately institute the appropriate disciplinary action pursuant to the ILS Grievance and Disciplinary Policies when the case handler is cited for such timekeeping deficiencies.

14. Exclude all non-related PAI expenses in its overall calculation and include all PAI related expenses in the overall PAI calculation (all non-LSC and LSC-related expenses).

In response to the DR, ILS advised that it has revamped its PAI cost allocation worksheet to now include direct and indirect allocations for the Pro Bono District staff housed in ILS branch offices. The worksheet now excludes indirect allocation of travel, litigation or staff training/conference expenses. The allocation process has been simplified so that direct personnel PAI expenses are divided by total organization personnel expenses by a factor to be applied to no-direct costs. Enclosed with the comments to the DR, as Appendix G, is the summary page from the January 2010 through July 2010 PAI worksheet.

15. Submit documentation to LSC that it has credited its LSC account in the amount of \$100 for an incorrect payment of a non-mandatory membership using LSC funds.

In response to the DR, ILS stated that, as of September 14, 2010, ILS credited its LSC account in the amount of \$100, using ILS's general fund, for the mistaken payment of membership dues using LSC funds. Going forward, all membership dues will be paid from the ILS general fund. Enclosed with the comments to the DR, as Appendix H, is a journal entry batch #002843 documenting the credit of \$100.

16. Instruct its independent auditor that all subgrant agreement(s) must be noted in all future ILS' audited Financial Statements.

In response to the DR, ILS stated that, in a letter dated September 2, 2010, a copy of which is enclosed with the comments to the DR as Appendix I, the ILS Controller contracted the ILS auditing firm, Blue & Co., and provided them with the language of Corrective Action 16. The

Controller informed Blue and & Co. that the Marion County Bar Association sub-grant agreement, approved by LSC for 2008, was not separately noted in the 2008 audited Financial Statement, but rather was included in the Private Attorney Involvement column of the Statement of Activities in compliance with standard accounting practices. ILS has not had a subgrant agreement since 2008. The letter to Blue & Co., by reference to Corrective Action 16, provides the necessary instruction to the ILS auditors that any future sub-grants must be expressly noted in future ILS audited Financial Statements.

17. Submit documentary evidence to LSC in its comments to the Draft Report that it has credited its LSC account in the amount of the credit card finance charges and late fees in 2008 and 2009.

In response to the DR, ILS stated that, as of September 14, 2010, ILS credited its LSC account in the amount of \$842.42, using ILS' general funds, for the mistaken payment of credit card finance charges, late fees and other fees in 2008 and 2009 using LSC funds. Attached with the comments to the DR, as Appendix J, is the journal entry batch #002809 documenting the credit of \$842.42.

18. Implement and enforce a timekeeping policy that requires all case handlers to account for a 7.5 hour workday using contemporaneously created time records.

LSC withdraws this Corrective Action item and accepts ILS' explanation for disagreement with this item.

In response to the DR, ILS stated that as noted in Finding 20 on page 35 of the draft OCE report, "the program is required to implement and enforce a timekeeping policy that requires all case handlers to account for a 7.5 hour workday using contemporaneously created time records." ILS respectfully disagrees with the 7.5 hour workday aspect of Finding 20. Regulation 45 CFR Part 1635 addresses the requirements of LSC timekeeping. The regulation does not address what constitutes a workday. ILS personnel Manual Article 4.01 establishes that an ILS workweek consists of 37.5 hours a week." Article 5.02 states that exempt employees are expected to put in a "minimum work effort of 37.5 hours per week. The United States Department of Labor has issued guidelines, based on Fair Labor Standards Act (FLSA), regarding what constitutes a workweek and minimum wage compliance. The FLSA Guidelines define a workweek as "seven consecutive, regular, recurring, 24 hour periods, totaling 168 hours (and) is the unit of time used for determining minimum wage compliance. The computation and recording of hours worked should be done on a workweek basis..." The April 15, 2005 timekeeping memo, attached with the comments to the DR as Appendix F, referenced the time records required to be compensated with LSC funds. That memo states that case handlers are compensated on the basis of a 7.5 hour workday and such time records must reflect "37.5 hours of time spent each week on cases, matters, support activities and/or leave time..." The 2005 timekeeping memo further states that "it is acceptable to have some days less than 7.5 hours so long as your total for the week sums to 37.5 hours." Based on the advice of outside counsel, each ILS worksheet begins on Sunday 12:00 am and ends on Saturday 11:59 pm. ILS work time may be accounted for at any time within that 168 workweek

ILS currently has a "Time Records List" report in Legal Files which documents all time entries on a daily basis. The ILS Database Administrator will be directed to create a new Legal Files report that will identify time entries from the "Time Records List" that were not contemporaneously entered. With this new report, the administration secretary will identify, on a weekly basis case handlers with time entries that were not enter contemporaneously. The administration secretary will then contact case handlers who are deficient in their contemporaneous timekeeping responsibilities along with their supervisors and will remind them of the necessity to enter time contemporaneously. The administration secretary will inform the Executive Director and the supervisor if the case handler is contacted about contemporaneous timekeeping deficiencies three (3) times in any quarter of the calendar year. The supervisor will immediately institute the appropriate disciplinary action pursuant to the ILS Grievance and Disciplinary Policies when the case handler is cited for such timekeeping deficiencies.

19. Implement controls to ensure part-time case handlers timely sign and submit their quarterly certifications.

In response to the DR, ILS advised that it understood that part-time case handlers had to certify on a quarterly basis that they did not engage in restricted activities when they were employed in their other part-time capacity by an organization engaged in such activities. To the best of our knowledge and belief, none of the ILS part-time case handlers engage in such activities. However, ILS now understands that LSC interprets 45 CFR § 1635.3(d) to mean that any outside employment needs to be reported and employment by an outside law firm is deemed to be such an organization. Consequently, on September 21, 2010, ILS mandated the use of the LSC certification form, as posted to the LSC website, effective October 1, 2010 and each quarter thereafter. Each quarter, the Executive Director will send all part-time case handlers a reminder to complete the certification form. A current list of part-time case handlers will be provided by the Controller to the Executive Director for use when notifying the part-time case handlers. The signed certification forms will be sent to the Executive Director and retained in each part-time case handler's personnel file.

20. Inform its auditors to separately report any offsetting liability in the Client Trust Fund account on all future Statements of Financial Position.

In response to the DR, ILS stated that, in a letter dated September 2, 2010, a copy of which is attached with the comments to the DR as Appendix I, the ILS controller contacted the ILS auditing firm, Blue & Co., and informed them of Corrective Action 20. The Controller instructed that the ILS future audited Statements of Financial Position should break out any offsetting liability in any ILS Client Trust Fund account.



Indiana Legal Services, Inc.

NORMAN P. METZGER, EXECUTIVE DIRECTOR
JOSEPH E. SIMPSON, DIRECTOR OF ADMINISTRATION

BOARD OFFICERS:

Carolyn Barlow, President
Sandra D. Leek, 1st Vice President
Jennifer Sommer, 2nd Vice President
Mark Dinsmore, Treasurer
Mary Pondrasi, Secretary
Norman P. Metzger, Assistant Secretary

September 30, 2010

Mr. Danilo A. Cardona, Director
Office of Compliance and Enforcement
Legal Services Corporation
3333 K Street NW, Third Floor
Washington, DC 20007-3522

**RE: Office of Compliance & Enforcement (OCE) Follow-up Review (FUR) Visit: April 12 – 16, 2010
Indiana Legal Services, Inc. (ILS) – Recipient No. 515030
Response to Draft OCE FUR Report, dated June 29, 2010**

Dear Mr. Cardona:

The Indiana Legal Services, Inc. (ILS) Board of Directors Executive Committee met on September 29, 2010 by telephone conference call to review the ILS response to the draft OCE FUR report. The Executive Committee approved the response and authorized its submission to you.

Thank you for the thorough review of our program. My Board will take all of the necessary steps to ensure the implementation of your corrective actions and recommendations.

Sincerely,

Carolyn Barlow
President, Board of Directors
Indiana Legal Services, Inc.



OFFICE OF ADMINISTRATION
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Indianapolis, Indiana 46204
Phone (317) 631-1395 FAX (317) 631-9773
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Indiana Legal Services, Inc.

NORMAN P. METZGER, EXECUTIVE DIRECTOR
JOSEPH E. SIMPSON, DIRECTOR OF ADMINISTRATION

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Norman P. Metzger, Assistant Secretary

September 30, 2010

Mr. Danilo A. Cardona, Director
Office of Compliance and Enforcement
Legal Services Corporation
3333 K Street NW, Third Floor
Washington, DC 20007-3522

**RE: *Legal Services Corporation (LSC) Office of Compliance & Enforcement (OCE)
Follow-up Review (FUR) Visit: April 12 – 16, 2010
Indiana Legal Services, Inc. (ILS) – Recipient No. 515030
Response to Draft OCE FUR Report, dated June 29, 2010***

Dear Mr. Cardona:

I am writing to provide you with our comments to the above-referenced draft report. Thank you for extending the deadline to respond to the draft OCE report to September 30, 2010. As requested, I am providing you with a summary of the actions taken by ILS in response to the directives in the report and the necessary documentation in accordance with the timelines delineated in the report. I appreciate your offer to make the good offices of OCE available as a resource to ILS regarding compliance-related issues. Finally, I wish to thank you for the professional manner in which Ms. Vasagam and her team conducted themselves during the FUR visit.

The following comments are directed to the corrective actions and recommendations in the draft report in the same sequence as they appear in the report.

REQUIRED CORRECTIVE ACTIONS:

1. ILS has undertaken efforts to fully implement all corrective actions set forth in the 2006 Final Report and any additional issues identified during the April 2010 on-site FUR as more fully discussed in the responses to corrective actions #2 – 20 below.
2. An ILS management subcommittee has undertaken to develop intake protocols, later referenced in response to recommendation #3, which will direct intake staff to select 'LSC funding' and 'LSC reportable' boxes at the conclusion of the case. The standard closing checklist, later referenced in response to recommendation #1, will further assist in the proper coding of staff and PAI closed cases and deselection of cases, when appropriate.



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ILS is currently developing and will conduct training on the proper coding and deselection of cases for all intake staff and staff with case closing responsibilities. ILS plans to record the training program for later use by staff and volunteers. The recording will be posted to the private side of the ILS web site as a video and each office will have a training DVD. ILS will submit a copy of the training agenda and signed staff attendance sheets to OCE within 2 weeks of the conclusion of the training, all of which will be completed no later than 2 months following receipt of the Final OCE Report.

3. On July 16, 2010, I submitted a proposed draft standardized paper intake form for your approval. On August 4, you approved the form as submitted. On August 5, I issued a directive to all staff mandating the use of the form and the discontinuance of all non-standard paper intake forms. I've enclosed the LSC-approved standardized intake form and my August 5 directive memo as **Appendix A**. ILS management will continue to monitor use of the new form to ensure compliance with my directive and to recommend any appropriate modifications to the standardized intake form that may become apparent during its use.
4. ILS has undertaken to form a new intake committee composed of case handlers and intake paralegals. Committee membership will be determined by their proficiency and skill in conducting intake interviews and knowledge of the ILS intake policies, procedures and forms. The committee will be charged with the responsibility of reviewing ILS's existing policies, procedures and forms to ensure that they comport with all intake-related findings in the draft OCE report. The committee will be asked to include in their review the requirements of the new LSC-approved standard paper intake form and collaborate with the managers' subcommittee developing intake protocols.

The intake committee will also be charged with responsibility for providing training for all staff regarding ILS standard intake policies and procedures including revisions resulting from the draft OCE report's corrective actions and recommendations. The intake training will occur no later than 2 months following receipt of the Final OCE Report. Within 1 month following the intake training, ILS will provide OCE with copies of the signed staff attendance sheets and a memorandum detailing any revisions to ILS intake policies, procedures and forms and the training on such revisions. The memorandum will include plans to standardize the training for all volunteers that are used for intake. The memorandum will include a plan detailing the periodic specific management oversight of all intake staff and managing attorneys to ensure that they understand and will properly implement ILS's policies, procedures and forms. The oversight plan will also include a schedule of visits to all ILS branch offices by the Executive Director or his designee within a year from the date of the memorandum to ensure compliance with the program directives on standardized intake.

The staff training will include the actions and directives taken by ILS in response to corrective actions #5 (standard intake form), #6 (applicants' income prospects), #7 (consistent use of the standard intake form), and #8 (attestation of citizenship or documentation verifying the eligible alien status) and recommendations #2 (standardized intake training for volunteers), #4 (group client intake form with procedures and protocols), and #9 (standardized PAI intake and case oversight policies). This training will also be recorded for later use by staff and volunteers similar to the practice referenced in response to corrective action #2.

5. As indicated in response to corrective action #3, ILS has already mandated the use of the standard intake form by all staff. As indicated in response to corrective action #4, ILS will provide training to all intake staff to ensure consistent use of the standard intake form in all ILS offices. The training will specifically address the application of the ILS eligibility policy, including its over-income case acceptance policy.
6. ILS Eligibility Rule II.A.1 states, in part, that, "Future income is to be projected on the basis of the applicant's reasonable expectation of future income." 45 CFR §1611.7(a) and LSC AO-2009-1006 require ILS to make a reasonable inquiry into the income prospects of each applicant for legal assistance. ILS Eligibility Rule II.A.1 complies with the requirements of the regulation and the interpretation of the regulation as found in the Advisory Opinion. Finding #4 of the OCE report identified certain intake staff that did not inquire as to the income prospects of an applicant. The LSC-approved ILS standard intake form now states, "'Do you have any employment prospects or do you anticipate income in the near future?' And, if the applicant has no income, there is a follow up question, 'How are you living from one day to the next?' The applicants' responses to these questions are to be entered in 'File Facts' in Legal Files. The intake protocols will require intake staff to ask, as suggested by AO-2009-1006, "Do you have any reason to believe that your income is likely to change significantly in the near future?" ILS will provide training, referenced in response to corrective action #4, that intake staff must inquire as to the applicants' income prospects as a part of the income screening process.
7. As indicated in responses to corrective action #4, ILS will provide training to all intake staff to ensure consistent use of the standard intake form in all ILS offices.
8. The staff training, referenced in corrective action #4, will address 45 CFR 1626 which requires all applicants to provide written attestation of their citizenship or documentation verifying the eligible alien status of the applicant. ILS management will monitor compliance with this requirement on an ongoing basis.

9. While virtually all staff knew that Kennedy Amendment cases were reportable to LSC, Legal Files continued to list 'Kennedy Amendment' as a reason to deselect such cases as LSC reportable. During the FUR visit, Ms. Vasagam called attention to the fact that Legal Files mistakenly permitted Kennedy Amendment cases to be deselected for that reason alone. That oversight was immediately corrected on April 15, during the visit. The Kennedy Amendment option was removed from the Legal Files 'Eligibility non-reportable' pick-list. Enclosed as **Appendix B** is a screen shot of the current Legal Files 'Eligibility non-reportable' pick-list which indicates the removal of the Kennedy Amendment option.
10. ILS complied with corrective action #7 from the 2006 OCE Final Report requiring the program to provide staff training on the CSR Handbook closing codes. Since 2006, LSC issued its revised 2008 CSR Handbook. The ILS South Bend office Managing Attorney attended the 2008 CSR Handbook training in Chicago. She then returned to the program to conduct an organization-wide CSR Handbook training which addressed the new closing codes. Each office had a CSR Handbook responsible person designated to handle each office's questions about the new CSR Handbook. LSC also offered to provide CSR Handbook training to ILS. ILS accepted the offer and requested LSC's assistance with the training. While that training has not yet been provided by LSC, I am now informed OCE has approved a CSR Handbook webinar training for ILS staff. LSC staff member and OCE site visit team member, David de la Tour, will lead the webinar training.

Following the LSC webinar training and no later than 2 months following receipt of the Final OCE Report, ILS will conduct further CSR Handbook training for all staff with case closing responsibilities. ILS plans to record the training for later use by staff and volunteers. The recording will be posted to the private side of the ILS web site as a video and each office will have a training DVD. ILS will submit a copy of the training agenda and signed staff attendance sheets to OCE within 2 weeks of the conclusion of the training.

The Committee on Dormancy and Untimeliness (CODAU) report, later referenced in corrective action #11, addresses the ILS plan to review all 2010 closed cases, prior to ILS's 2010 CSR submission, to ensure proper case closing codes. The CODAU report also addresses the need for continued oversight because training alone will not eliminate the closing code problem. The CODAU plan is enclosed as **Appendix C**.

11. ILS created an ad hoc management committee, the Committee on Dormancy and Untimeliness (CODAU), to address the corrective measures identified in this portion of the report. CODAU submitted a plan to appropriately respond to this corrective action. The CODAU plan was approved on September 15, 2010 and is incorporated herein by reference, enclosed as **Appendix C**. The CODAU plan is comprehensive and addresses corrective action #11(a), (b) & (c).

The CODAU plan does not specifically address training [corrective action #11(d)]. The training to address timely case closing parameters will be combined with the CSR Handbook training, referenced in response to corrective action #10. The training will include all staff charged with case oversight responsibilities as designated in the CODAU plan. ILS will submit a copy of the training agenda and signed staff attendance sheets to OCE within 2 weeks of the conclusion of the training.

ILS will also submit a written certification (as that term is clarified in the letter attached as **Appendix D**) to the Director of OCE that all dormant cases and untimely closed cases have been eliminated from our case lists and marked for deselection from future program CSRs.

12. As noted in Finding #17, cases referred by the ILS Indianapolis branch office to the Indiana University's Law Clinic are treated by ILS as a pro bono component of the LSC 12.5% PAI regulatory requirement. Page 31 of the draft OCE report states, "...there is no private attorney involvement as contemplated by 1614.2(a) since the three (3) attorneys hired by the law school clinic are full-time staff attorneys and have no private attorney law practice." ILS respectfully disagrees with this aspect of Finding #17. 45 CFR 1614 requires funds to be made available to encourage the involvement of private attorneys in the delivery of legal assistance to eligible clients through compensated and pro bono mechanisms. Private attorney is defined in §1614.1(d) as "an attorney who is not a staff attorney." ILS refers clients to the Clinic for direct delivery of legal assistance to eligible clients as required by 45 CFR §1614.3, which outlines the required range of activities describing private attorney involvement. The Clinic's cases are closed as ILS cases and reportable to LSC. When services are provided to clients by the Clinic, the law students are supervised by clinical professors who are private attorneys, as defined in §1614.1(d), because they are not staff attorneys. Law professors who supervise students in a clinical setting must be lawyers. Staff attorney is defined in 45 CFR §1600.1 as "an attorney more than half of whose annual professional income is derived from the proceeds of a grant from (LSC)..." The Clinical professors are not staff attorneys within the definition of §1600.1 since their income is derived from the law school, not ILS's LSC funds. The Clinic further serves the law school's aspirational goal that all law students should engage in a variety of pro bono activities, including clinical activities, prior to law school graduation. The purpose of 45 CFR 1614 is to make ILS more resourceful and the Clinic allows ILS to provide services to additional clients.

On August 20, 2010, the ILS Indianapolis office Managing Attorney met with the Civil Law Clinic professors from Indiana University - Indianapolis School of Law. The meeting was held to address corrective action #12 requiring ILS to develop a plan to fully oversight Clinic cases. The parties developed and agreed to the

process described in the "Plan to Fully Oversight Law School Clinic Cases," enclosed hereto as **Appendix E**.

13. 45 CFR §1614.3(e)(i) regarding private attorney involvement requires "...any direct or indirect time of staff attorneys or paralegals...to be allocated as a cost to PAI, such costs must be documented by time sheets accounting for the time those employees have spent on PAI activities." The OCE site visit team's review of program documentation revealed that ILS attorneys and paralegals record their actual PAI time and such time is specific to PAI activities. ILS case handlers enter their PAI time into a Legal Files 'Activity' pick-list with 20 separate PAI activity options. While ILS PAI timekeeping now accurately documents PAI activities as required by §1614.3(e)(i), ILS still needs to ensure that such recorded time is contemporaneously entered. On August 17, 2010, I reissued my timekeeping memo of April 15, 2005 detailing the specifics of the contemporaneous timekeeping for ILS case handlers including that of PAI timekeeping, a copy of which is enclosed as **Appendix F**. The requirements for contemporaneous timekeeping will also be included as part of the other staff training described in this response. ILS currently has a 'PAI Time Charged' report in Legal Files which documents PAI activities for accounting purposes. The ILS Database Administrator will be directed to create a new Legal Files report that will identify PAI time entries that were not contemporaneously entered. With this new report, the administration secretary will identify, on a weekly basis, case handlers with PAI time entries that were not entered contemporaneously. The administration secretary will then contact case handlers deficient in their contemporaneous PAI timekeeping responsibilities along with their supervisors and will remind them of the necessity to enter time contemporaneously. Each time a deficiency is noted for a case handler, a notation will be placed in the case handler's personnel file documenting continued oversight on this issue. The administration secretary will inform the Executive Director and the supervisor if the case handler is contacted about contemporaneous timekeeping deficiencies 3 times in any quarter of the calendar year. The supervisor will immediately institute the appropriate disciplinary action pursuant to the ILS Grievance and Disciplinary Policies when the case handler is cited for such timekeeping deficiencies.
14. ILS revamped its PAI cost allocation worksheet to now include direct and indirect allocations for the Pro Bono District staff housed in ILS branch offices. The worksheet now excludes indirect allocation of travel, litigation or staff training/conference expenses. The allocation process has been simplified so that direct personnel PAI expenses are divided by total organization personnel expenses by a factor to be applied to non-direct costs. Enclosed as **Appendix G** is the summary page from the January 2010 through July 2010 PAI worksheet.

15. As of September 14, 2010, ILS credited its LSC account in the amount of \$100, using ILS general funds, for the mistaken payment of membership dues using LSC funds. Going forward, all membership dues will be paid from the ILS general fund. Enclosed as **Appendix H** is journal entry batch #002843 documenting the credit of \$100.
16. In a letter dated September 2, 2010, a copy of which is enclosed as **Appendix I**, the ILS Controller contacted the ILS auditing firm, Blue & Co., and provided them with the language of corrective action #16. The Controller informed Blue & Co. that the Marion County Bar Association subgrant agreement, approved by LSC for 2008, was not separately noted in the 2008 audited Financial Statement, but rather was included in the Private Attorney Involvement column of the Statement of Activities in compliance with standard accounting practices. ILS has not had a subgrant agreement since 2008. The letter to Blue & Co., by reference to corrective action #16, provides the necessary instruction to the ILS auditors that any future subgrants must be expressly noted in future ILS audited Financial Statements.
17. As of September 14, 2010, ILS credited its LSC account in the amount of \$842.42, using ILS general funds, for the mistaken payment of credit card finance charges, late fees and other fees in 2008 and 2009 using LSC funds. Enclosed as **Appendix J** is the journal entry batch #002809 documenting the credit of \$842.42.
18. As noted in Finding #20 on page 35 of the draft OCE report, "the program is required to implement and enforce a timekeeping policy that requires all case handlers to account for a 7.5 hour workday using contemporaneously created time records." ILS respectfully disagrees with the 7.5 hour workday aspect of Finding #20. 45 CFR 1635 addresses the requirements of LSC timekeeping. The regulation does not address what constitutes a workday. ILS Personnel Manual Article 4.01 establishes that an ILS workweek consists of 37.5 hours. Article 4.02 requires non-exempt employees "to complete their work in 37.5 hours a week." Article 5.02 states that exempt employees are expected to put in "a minimum work effort of 37.5 hours per week." The United States Department of Labor has issued guidelines, based on the Fair Labor Standards Act (FLSA), regarding what constitutes a workweek and minimum wage compliance. The FLSA Guidelines define a workweek as "seven consecutive, regular, recurring, 24-hour periods, totaling 168 hours (and) is the unit of time used for determining minimum wage compliance. The computation and recording of hours worked should be done on a workweek basis..." The April 15, 2005 timekeeping memo, enclosed as **Appendix F**, referenced the time records required to be compensated with LSC funds. That memo states that case handlers are compensated on the basis of a 7.5 hour workday and such time records must reflect "37.5 hours of time spent each week on cases, matters, support activities and/or leave time..." The 2005 timekeeping memo further states that, "it is acceptable to have some days with less than 7.5 hours so long as your total for the week sums to 37.5 hours." Based on the advice

of outside counsel, each ILS workweek begins on Sunday at 12:00am and ends on Saturday at 11:59pm. ILS work time may be accounted for at any time within that 168 hour workweek.

ILS currently has a 'Time Records List' report in Legal Files which documents all time entries on a daily basis. The ILS Database Administrator will be directed to create a new Legal Files report that will identify time entries from the 'Time Records List' that were not contemporaneously entered. With this new report, the administration secretary will identify, on a weekly basis, case handlers with time entries that were not entered contemporaneously. The administration secretary will then contact case handlers deficient in their contemporaneous timekeeping responsibilities along with their supervisors and will remind them of the necessity to enter time contemporaneously. The administration secretary will inform the Executive Director and the supervisor if the case handler is contacted about contemporaneous timekeeping deficiencies 3 times in any quarter of the calendar year. The supervisor will immediately institute the appropriate disciplinary action pursuant to the ILS Grievance and Disciplinary Policies when the case handler is cited for such timekeeping deficiencies.

19. ILS understood that part-time case handlers had to certify on a quarterly basis that they did not engage in restricted activities when they were employed in their other part-time capacity by an organization engaged in such activities. To the best of our knowledge and belief, none of the ILS part-time case handlers engage in such activities. However, ILS now understands that LSC interprets 45 CFR §1635.3(d) to mean that any outside employment needs to be reported and employment by an outside law firm is deemed to be such an organization. Consequently, on September 21, 2010, ILS mandated the use of the LSC certification form, as posted to the LSC web site, effective October 1, 2010 and each quarter thereafter. Each quarter, the Executive Director will send all part-time case handlers a reminder to complete the certification form. A current list of part-time case handlers will be provided by the Controller to the Executive Director for use when notifying the part-time case handlers. The signed certification forms will be sent to the Executive Director and retained in each part-time case handler's personnel file.
 20. In a letter dated September 2, 2010, a copy of which is attached at **Appendix I**, the ILS Controller contacted the ILS auditing firm, Blue & Co., and informed them of corrective action 20. The Controller instructed that the ILS future audited Statements of Financial Position should break out any offsetting liability in any ILS Client Trust Fund account.
-

RECOMMENDATIONS:

1. ILS accepts this recommendation. An ILS managers' subcommittee developed a uniform standard case closing compliance checklist, a copy of which is enclosed as **Appendix K**. On September 20, 2010, the Executive Director approved the checklist and mandated its use in all offices effective that day.
2. ILS accepts this recommendation. The plan to standardize intake training for volunteers will be implemented as part of the actions to be taken by ILS to address corrective action #4.
3. ILS accepts this recommendation. An ILS managers' subcommittee prepared a report on intake policies, procedures and forms which addresses standardized intake procedures for use by staff and volunteers in all branch offices. A copy of the subcommittee's report is attached as **Appendix L**. The subcommittee is in the process of developing the recommended intake training protocols. The training protocols will incorporate the use of the new standardized intake form, the revised standard retainer agreement and the information provided by LSC during its webinar training on the 2008 CSR Handbook, referenced in response to corrective action #10.
4. ILS accepts this recommendation. ILS will prepare a group client intake form with accompanying procedures and protocols to enable all offices, centers and projects to properly screen a group client. This process will be part of the development of the new ILS intake protocols, referenced in response to recommendation #3. The group client intake form and protocols will be included with the training plans that ILS prepares for all staff and volunteers, referenced in response to corrective action #4.
5. ILS accepts this recommendation. An ILS managers' subcommittee has revised the standard ILS retainer agreement to provide space and the ability to sufficiently describe the scope of an extended representation following an investigation as to the merits of the client's case. The revised retainer agreement also includes a reference to attorneys' fees, which ILS may now consider because of the LSC Board action repealing 45 CFR 1642 and adopting conforming amendments to 45 CFR 1609 allowing LSC recipients to claim, collect and retain attorneys' fees. On September 16, 2010, ILS submitted the proposed revised retainer agreement to Mr. Cardona for his approval. On September 29, Carla Smith, OCE Program Counsel, contacted the Executive Director suggesting additional language to be added to the proposed revised retainer agreement. Ms. Smith's comments were forwarded to the ILS managers' subcommittee for further action. The revised retainer agreement incorporating Ms. Smith's suggestions will be resubmitted to OCE for approval. A copy of the proposed revised retainer agreement, as submitted on September 16, is enclosed as **Appendix M**.

6. ILS accepts this recommendation. ILS routinely sends thank you letters, signed by the Executive Director, to all contributors regardless of the contribution amount. Each letter to a contributor making a contribution of over \$250 includes the following statement:

“Your contribution is subject to the restrictions and prohibitions found in 45 CFR 1610 which governs Legal Services Corporation (LSC) funds and organizations that receive LSC funds such as Indiana Legal Services, Inc. (ILS). IRS tax regulations require that each contribution of \$250 or more be acknowledged with a receipt. ILS is a registered 501C (3), not-for-profit organization; your contribution to ILS is tax-deductible. This letter serves as your receipt for tax purposes and also serves as verification that ILS did not provide any goods or services to you as a consideration for your contribution.”

Copies of these thank you letters have been and will continue to be maintained by ILS to fully evidence its compliance with 45 CFR §1610.5.

7. ILS accepts this recommendation. As a matter of ILS policy, each new ILS employee is given a New Employee Packet. The Packet included a checklist identifying each of the separate materials included in the Packet. Language was added to the Payroll and Benefit Form Checklist that now requires each new employee to sign an acknowledgement that she/he has received and reviewed the New Employee Packet. A copy of the revised checklist form is enclosed as **Appendix N**.
8. ILS accepts this recommendation. Journal entries are now being reviewed and the reports initialed by the Director of Administration (DOA). The DOA now reviews an electronic version of the monthly trial balance. The DOA now opens all bank statements before they are forwarded to the Controller for reconciliation.

The administration secretary who collates the accounts payable checks and documentation is now stamping "Paid" on all paid invoices, in addition to maintaining a copy of the payment checks with the invoices as has been done in the past.

9. ILS accepts this recommendation. To the extent feasible, notwithstanding the differences in local practice around Indiana and the 14 judicial district pro bono plans approved by the Indiana Pro Bono Commission, ILS will standardize its treatment of intake and referral of applicants to pro bono plan administrators to conform to the intake policies, procedures and protocols of cases that are handled by ILS staff. In those cases when ILS provides advice prior to the referral of the client to a pro bono plan administrator, ILS will develop organization-wide policies to standardize case oversight to ensure the proper case coding as a staff or

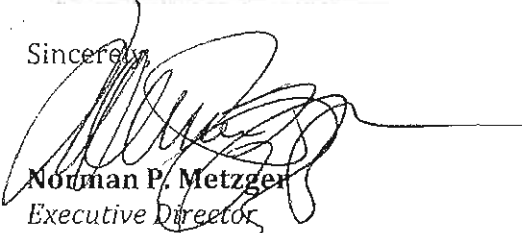
*Indiana Legal Services, Inc.
Recipient Number: 515030
Response to Draft OCE FUR Report
September 30, 2010*

PAI case, accurate selection of case closing codes, timely case closure and deselection of cases ineligible for CSR reporting. The ILS staff training, referenced in response to corrective action #4, will include directives on these standardized PAI intake and case oversight policies.

10. ILS accepts this recommendation. The ILS training, referenced in response to corrective action #10, will include additional training on the proper documentation of the level of legal assistance provided to the clients in both staff and PAI cases.

If you have any questions about my response, please call me at (317) 829-3087 or email me at Norman.metzger@ils.net.

Sincerely,

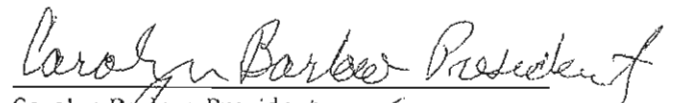


Norman P. Metzger
Executive Director
Indiana Legal Services, Inc.

Enclosures/es

*Indiana Legal Services, Inc.
Recipient Number: 515030
Response to Draft OCE FUR Report
September 30, 2010*

This response has been reviewed and approved by the Executive Committee of the ILS Board of Directors.


Carolyn Barlow, President
ILS Board of Directors

APPENDIX A

Norman Metzger

From: Norman Metzger [norman.metzger@ilsil.net]
Sent: Thursday, August 05, 2010 3:00 PM
To: mmmust1005@aol.com; matt.foster@ilsil.net; melody.goldberg@ilsil.net; 'Omari Vaden'; 'Phyllis Taylor'; 'Price Jackson'; 'Robin Kimp'; rochelle.weaver@ilsil.net; 'Roderick Bohannon'; 'Ron Flickinger'; 'Stephen Byers'; 'Tracy Pappas'; tracypappas@earthlink.net; 'Brian Dotts'; 'Darlene Briscoe'; 'John Brengle'; Karen.ветter@ilsil.net; 'Linda Fugate'; 'Marianne Conrad'; 'Mark Robinson'; 'Anne Ward'; 'Jamel Hamdi-Pacha'; 'Joe Simpson'; kay.miller@ilsil.net; 'mitsuko murphy'; 'Richard Howell'; 'Ron Gyure'; 'Susan Wright'; 'Victoria Deak'; carol.nyhuise@ilsil.net; 'jeanette gubler'; 'Karen Williams'; 'Katherine Rybak'; 'Luke'; 'Rebecca Adamson'; 'Steve Culley'; 'Tracy Thread'; 'Angelika Mueller'; 'Angie Hoogeveen'; 'Carie Schenk'; foreclosurepreventionsb@ilsil.net; 'Heather'; 'Joseph Zielinski'; 'Kent Hull'; 'Kim Muske-Lynch'; 'Laura Shrader'; 'Lee A. O'Connor'; 'Mary Butiste-Jones'; 'Mary Loughnane'; 'Pat McGrath'; 'Patty Pittman'; chris.baumgartner@ilsil.net; danielle.underwood@ilsil.net; 'Jennifer Helms'; Jessica.creech@ilsil.net; 'Michelle Locker'; 'Mitchell Sherr'; 'Tracy Beechy'; alberta.johnson@ilsil.net; 'Donna Summerville'; 'Gale Carmona'; 'Ghadeer Sandouka'; 'Gloria Torres'; 'Janice Hopkins'; 'Lisa Wesby'; 'Nadiyah Muhammad'; 'Robin Ballard'; 'Sean Newberry'; stephanie.katich@ilsil.net; 'Stephen Rodriguez'; tuggi58@yahoo.com; 'Yolanda Hernandez'; 'Andrea Smothers'; 'Ann Ginda'; 'Cortney Henry'; 'Edward Stachowicz'; 'Jennifer Miller'; 'Kirk. Eichermiller@ilsil.net'; Laura.brown@ilsil.net; tabitha.wolfe@ilsil.net; 'Tim Peterson'; 'Vicki Williams'; 'Beth Silberstein'; 'Charlie Stringer'; 'David Pesel'; 'Jamie Andree'; 'Jeff Gold'; Jennifer.prusak@ilsil.net; 'Marcy Wenzler'; 'Micki Fountain'; 'Myrta Hudson'; rogerwalby@yahoo.com; 'Thomas Frohman'; adam.mueller@ilsil.net; andrew.ault@ilsil.net; Annette.biesecker@ilsil.net; 'Carrie Lynn'; 'Christine Popp'; 'Crystal Francis'; 'Cynthia Daniel'; 'Cynthia McQuigg'; 'Dennis Frick'; 'fran.quigley'; 'Gladys Whitfield'; 'Gloria Woods'; 'Ida Hayes'; 'Janet Coney'; jay.chaudhary@ilsil.net; 'Jeff Boulden'; 'Kassi Heine'; 'Katie Coleman'; 'Kitty Folland'; 'Latisa Pickett'; 'Lisa Fennell'; 'Manetric Bobbitt'
Cc: metz696861@aol.com
Subject: ILS standardized paper intake form
Attachments: ILS standardized paper intake form.pdf

Importance: High

All:

The LSC OCE team asked that ILS develop a standardized paper intake form for use by all offices, centers and projects—you do not enter the intake information directly into Legal Files at the time of application. As previously indicated, Luke Niekamp and Brian Dotts were assigned the task of developing the form with input from everyone. On July 16, I submitted the attached standardized intake form for Danilo Cardona's approval, the Director of LSC OCE. Yesterday, Mr. Cardona approved the form as submitted.

LSC requires me to mandate the use of this approved standardized paper intake form. We're working with Richard Howell to have Legal Files conform to the approved standardized form. You will need to train your intake workers on the use of the form—for those of you who use a paper intake form. This form does not apply to those of you who do intake directly into Legal Files.

It is no longer permissible to use any other paper intake form than the one Mr. Cardona approved. You may implement the use of this form immediately but absolutely no later than Tuesday, August 31.

Norman P. Metzger

Executive Director

Indiana Legal Services, Inc.

151 N. Delaware Street, Suite 1640

Indianapolis, Indiana 46204

phone: (317) 631-1395 x2245

direct: (317) 829-3087

Add-Ons → Eligibility Wizard → Disposition (select): 1 - Application Pending

Legal Problem: _____

CONFLICT CHECK WIZARD

Applicant Section

Last Name: _____ First Name: _____ MI: _____ Suffix: _____

Former names: _____ SSN: _____ Date of Birth: _____

Adverse Party(s) Section

Last Name: _____ First Name: _____ MI: _____ Suffix: _____

Former names: _____ SSN: _____ Date of Birth: _____

Adverse Party Address: _____ Phone: _____

Conflict Result

STOP! Prior to completing intake, conduct Conflict Check Wizard using the above information in Legal Files (Legal Files Tip: To speed up the Conflict Check Wizard, search by "Exact Match" or "Begins With").

If Conflict Check results in a case history, print and attach to intake sheet. Document Conflict Result in File Facts.

_____ NO CONFLICT (Do interview) _____ POTENTIAL CONFLICT/FORMER CLIENT (Do interview and review conflict at group) _____ CONFLICT/ACTIVE CLIENT (Reject. *See note below)

*If there is an obvious conflict, stop the intake process and inform the applicant immediately of the existence of a conflict. You may consider referring the applicant's name and telephone number to your local Pro Bono Plan Administrator for an application outside of ILS to be completed.

UPDATE APPLICANT NAME CARD

"Do you use e-mail?" E-mail Address: _____

"You will still be informed of our decision by mail after your application is reviewed."

Phone Number: _____ Ext: _____ Type: _____ Comments: _____

Phone Number: _____ Ext: _____ Type: _____ Comments: _____

Address Type: _____ Description: _____

Line 1: _____

Line 2: _____

City: _____

State: _____ Zip: _____

County: _____

Address Type: _____ Description: _____

Line 1: _____

Line 2: _____

City: _____

State: _____ Zip: _____

County: _____

Additional Information

Marital Status: A - Single D - Divorced M - Married S - Separated W - Widow X - Widower

Gender: F - Female M - Male

Spouse name: _____

Ethnicity: Asian Black - not of Hispanic Origin Hispanic Origin

Native American Other Ethnic Group White - Not Hispanic Origin

Citizenship: Other* United States Non U.S. - SSN # Eligible*

*Non-citizen Status: _____ *Does the applicant have documentation: Yes No (Document in File Facts)

ELIGIBILITY WIZARD - [INITIAL INQUIRY]

Contact Method: Telephone Walk-in (Walk-in applicants are required to sign an attestation of citizenship)

Fax Letter Outreach E-mail Referral from other Legal Svc Program

I am a citizen of the United States.

Signature

Date

Printed Name

Referred by: Court Former Client Lawyer Referral Momentive Other

Other LSC Program (not ILS) Pro Bono District Social Service Agency

Telephone Book Unknown

Household Info

Household Contact: ____ Spouse: ____ Children: ____ Others in Household: ____ Total in Household: ____

Household Notes*: _____

*List names, ages and relationship for Household members ("household" means persons who live together and are related by blood or marriage and who have a legal obligation of support for one another).

Income

Applicant Employer(s): _____ Spouse/Household member Employer(s): _____

Income Recipient	Hourly wage X	Hours per week=	Weekly gross X	Approx. weeks=	Monthly gross
				4.3	
				4.3	
				4.3	
				4.3	
				4.3	

Additional income source	Recipient	Monthly gross

TOTAL MONTHLY INCOME: _____

*"Do you have any employment prospects or do you anticipate income in the near future?"**

 If the applicant has no income, ask *"How are you living from one day to the next?"**

*Both responses should be listed in File Facts.

(Consult ILS Maximum Income Guidelines (Schedule A) to determine prima facie eligibility)

- If Applicant is within 125% of FPG ● If Applicant is within 200% of FPG ● If Applicant is over 200% of FPG
- Go to Assets Go to Factors Go to Other Factors

Factors

(Calculated monthly)

- Child care necessary for employment: _____ \$ _____
- Child support payments: _____ \$ _____
- Elder care necessary for employment: _____ \$ _____
- Fixed debts and obligations: _____ \$ _____
 (Mortgage, rent, student loans, bankruptcy payments/court costs, wage garnishments etc.)
- Current taxes: _____ \$ _____
- Unreimbursed Medical expenses: _____ \$ _____
 (Doctor visits, co-pays, prescriptions, etc.)
- Medical insurance/premiums: _____ \$ _____
- Transportation to/from work: _____ \$ _____
 (Fuel, public transportation, ride sharing, etc.)
- Work clothes necessary for employment: _____ \$ _____

Work equipment/tools for employment: _____ \$ _____
 Miscellaneous work expenses: _____ \$ _____
 Job training or educational activities in preparation for employment: _____ \$ _____
 Other: _____ \$ _____
 TOTAL MONTHLY FACTORS: \$ _____

TOTAL MONTHLY INCOME (_____) - TOTAL MONTHLY FACTORS (_____) = \$ _____

Other Factors

Applicant is 60 or over Excessive Medical Expenses (monthly amount: \$ _____)*

Significant factors that make applicant unable to afford legal assistance*

*Waiver required by Executive Director or his designee (not for other funding source).

Assets

*Vehicles: _____

*Residence (applicant's principal residence): _____

*Reasonable equity in work-related equipment _____

*These assets do not count toward asset total .

Bank Account (checking, savings, money on deposit): _____ \$ _____

Other (cash on hand): _____ \$ _____

Securities (stocks, bonds, CDs, etc.): _____ \$ _____

Retirement accounts (401k, IRA, pension, etc.): _____ \$ _____

Equity in Real Estate (not client's home): _____ \$ _____

Other (describe): _____ \$ _____

Tangible property less than \$8,000 _____ \$ _____

ASSET TOTAL \$ _____

____ Total is less than or equal to \$3,000 or Applicant receives TANF, SSI, or is age 60 or older

____ Total is greater than \$3,000*.

*Waiver required by Executive Director or his designee.

Benefits

- | | | |
|--|---|--|
| <input type="checkbox"/> Food Stamps (\$_____) | <input type="checkbox"/> Subsidized Housing | |
| <input type="checkbox"/> Medicaid (spenddown: \$_____) | <input type="checkbox"/> Other - Utilities | |
| <input type="checkbox"/> Medicare | <input type="checkbox"/> Township Trustee | <input type="checkbox"/> Other - Education |
| <input type="checkbox"/> Hoosier Healthwise | <input type="checkbox"/> VA Benefits | <input type="checkbox"/> Other - Rent |
| <input type="checkbox"/> HIP | <input type="checkbox"/> WIC | <input type="checkbox"/> Other - Food |
| <input type="checkbox"/> TANF | <input type="checkbox"/> Emergency Shelter | <input type="checkbox"/> None |

Funding Source → OMIT until Group Case Acceptance Meeting

Demographics

Age at time of Inquiry: _____ Applicant is a U.S. Citizen

Language Spoken: _____

Disability Yes No Veteran Yes No

Homeless Yes No Domestic Violence Yes No

File Setup

Jurisdiction County: _____

Office/Project/Center: _____

Citizenship Status: _____ (10 - Citizen; 20 - Alien, eligible; 30 - Alien, non-eligible; 40 - Status unknown)

Jurisdiction State: _____

People → Add Adverse Party and additional contacts information

File Facts

"The local pro bono program may consider your application for assistance to determine if your case may be placed with a pro bono lawyer. May our office share your application with the local pro bono program?" Yes No

"If you are ever dissatisfied with the services you receive from our office, we do have a grievance procedure. If you wish to file a complaint, just call and request that we mail you a copy of the grievance procedure, which will explain to you how to file a complaint."

APPENDIX B

Eligibility Non-Reportable Pick [X]

Locate: Contains

Status: Active

My Pick List/Description	Master Pick List/Description
	<p>Demand</p> <ul style="list-style-type: none">LSC Compliance not metOther - over assetOther - over incomeover income and over assetsPro bono referralReferred / Legal AssessRejected caseSenior - over assetSenior - over incomeTechnology test case

APPENDIX C

REPORT AND RECOMMENDATION OF THE ILS COMMITTEE ON DORMANCY AND UNTIMELINESS OF CASE CLOSINGS

I. INTRODUCTION

Note: It is requested that Mr. Metzger consider approving the substance of this Plan by Friday, September 17, 2010, with an effective date of Monday, September 20th. This is deemed necessary to begin implementing the Plan as quickly as possible, and to afford the staff and managers all 16 weeks remaining between that date and December 31st.

By cover letter dated June 29, 2010, L.S.C. provided our Executive Director, Norman P. Metzger, with the Draft Report of the OCE-FUR visit to ILS during the week of April 12-16, 2010. The Draft Report now has been distributed throughout the organization, both to managers and to staff. Each staff member receiving the Report has been encouraged to read and to understand the gravity of issues raised in said Report.

At the request of the Executive Director, during a managers' phone conference on August 12, 2010, ILS established a volunteer committee to report and recommend a course of action to address the pivotal issue of dormancy and untimely case closings. The Committee on Dormancy and Untimeliness (hereinafter "CODAU") consists of Jamie Andree, Dennis Frick, chair J. Mark Robinson, Erica Siegelin, and I.T. consultant Richard Howell.

II. UNDERLYING REASONS FOR COMMITTEE ON DORMANCY

The primary reason for establishing CODAU is to demonstrate our institutional commitment to obtain and maintain full compliance with LSC's regulations. CODAU is committed to manifesting, by Plan and by leadership, a genuine and sincere determination to comply with all relevant LSC rules and regulations, beginning with the members of this committee and their offices and projects, and in turn throughout the entire organization.

III. LSC REQUIRED CORRECTIVE ACTIONS BY ILS REGARDING DORMANCY AND UNTIMELINESS

From the June 2010 Draft Report, (page 23) – **Finding 12: ILS is in non-compliance with the timely case closure requirements of CSR Handbook (2001 Ed.) 3.3 and CSR Handbook (2008 Ed.), 3.3. As such, the program has not implemented Corrective Action 1 of the 2006 Final Report.**

From the Draft Report, (V. Pages 42-44) the following actions are now imposed by LSC:

REQUIRED CORRECTIVE ACTIONS

11. *Take the following corrective measures in reference to dormancy/untimely case closure:*
 - a. *Direct each field office/substantive unit to complete a review of its open cases to identify and administratively close all dormant cases so they are not reported in future CSR's. Upon completion, ILS must submit a written certification to the Director of the Office of Compliance and Enforcement that all dormant cases have been eliminated from its case lists and marked for deselection from future program CSRs.*
 - b. *Direct each field office/substantive unit to complete a review of all 2010 closed cases to identify and deselect any untimely closed cases prior to the CSR to be submitted in 2011. This closed case review must be completed no later than December 31, 2010. Upon completion, ILS must submit a written certification to the Director of the Office of Compliance and Enforcement that all untimely closed cases have been eliminated from its case lists and marked for deselection from future program CSRs.*
 - c. *Create and implement a plan to oversight dormancy and untimely case closure in all ILS field offices/substantive units. Such plan should be included in the program's comments to the instant Draft Report.*

IV. ILS COMMITMENT TO RESOLVE DORMANCY AND UNTIMELINESS

As our Special Counsel, Mr. Donald R. Lundberg, said in his letter to Mr. Cardona and Ms. Vasagam: "...LSC wants to be assured that ILS has undertaken a serious and credible process directed at ferreting out cases that are not eligible to be reported to LSC as LSC-funded program activities in 2010."

The following Plan may appear ambitious; but quite frankly, these tasks are the minimum tasks necessary to assure that our cases, and resulting LSC statistics for 2010, are as accurate as humanly possible.

V. TIME COMMITMENTS BY ALL CASEHANDLERS

The Executive Director, the Office of Administration, and the members of CODAU all recognize that substantial blocks of time will be needed to accomplish the plan outlined below. Time commitments will be required of every casehandler in order to complete this initial phase by December 31, 2010. For some casehandlers, particularly but not limited to the attorneys conducting case reviews, this may mean working extra hours, while concurrently accepting – at least temporarily – fewer new case commitments.

VI. RECOMMENDED PLAN

A) Case Reviews:

Case Reviews have long been a part of ILS's Legal Work Management Plan. At various times in our history, case reviews have been robustly integrated into our supervision of legal work, while at other times such oversight has been lean or even lacking.

Given the gravity of the Corrective Actions contained in the 2010 LSC-FUR Draft Report, mandatory case reviews are not only being reinstated, but will be required of every casehandler, without exception. That includes the relatively senior attorney members of CODAU: Andree, Frick and Robinson. So every casehandler should expect to actively participate in case reviews as called upon.

B) Case Reviewers:

In an attempt to create greater uniformity and accountability, and to minimize individual errors, the task of Case Reviewer will be limited to a small nucleus of staff. Beginning with the implementation date of this Report and Recommendation, and continuing at least until the end of 2010, Case Reviewers are as follows: Jamie Andree, Steve Byers, Steve Culley, Dennis Frick, Angelika Mueller, Tracy Nufer, Mark Robinson, Steve Rodriguez, and Ed Stachowicz. Obviously, certain senior attorneys and project directors (who may have become accustomed to closing their own cases) will now have a new line of accountability.

C) Mutual Accountability:

To assure that all casehandlers are participating in case reviews, the new concept of mutual accountability will be employed. As such, certain Case Reviewers will review the cases of their fellow reviewers, working in teams, as follows:

Culley and Robinson,
Andree and Stachowicz,
Frick and Nufer,
Mueller and Rodriguez, and
Byers and Metzger.

Additionally, the following project/center directors, and their staff, if any, will be accountable as follows:

O'Connor and Popp to Mueller,
Wenzler to Andree,
Brengele to Robinson, and
Bohannon and Goldberg to Frick.

Because of the geographic distance between some of the above individuals, it is contemplated and certainly permissible, that case reviews can be accomplished by phone, assuming that preliminary work will have been shared in advance in order to make the process manageable. On the other hand, if the reviewers wish to meet in person, or if same is deemed necessary to either reviewer, that process is acceptable as well.

D) Legal Files Reports available to Case Reviewers:

Each case reviewer, above identified, will have available the following reports generated from Legal Files, which reports will facilitate case reviews:

- Open Case Report by Casehandler,
- Closed Case Report by Casehandler,
- 90 Day Report – said report will identify by casehandler those cases which show no activity reflected in Legal Files for the past 90 days (possible indicator of dormancy),
- 180 Day Report – said report will identify by casehandler those cases which show no activity reflected in Legal Files for the 180 days (probable indicator of dormancy),
- Cases With No Time Charged Report, and
- Closed Case Report by Office.

Case Reviewers shall run these reports frequently between now and year's end to monitor the ongoing progress of casehandlers for whom they are accountable, and to use same for each case reviews. These reports shall be run:

- in advance of each case review and shared with the casehandler, and
- at a minimum interval of twice each month until December 31st.

Erica and Richard have developed the new 90 and 180 Day Reports. A short "How to Run Reports" for each of the above programs is attached to this Plan as Appendix A. Other forms may be added later to said Appendix.

E) **Scope** of Required Reviews:

LSC requires that two major functions be completed by December 31, 2010.

1. A review of each casehandlers' **open cases**, pursuant to Corrective Action 11(a). ILS will close all dormant cases, and deselect same, so as not to include these cases in 2010 reportable cases to LSC.
2. A review of all **closed cases**, year-to-date, pursuant to Corrective Action 11(b). ILS will identify all cases which were untimely closed, and deselect same, so as not to include these cases in the 2010 list of reportable cases to LSC.

3. A review of all unassigned cases associated with each Cost Center. If the case is active and is not closed, the casehandler will be listed. The goal is to identify and close all dormant cases and deselect same.

F) Before beginning the reviews required in Section E, above, the listed reviewers should review Appendix A, "How to Run Reports", Appendix B, "How to Review for Dormancy / Timeliness and Deselect if Necessary," and Appendix C, "CODAU Time-line and Deadlines." Any reviewer who has questions should consult the LSC Case Service Report Handbook, which is available on the LSC website, and / or consult one of the members of CODAU.

G) **Mandatory completion Dates of Open Case Reviews:**

1. Round One: The first Open Case Review shall be completed by Friday, October 15, 2010. This allows four (4) working weeks from the effective date of this Plan. Case Reviewers are urged to begin an orderly calendaring process, taking into consideration existing attorney commitments to clients, agencies, and courts, so that this first date is achievable. This deadline also applies to the new teams of managers accountable to managers.

Within one week (namely by October 22nd) of completing the first round of case reviews, Case Reviewers will submit a simple report to CODAU members, identifying, at a minimum, the names of casehandlers reviewed, and their best understanding of the number of open cases that are probably dormant as of 10/15/10.

2. Round Two: The second Open Case Review shall be completed by Friday, December 3, 2010. This allows seven (7) weeks from the completion of Round One for cleaning up all cases determined to require serious attention, in other words, the appearance of dormancy. Again, Case Reviewers are urged to calendar this second effort carefully, with the goal of having all open cases with issues of dormancy resolved properly by early December.

All persons should be mindful of Holidays in November and December. Further, Case Reviewers and staff must be open and candid about the number of annual leave hours, and swing leave hours, which are presently available to staff, and plan accordingly. For some staff, several weeks of leave are still available.

Within one week (namely by December 10th) of completing the second round of case reviews, Case Reviewers will submit a simple report to CODAU members, identifying, at a minimum, the names of casehandlers reviewed, and those cases, if any, which still involve issues of dormancy. Case Reviewers who have staff with **continuing issues** of dormancy may expect to participate in a conference call with CODAU members to determine a course of action for the remaining 2-3 weeks of 2010.

3. The Case Reviewer for each Office or Project must review each case for the remainder of 2010 as the case is closed. This applies to all casehandlers, including a senior attorney whose cases are not typically reviewed.

H) **Mandatory Completion of Closed Case Reviews.**

A complete, manual review of all Closed Cases year-to-date is required as above referenced. This task is considerable in terms of volume and time. To that end, the nine Case Reviewers may enlist and expect the assistance of their office manager.

A manual review will enable each case, whether full service or advice only, to be checked for the following:

- whether the case was timely or untimely closed; please keep track of untimely closings, and properly close same.
- whether the correct closing code was used; properly correct closing codes.
- maintain a list of all cases which have been deselected from the 2010 closed cases, as same are not reportable to LSC. Mr. Lundberg thinks it important to quantify said numbers.

This task is **required** by LSC to be completed by December 31, 2010. To that end, and to maintain focus on this task (while engaging in open case reviews as well), each Case Reviewer will submit to CODAU a short narrative by Friday October 29th, and again by Friday, November 19th, describing the progress to date. The Final Report on Closed Case Reviews will be due to CODAU by Friday December 17th. (An orderly approach might look like the following, for example: a Reviewer might set as a goal to review all closed cases A-H by mid-October, all closed cases I-P by mid-November, and to complete the review by December 10th. This would enable the timely submission of the status report above contemplated.)

VII. INDIVIDUAL CONSEQUENCES FOR FAILURE TO COMPLY:

Given the fact that ILS did not accomplish the 2006 Corrective Action during the next four years, some persons – both internal and external – may be skeptical of ILS's ability, determination, and fortitude for successfully accomplishing the above Plan by December 31, 2010. They will be proven wrong. Success is not optional. "Business as usual" cannot, and will not be, tolerated. We will prove to our critics that ILS is both responsive and responsible for full implementation.

Thus to emphasize the seriousness of this mission, certain ILS policies and traditions may be modified, as follows:

- A) **EXTENDED HOURS FOR EXEMPT EMPLOYEES:** Case Reviewers shall have the right to request exempt employees to work additional hours, beyond 37.5 hours per week, in order to accomplish this critical mission.

- B) VACATION IN DECEMBER: Because of a mandatory December 31, 2010 deadline, every staff member (not just casehandlers) must have all December vacation approved by the Case Reviewer responsible for that office's or project's case reviews. December vacation days will only be approved for those individuals who have cooperated and fully complied with the Plan as outlined above. Because we have renewed our organizational commitment to Team Work, support staff will also be subject to such approval. Obviously, it behooves each staff member to work cooperatively, constructively and timely to accomplish this Organizational mission, hopefully by mid-December. If a staff member is not permitted to use all of his/her vacation during December, it will be carried over into the first pay period of January 2011, with the consent of the Executive Director.
- C) DISCIPLINARY PROCEDURES: Managers and other staff who do not comply and cooperate with this process are subject to discipline as set forth in the ILS Employee Disciplinary Procedures. See Tab 14 of the ILS Board Manual.

VIII. SUMMARY

Note: Because of the Organization's high priority given to this mission, and the absolute necessity of achieving this goal, certain provisions of the current Legal Work Management manual, as well as employee leave policies, may be temporarily suspended, if needed, to timely and completely resolve the Dormancy/Untimeliness issue by December 31, 2010.

The Executive Director, the Office of Administration, and CODAU are committed to full implementation of the above Plan. This is among the highest of priorities of ILS between now and the end of calendar year 2010. Substantial time, talent, energy, and resources will be focused on ensuring success. Our primary funding source, the Legal Services Corporation, has been exceedingly patient during the past four (4) years, and LSC now has every right to expect a timely resolution of the dormancy/untimely case closing issue. They must not be, and will not be, disappointed with our labor and our achievement. Every staff member owes a personal and professional commitment to the future of ILS, our client communities, our Board of Directors, and our partners in justice, the Legal Services Corporation.

Respectfully submitted,

Committee on Dormancy and Untimeliness

J. Mark Robinson, chair
Jamie Andree
Dennis Frick
Erica Siegelin
Richard Howell

APPENDIX A

How to Run Reports

- ***OPEN CASE REPORT BY CASE HANDLER***
 - Log into Legal Files
 - Click 'Add-Ons'; 'Add-Ons'
 - Under 'Categories', click on the folder entitled 'Case Review Reports'
 - Double-click 'Open Case Report by Office/File Mgr (Crystal)'
 - Select your 'office' from the 'Discrete Value' box
 - Click 'OK'
 - Individual casehandlers can be selected by double-clicking the names in the left preview sidebar

- ***CLOSED CASE REPORT BY CASE HANDLER***
 - Log into Legal Files
 - Click 'Add-Ons'; 'Add-Ons'
 - Under 'Categories', click on the folder entitled 'Case Review Reports'
 - Double-click 'Closed Case Report by File Mgr Only (Crystal)'
 - Select 'Start_date' and enter the start date of the time frame you wish to review in the 'Discrete Value' box
 - Select 'End_date' and enter the end date of the time frame you wish to review in the 'Discrete Value' box
 - Select the 'Manager' from the 'Discrete Value' box
 - Click 'OK'
 - To view the cases listed alphabetically by the client's last name, select 'Closed Case List by file manager only.rpt'
 - To view the cases listed by the file number, select 'Closed Case List by file manager only_sort by case number.rpt'

- ***90 DAY REPORT***
 - Log into Legal Files
 - Click 'Add-Ons'; 'Add-Ons'
 - Under 'Categories', click on the folder entitled 'Case Review Reports'
 - Double-click '90-day Report'
 - Select your 'Office' from the 'Discrete Value' box
 - Click 'OK'
 - Individual casehandlers can be selected by double-clicking the names in the left preview sidebar

- **180 DAY REPORT**
 - Log into Legal Files
 - Click 'Add-Ons'; 'Add-Ons'
 - Under 'Categories', click on the folder entitled 'Case Review Reports'
 - Double-click '180-day Report'
 - Select your 'Office' from the 'Discrete Value' box
 - Click 'OK'
 - Individual casehandlers can be selected by double-clicking the names in the left preview sidebar

- **CASES WITH NO TIME CHARGED REPORT**
 - Log into Legal Files
 - Click 'Add-Ons'; 'Add-Ons'
 - Under 'Categories', click on the folder entitled 'Case Review Reports'
 - Double-click 'Cases with No Time Charged'
 - Select your 'cost_center' from the 'Discrete Value' box
 - Select 'open_date' and enter the 'open_date' (opened on or before this date) for the cases you wish to review in the 'Discrete Value' box
 - Click 'OK'
 - Individual casehandlers can be selected by double-clicking the names in the left preview sidebar

- **CLOSED CASE REPORT BY OFFICE**
 - Log into Legal Files
 - Click 'Add-Ons'; 'Add-Ons'
 - Under 'Categories', click on the folder entitled 'Case Review Reports'
 - Double-click 'Closed Case Report by Office/File Mgr (Crystal)'
 - Select 'Start_date' and enter the start date of the time frame you wish to review in the 'Discrete Value' box
 - Select 'End_date' and enter the end date of the time frame you wish to review in the 'Discrete Value' box
 - Select the 'office' from the 'Discrete Value' box
 - Click 'OK'
 - To view the cases listed alphabetically by the client's last name, select 'Closed Case List by file manager.rpt'
 - To view the cases listed by the file number, select 'Closed Case List by file manager_sort by case number.rpt'

APPENDIX B

How To Review For Dormancy/Timeliness and Deselect if Necessary

1. A case being closed in 2010 or that was already closed in 2010.
 - a) For closing code A or B
 - i. Is the case being closed in the year it was opened? If so, it is timely and not dormant.
 - ii. If the case is being closed in the year after it was opened, it is timely and not dormant if it was opened in October, November, or December of the year before it was closed.
 - iii. If (i) or (ii) above is not applicable, is there a memo in the file explaining why the case was left open beyond the year it was opened. If so, and it was in fact necessary to leave the case open until this year, it is timely and not dormant.
 - iv. If (i), (ii) or (iii) above is not applicable, it is a dormant case and is not being closed timely. You must deselect the case. It is not reportable to LSC. Indicate on legal files the reason for non reporting, specifically "Dormant".
 - b) For closing codes F-L
 - i. Is the case being closed in either the year legal work was completed or the year following the completion of legal work? If so, the case is not dormant and is being closed timely.
 - ii. If not, the case is dormant and is not being closed timely. You must deselect the case. It is not reportable to LSC. Indicate on legal files the reason for non reporting, specifically "Dormant".
2. A case that is still open:
 - a) Has all legal work on the case been completed? If so, close it in 2010 and follow the instructions for 1 a through b, above for determining whether the case must be deselected as not reportable for dormancy when closed.
 - b) If not all legal work has been completed, note in the file what needs to be done.
3. How to deselect a case: Click *Eligibility*, click *Funding Source*, remove check from *Is Reportable to LSC*, highlight *Dormant* from the pick list of *Reasons Non Reportable to LSC*, save your change. This will keep track of deselected dormant and untimely cases.

APPENDIX C

CODAU TIME-LINE AND DEADLINES

All dates are for 2010

<u>DATE</u>	<u>EVENT or TASK</u>
September 20 th , Monday	Implementation Date of Plan: <ul style="list-style-type: none">• Begin Round One of Open Case Reviews.• Begin manual Closed Case Reviews.
October 15 th , Friday	Deadline for completion of Round One of Open Case Reviews for all casehandlers and reviewers.
October 22 nd , Friday	Submit Case Review Report to CODAU - Open Case Reviews; Round One is now completed. <ul style="list-style-type: none">• Begin Round Two of Open Case Reviews.
October 29 th , Friday	Submit short narrative Report to CODAU describing progress to date on Closed Case Reviews.
November 19 th , Friday	Submit short narrative Report to CODAU describing progress to date on Closed Case Reviews.
December 3 rd , Friday	Deadline for completion of Round Two of Open Case Reviews for all casehandlers and reviewers.
December 10 th , Friday	Submit Case Review Report to CODAU - Open Case Reviews; Round Two is now completed.
Week of December 13-17	CODAU conference calls, as needed, with reviewers and staff with remaining dormancy issues.
December 17 th , Friday	Submit Closed Case Reviews Final Report to CODAU.
December 31 st , Friday	LSC imposed deadline for completing reviews of all 2010 closed cases. [See Corrective Action 11(b)].

APPENDIX D

BARNES & THORNBURG LLP

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August 17, 2010

Via email to cardonad@lsc.gov

Danilo A. Cardona, Director
Office of Compliance and Enforcement
Legal Services Corporation
333 K Street, NW 3rd Floor
Washington, DC 20007-3522

Via email to vasagamk@lsc.gov

Kamala Vasagam, Program Counsel
Office of Compliance and Enforcement
Legal Services Corporation
333 K Street, NW 3rd Floor
Washington, DC 20007-3522

Dear Mr. Cardona and Ms. Vasagam:

Thank you for the time you spent with me on the telephone yesterday. As you know, the purpose of my call was to inquire about the specific meaning of the "certification" requirement contained in Corrective Action 11 (related to Finding 12) in the Draft Report of the LSC's Follow-Up Review ("FUR" of Indiana Legal Services, Inc. ("ILS")).

To recap: Corrective Action 11(a) pertaining to dormancy/untimely case closure requires that ILS "[d]irect each field office/substantive unit to complete a review of its open cases to identify and administratively close all dormant cases so they are not reported in future CSRs. This open review must be completed no later than 2 months after receipt of LSC's Final Report. *Upon completion, ILS must submit a written certification to the Director of the Office of Compliance and Enforcement that all dormant cases have been eliminated from its case lists and marked for deselection from future program CSRs.*" (Emphasis added.) While "dormant" is not defined, we interpret it to mean cases that should have been, but were not, closed in a prior reporting year and that are not reportable as 2010 closed cases under the applicable CSR standards.

Related Corrective Action 11(b) requires that ILS "[d]irect each field office/substantive unit to complete a review of all 2010 closed cases to identify and deselect any untimely closed cases prior to the CSR to be submitted in 2011. This closed case review must be completed no later than December 31, 2010. *Upon completion, ILS must submit a written certification to the Director of the Office of Compliance and Enforcement that all untimely closed cases have been eliminated from its case lists and marked for deselection from future program CSRs.*" (Emphasis added.) While "untimely" is not defined, we interpret it to mean cases that should have been, but were not, closed in a prior reporting year and that are not reportable as 2010 closed cases under the applicable CSR standards.

Daniilo A. Cardona, Director
Kamala Vasagam, Program Counsel
August 17, 2010
Page 2

I noted that ILS takes Finding 12 and Corrective Actions 11(a) and (b) seriously. More importantly, it understands and agrees with the underlying principle that completed cases should be timely closed within the standards set forth in the CSR Handbook so that dormant cases are not reported to LSC in a way that over-represents the activities undertaken by ILS with LSC funding in any given year. ILS pledges to take appropriate actions, including, but not limited to the actions, set forth in Corrective Actions 11(a) and (b), to maintain compliance with these standards.

The purpose of my call was to clarify the certification requirements in Corrective Actions 11(a) and (b). Initially, you clarified that LSC had not dictated specific certification language.

I noted that one possible interpretation of the certification requirements contained in Corrective Actions 11(a) and (b) of the draft report was that ILS's executive director was expected to personally certify that *all* cases, without exception, in both the open and 2010 closed case universes that should have been closed and reported in a previous year under CSR standards had been deselected for reporting in 2011 as 2010 cases. I noted that this was a difficult thing for an executive director to do, inasmuch as he must, of necessity, rely upon his staff to accomplish the detail work of the review that supports his certification.

I appreciate your acknowledgement that in this, as in all human endeavors, perfection will not be the standard. There is no defined error rate for this undertaking, but I understand that LSC wants to be assured that ILS has undertaken a serious and credible process directed at ferreting out cases that are not eligible to be reported to LSC as LSC-funded program activities in 2010. Mr. Metzger's certification will, of necessity, rely upon the results of a process to be carried out by line staff and other managers. Thus, his certification will accomplish several things:

First, it will describe a process that ILS undertook to identify both open cases (Corrective Action 11(a)) and 2010 closed cases (Corrective Action 11(b)) that are not reportable to LSC as 2010 cases under applicable CSR standards. The process Mr. Metzger certifies will be both thorough and credible, designed to identify as accurately as possible non-reportable cases.

Second, it will describe the results of the identification process by number of cases identified in each category: (a) open but not reportable as 2010 cases, and (b) closed but not reportable as 2010 cases.

Third, it will describe the corrective actions taken for all of the cases identified by the process in each category: (a) that the identified cases were closed and deselected for reporting to LSC as funded activities in 2010, and (b) that the identified cases were deselected for reporting to LSC as funded activities in 2010.

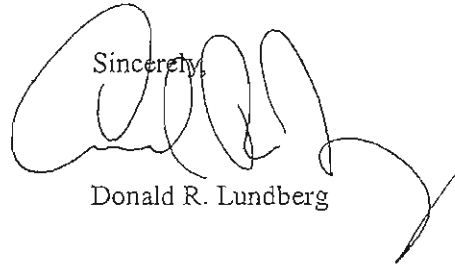
We believe that Mr. Metzger's certification will elicit confidence in LSC that Finding 12 and the Corrective Actions based on it have been fully addressed with the utmost seriousness and that LSC can have a high degree of confidence that ILS's 2011 report of 2011 LSC-funded activities is compliant with the CSR standards for dormant cases and timely case closings. In

Danilo A. Cardona, Director
Kamala Vasagam, Program Counsel
August 17, 2010
Page 3

addition, ILS fully intends this corrective regime to be the basis for continued attention to these concerns and on-going compliance in the future.

Again, I appreciate the time you each took out of your day to speak to me. If anything in this letter does not accurately reflect the contents of our telephone call, I hope you will promptly let me know.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Lundberg', with a long horizontal flourish extending to the right.

Donald R. Lundberg

DRL/kml

cc: Norman P. Metzger, Esquire

APPENDIX E

Corrective Action 12: PLAN TO FULLY OVERSIGHT LAW SCHOOL CLINIC CASES

The Managing Attorney of the ILS Indianapolis office met with the Civil Law Clinic professors from the Indiana University – Indianapolis School of Law on August 20, 2010. A discussion was had regarding the portions of the OCE Draft Report dealing with Intake Screening, case supervision, time-keeping requirements and case closings. After a lengthy discussion, the following plan of action was developed and agreed to by the parties:

The responsibility for oversight of the law school clinic (Clinic) cases will rest with the Managing Attorney (MA-Indy) of the Indianapolis office. In that role the MA-INDY shall maintain general oversight of the case to the same degree as MA-Indy would with cases handled by staff attorneys. It should be noted that the ILS requirements regarding time-keeping in Legal Files, entry of case progress notes into Legal Files and the MA-Indy's responsibility to perform regular case monitoring extend to Clinic cases as well as those being handled by staff attorneys.

The Clinic Attorneys and Clinic paralegal staff shall be subject to the same requirements as ILS staff with regard to Intake Training and the use of the Standardized Intake Form. This will ensure that the cases handled by Clinic staff will not receive any different treatment than those cases handled by ILS Staff Attorneys. In addition, any cases referred to the Clinic after intake in the Indianapolis regional office will be screened by the MA-Indy to determine appropriateness for referral and to ensure that all requirements for designation of File Manager and other internal safeguards are followed.

While it is the general duty of the assigned Clinic Attorney to oversee the day-to-day handling of a specific case, the MA-Indy has historically enjoyed a strong working relationship with Clinic staff and regularly consults on cases, strategies, logistical issues and LSC compliance issues. There is no reason to believe that this will change.

Case closings will be closely monitored by the MA-Indy. As with intake, Clinic Attorneys and Clinic paralegal staff shall be subject to the same requirements as ILS staff with regard to training on properly closing out cases and the use of the standardized case closing memorandum. All cases will be reviewed by the MA-Indy for compliance and accuracy prior to being closed out in the electronic case management system and filed with other closed cases.

Periodic reports on open and closed cases of ILS staff and reports designed to guard against dormant cases, as required by the CODAU plan, referenced in response to corrective action #11, also apply to Clinic cases.

APPENDIX F

Norman Metzger

From: Norman Metzger [norman.metzger@ilsa.net]
Sent: Tuesday, August 17, 2010 3:44 PM
To: mmmust1005@aol.com; matt.foster@ilsa.net; melody.goldberg@ilsa.net; 'Omari Vaden'; 'Phyllis Taylor'; 'Price Jackson'; 'Robin Kimp'; rochelle.weaver@ilsa.net; 'Roderick Bohannon'; 'Ron Flickinger'; 'Stephen Byers'; 'Tracy Pappas'; tracypappas@earthlink.net; 'Brian Dotts'; 'Darlene Briscoe'; 'John Brengle'; Karen.vetter@ilsa.net; 'Linda Fugate'; 'Marianne Conrad'; 'Mark Robinson'; 'Anne Ward'; 'Jamel Hamdi-Pacha'; 'Joe Simpson'; kay.miller@ilsa.net; 'mitsuko murphy'; 'Richard Howell'; 'Ron Gyure'; 'Susan Wright'; 'Victoria Deak'; Wade.probasco@ilsa.net; carol.nyhuise@ilsa.net; 'jeanette gubler'; 'Karen Williams'; 'Katherine Rybak'; 'Luke'; 'Rebecca Adamson'; 'Steve Culley'; 'Tracy Thread'; 'Angelika Mueller'; 'Angie Hoogeveen'; 'Carie Schenk'; foreclosurepreventionsb@ilsa.net; 'Heather'; 'Joseph Zielinski'; 'Kent Hull'; 'Kim Muske-Lynch'; 'Laura Shrader'; 'Lee A. O'Connor'; 'Mary Butiste-Jones'; 'Mary Loughnane'; 'Pat McGrath'; 'Patty Pittman'; chris.baumgartner@ilsa.net; danielle.underwood@ilsa.net; 'Jennifer Helms'; Jessica.creech@ilsa.net; 'Michelle Locker'; 'Mitchell Sherr'; 'Tracy Beechy'; alberta.johnson@ilsa.net; 'Donna Summerville'; 'Gale Carmona'; 'Ghadeer Sandouka'; 'Gloria Torres'; 'Janice Hopkins'; 'Lisa Wesby'; 'Nadiyah Muhammad'; 'Robin Ballard'; 'Sean Newberry'; stephanie.katich@ilsa.net; 'Stephen Rodriguez'; tuggi58@yahoo.com; 'Yolanda Hernandez'; 'Andrea Smothers'; 'Ann Ginda'; 'Cortney Henry'; 'Edward Stachowicz'; 'Jennifer Miller'; 'Kirk. Eichermiller@ilsa.net'; Laura.brown@ilsa.net; tabitha.wolfe@ilsa.net; 'Tim Peterson'; 'Vicki Williams'; 'Beth Silberstein'; 'Charlie Stringer'; 'David Pesel'; 'Jamie Andree'; 'Jeff Gold'; Jennifer.prusak@ilsa.net; 'Marcy Wenzler'; 'Micki Fountain'; 'Myrta Hudson'; rogerwalby@yahoo.com; 'Thomas Frohman'; adam.mueller@ilsa.net; andrew.ault@ilsa.net; Annette.biesecker@ilsa.net; 'Carrie Lynn'; 'Christine Popp'; 'Crystal Francis'; 'Cynthia Daniel'; 'Cynthia McQuigg'; 'Dennis Frick'; 'fran.quigley'; 'Gladys Whitfield'; 'Gloria Woods'; 'Ida Hayes'; 'Janet Coney'; jay.chaudhary@ilsa.net; 'Jeff Boulden'; Kassi Green; 'Katie Coleman'; 'Kitty Folland'; 'Latisa Pickett'; 'Lisa Fennell'; 'Manetric Bobbitt'
Cc: metz696861@aol.com
Subject: Timekeeping & Compliance with LSC regs & ILS policies
Attachments: 2005 timekeeping memo to staff.pdf; TIMEKEEPING ACKNOWLEDGEMENT FORM.doc

All:

Timekeeping is an ongoing LSC compliance issue with employees. To refresh everyone's recollection as to the timekeeping requirements for ILS employees, I am now providing you with the timekeeping memo I circulated to staff on April 15, 2005 (it was distributed by my then-assistant Kim Springer). I've also attached the timekeeping acknowledgement form, approved by the ILS board on June 10, 2005, which each casehandler is required to sign as a condition of employment. The acknowledgement requires casehandlers to read 45 CFR 1635 and ILS personnel policies relating to "time worked", Article 4.

Managers need to make sure all current casehandlers have signed the timekeeping acknowledgement form and that all employees have an understanding of the timekeeping requirements as found in the regulation and personnel policies.

Norman P. Metzger

Executive Director

Indiana Legal Services, Inc.

151 N. Delaware Street, Suite 1640

Indianapolis, Indiana 46204

phone: (317) 631-1395 x2245

direct: (317) 829-3087

fax: (317) 631-9773

Kim Springer

Subject: EMAIL MEMO FROM NORMAN: Timekeeping

To: All ILS Staff

Joe Green, the OCE visit team leader, indicated during the exit interview that the final visit report will contain two corrective actions based upon findings of non-compliance with LSC Regulations 1614 and 1635. The term "corrective action" is different than a "recommendation." Corrective actions are not negotiable with LSC – they are actions that MUST be implemented and actions that LSC will follow-up with a second visit, probably within one year to eighteen months

Regulation 1635 requires documentation, by time records, of the time spent by attorneys and paralegals on each case, matter, or support activity. Section 1635.3(b)(1) states: "Time records must be created contemporaneously and account for time by date and in increments not greater than one-quarter of an hour which comprise all of the efforts of the attorneys and paralegals for which compensation is paid by the recipient." In other words, since we are compensated on the basis of a 7.5 hour day, attorney and paralegal time records must reflect 37.5 hours of time spent each week on cases, matters, support activities, and/or leave to entitle you to a full paycheck. The OCE visitors found widespread non-compliance on this point.

Regulation 1614.3(e)(1)(i) states: "... If any direct or indirect time of staff attorneys or paralegals is to be allocated as a cost to PAI, such costs must be documented by time sheets accounting for the time those employees have spent on PAI activities. The timekeeping requirement does not apply to such employees as receptionists, secretaries, intake personnel or bookkeepers; however, personnel cost allocations for non-attorney or non-paralegal staff should be based on other reasonable operating data which is clearly documented;..." ILS budgets a percentage of certain lawyers and paralegals time to PAI. The amount budgeted must total at least 12.5% of the LSC grant, which is roughly \$560,000. The timekeeping records of those lawyers and paralegals charged off to PAI must reflect time that translates into roughly \$560,000 of salaries paid to those persons

For future reference, the organization may change the way it allocates PAI funds in the budget. For now, however, those lawyers and paralegals identified in the budget for PAI must keep separate PAI time records in order to adequately document that budget expenditure. In October 2004, immediately following the Office Managers' Training, a full set of PAI timekeeping entries were created in Legal Files (at the suggestion of the Office Managers) to enable people to track PAI activities. ILS was able to substantiate, to a large degree, that we were in compliance since October, but couldn't document such time prior to October. Since I did not seek a waiver, permissible under Regulation 1614.6, during 2004 and since ILS has not adopted other reasonable operating data to justify the way we allocate PAI funds in the budget, the OCE Team plans to make a finding of non-compliance with Regulation 1614.

Regarding Regulation 1635, effective today, ILS will not and cannot tolerate non-compliance on timekeeping from even one lawyer or paralegal. The Legal Services Corporation (LSC) grant represents 85% of this organization's total funding of \$6.7M. Relatively, the bureaucratic requirements from LSC are minimal in comparison to most of our other funding sources. The organization will no longer tolerate excuses from those unwilling to comply with the LSC timekeeping requirements. Mr. Green asked me if it was possible that some of you either didn't know how to keep time, or that you needed to keep time in Legal Files at all. In answer to his question, I said that it was "impossible." All of you know that I spoke the truth in answering his question.

Each of you that must keep time must do so as follows:

- 1) Timekeeping must be contemporaneous. Many of you enter time in blocks of time up to, for example, nine hours, and nothing more in one day. While that is conceivable, some of you do it routinely.
- 2) All time in a day for which you are compensated must add up to at least 7.5 hours per day, 37.5 hours per week. It is acceptable to have some days with less than 7.5 hours, so long as your total for the week sums to 37.5 hours.
- 3) Time entries must be made directly into legal files, rather than entries at a much later date from paper records kept by individual casehandlers. The organization needs to be uniform on this matter. Enough time has passed from the initial merger and from the roll-out of Legal Files to be transitioned into direct entry of data.
- 4) Any time spent on PAI by lawyers and paralegals must be entered in the PAI drop-down window. Beginning today, I will expect each of you to know how to use the drop down window.
- 5) All time entered into Legal Files must be categorized as case, matter, support activity, or leave time.

Starting on Monday, May 2nd, we will integrate LSC timekeeping and payroll/attendance timekeeping in Legal Files. All staff will need to keep payroll attendance time in Legal Files, and lawyers and paralegals who need to keep time for LSC purposes will be

4/15/2005

able to keep both payroll and LSC time in Legal Files. There will be two trainings on this subject; the times of those trainings will be provided in an email to follow on Monday by Tad Bohlsen.

The appropriate entries for payroll timekeeping have already been added to the Activity list in Legal Files timekeeping; I intend to begin keeping both my payroll and LSC time in Legal Files on Monday, April 18th, and all staff is welcome to do this as well.

However, starting on May 2nd, 2005, you must be in strict compliance with this memorandum regarding LSC required timekeeping. This will allow attorneys and paralegals two weeks to reach full compliance with LSC timekeeping requirements. Mark Robinson and Jamie Andree have agreed to assist me in identifying those lawyers and paralegals who are in non-compliance as early as May 2nd.

I am also appointing Joe Simpson and K Miller to be the compliance officers to enforce LSC timekeeping regulations, and to ensure that each attorney and paralegal has come into compliance with LSC timekeeping requirements. Effective May 2nd, Joe and K are authorized to contact lawyers and paralegals who are not in compliance, along with their supervisors. This will continue indefinitely and be executed on each payday. Those found to be in non-compliance as early as May 2nd, and thereafter, along with their supervisors, will receive disciplinary action as appropriate under the ILS Grievance & Disciplinary Policy. I will publish a list of all individuals who are in non-compliance. I have also been authorized by my Board President to explore the legality, with our legal counsel, of a Board Policy authorizing Indiana Legal Services to withhold or dock the paychecks of those employees who are not in compliance with ILS timekeeping policies. Finally, I will explore with Deb Hepler, who as many of you know has served as the legal resource to our Board's Personnel Committee, the ramifications of these policies with regard to exempt and non-exempt payroll issues.

Many of you make casual reference to ILS being "family." A family must simultaneously meet the needs of the individuals and the family unit. Therefore, the organization has approached timekeeping, up until now, with some flexibility. Unfortunately, individual "family members" have now put ILS's funding in jeopardy. There must be a paradigm shift in the organization's culture that no longer accepts any deviation from what's required in the timekeeping regulations.

Norman

*Kim Springer, MSW
Assistant to the Executive Director & Grants Manager
Indiana Legal Services, Inc
151 North Delaware, Suite 1640
Indianapolis, IN 46204*

*P: 317-631-1395 x287
F: 317-631-9773
E: kim.springer@ilsj.net*

******* *The Mission of Indiana Legal Services, Inc. is to use our resources to provide poor people with a wide variety of aggressive, quality legal services which will effectively help them to gain equal access to the courts; empower them to control their lives; and impact on the major causes and effects of poverty.***

4/15/2005

ACKNOWLEDGEMENT OF ILS TIMEKEEPING REQUIREMENTS

As an attorney or paralegal employed by Indiana Legal Services, Inc. (ILS), I acknowledge the following:

1. I have received, read and understand the ILS personnel policies relating to the ILS timekeeping requirements;
2. I have received, read and understand Legal Services Corporation (LSC) Regulation 45 C.F.R. 1635 relating to the LSC timekeeping requirements;
3. I understand that I must record and account for my time contemporaneously by date in increments not greater than one-quarter of an hour which comprise all of my efforts for which I am compensated by ILS (see 45 C.F.R. 1635.3(b);
4. I understand I must record my time in the ILS case management computer software program and it is my responsibility to learn the same;
5. I understand that the timekeeping requirements are a condition of my employment;
6. I understand that failure to keep my time as required by the policies and regulations may result in disciplinary action against me, including possible termination from ILS employment; and
7. I understand this form, when signed, will be placed in my personnel file.

SIGNATURE

DATE

PRINTED NAME

APPENDIX G

Indiana Legal Services, Inc.
Cost allocation Worksheet for PAI
January through July, 2010

	Direct exp through 7/10	Total exp through 7/10	% factor	Overall ILS exp through 7/10	Indirect expense through 7/10
Salaries - Atty	56,673.63				
Salaries - Paralegal	49,562.63				
Salaries - Other	104,324.20				
FICA	16,025.77				
Fringe	31,423.08				
	<u>\$258,009.33</u>	\$3,763,687.54	6.86%		
Salaries - Other Staff				630,259.58	36,054.06
(less other included in direct cost)				(104,324.20)	
FICA Expense				207,155.49	13,102.38
(less FICA included in direct cost)				(16,025.77)	
Fringe Benefits				641,542.90	41,825.10
(less Fringe included in direct cost)				(31,423.08)	
Legal Fees and Expenses				2,400.20	164.54
Contract Services				129,065.98	8,847.77
On-Line Data Subscription				26,082.06	1,787.98
Contract Services - Audit Fees				34,060.00	2,334.89
Program Travel				-	-
Board Travel				13,306.45	912.19
Training Program - Staff				-	-
Training Program - Board				1,000.00	68.55
Training Program - Client				12,477.51	855.36
Space Rental				336,222.16	23,048.79
Utilities & Other Space Costs				35,050.40	2,402.78
Rental on Lease of Equipment				38,384.73	2,631.36
Consumable Supplies				35,846.50	2,457.36
Telephone				58,259.24	3,993.80
Law Library				16,651.92	1,141.53
Insurance				28,126.63	1,928.14
Litigation				-	-
Dues & Fees				9,057.63	621.61
Other Direct Expense				10,102.97	692.58
Postage				23,882.20	1,637.18
Printing				14,557.96	997.98
Computer Repair Expense				525.00	35.99
Acquisition of Property				60,724.67	4,162.81
					<u>\$60,723.20</u>
Total PAI expense through July 31,	\$318,732.53				
2010 waiver-approved PAI requireme	\$409,311.00				

APPENDIX H

APPENDIX I



Indiana Legal Services, Inc.

NORMAN P. METZGER, EXECUTIVE DIRECTOR
JOSEPH E. SIMPSON, DIRECTOR OF ADMINISTRATION

BOARD OFFICERS:

Carolyn Barlow, President
Sandra D. Leek, 1st Vice President
Jennifer Sommer, 2nd Vice President
Mark Dinsmore, Treasurer
Mary Fodorisi, Secretary
Norman P. Metzger, Assistant Secretary

September 2, 2010

Karla Schlichte, Director
Blue & Co., LLP
12800 N. Meridian Street, Suite 400
Carmel, IN 46032

Dear Karla:

During the 2005 review we underwent with the Office of Compliance and Enforcement of the Legal Services Corporation, two issues arose requiring corrective action for ILS that concerns reporting in the audited financials.

Corrective action #16: *Instruct its independent auditor that all subgrant agreement(s) must be noted in all future ILS' audited Financial Statements.*

During 2008, there was a continuation of the Marion County Bar subgrant (which was phased out in 2009) which was not noted in the financial statements. ILS failed to make Blue aware of the subgrant so that it could be noted.

Corrective action #20: *Inform its auditors to separately report any offsetting liability in the Client Trust Fund account on all future Statements of Financial Position.*

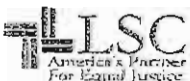
In our audited Statements of Financial Position, LSC would like to see Client Trust broken out of "Accounts payable and accrued expenses" and be reported as a separate line item.

Thank you for your continued support of ILS. Please let me know if you have any questions or concerns.

Sincerely,

Susan O. Wright
Controller

Cc: Metzger, Simpson



OFFICE OF ADMINISTRATION
151 North Delaware Street, Suite 1640
Indianapolis, Indiana 46204
Phone (317) 631-1395 FAX (317) 631-9773
Indiana toll free: 1 (800) 869-0212
www.indianajustice.org

APPENDIX J

Date: Tuesday, September 14, 2010
 Time: 01:13PM
 User: SYSADMIN

Indiana Legal Services, Inc.
 GL Edit - Standard
 Period: 08-10 As of: 9/14/2010
 Ledger ID: ACTUAL

Page: 1 of 1
 Report: 01810.rpt
 Company: LSO

Tran Type	Company ID	Account	Subaccount	Reference Nbr	Tran Date	Tran Description	Qty	Debits	Credits			
Batch: 002809	Status: P	Auto Rev:	No	Cycle:	0	Mbr Cycles:	0	Jrnl Type: GJ	Per Entr: 06-10	Per Post: 06-10	Control Total:	842.42
GL	LSO	5705	1000			Dues & Fees						
			ADMIN-LSC		7/26/2010	reversal of 08/09 late feesBF		0.00				58.00
GL	LSO	5705	1000			Dues & Fees						
			ADMIN-LSC		7/26/2010	reversal of 08/09 fin chgs BF		0.00				725.32
GL	LSO	5705	1000			Dues & Fees						
			ADMIN-LSC		7/26/2010	reversal of 08/09/10 comb purch		0.00				59.10
GL	LSO	5705	9000			Dues & Fees						
			GENERAL FD		7/26/2010	reversal of 08/09 late feesBF		58.00				0.00
GL	LSO	5705	9000			Dues & Fees						
			GENERAL FD		7/26/2010	reversal of 08/09 fin chgs BF		725.32				0.00
GL	LSO	5705	9000			Dues & Fees						
			GENERAL FD		7/26/2010	reversal of 08/09/10 comb purch		59.10				0.00
Batch Total								842.42			842.42	
Ledger Total								842.42			842.42	

APPENDIX K

CASE CLOSING MEMORANDUM

Client Name: _____	LF Case No: _____	Staff Member: _____
Summary of Legal Issues and Resolution: 		
Is case funded by LSC? <input type="checkbox"/> No <input type="checkbox"/> Yes If yes indicate: <input type="checkbox"/> 01-Staff <input type="checkbox"/> 02-PAI or <input type="checkbox"/> 03-Migrant Farm Wrkr		
Is case reportable to LSC? <input type="checkbox"/> Yes If yes, complete compliance checklist. <input type="checkbox"/> No If no, indicate why below: <input type="checkbox"/> LSC Compliance not met <input type="checkbox"/> Over asset <input type="checkbox"/> Over income <input type="checkbox"/> Over income and over asset <input type="checkbox"/> pro bono referral <input type="checkbox"/> Referred/legal assessment <input type="checkbox"/> Rejected case <input type="checkbox"/> Senior over asset <input type="checkbox"/> Senior over income		
Other funding: Select all that apply. <input type="checkbox"/> AmeriCorps <input type="checkbox"/> Anderson Foundation <input type="checkbox"/> Area 1 Aging (Gary/Hammond: NWICAC) <input type="checkbox"/> Area 10 Aging (Bloomington) <input type="checkbox"/> Area 11 Aging (Columbus) <input type="checkbox"/> Area 13 Aging (Evansville: Generations) <input type="checkbox"/> Area 16 Aging (Evansville: SWIRCA) <input type="checkbox"/> Area 2 Aging (South Bend: REAL Services) <input type="checkbox"/> Area 3 Aging (Ft. Wayne) <input type="checkbox"/> Area 4 Aging (Lafayette) <input type="checkbox"/> Area 5 Aging (Logansport/Lafayette) <input type="checkbox"/> Area 6 Aging (Anderson: Lifestreains) <input type="checkbox"/> Area 7 Aging (Terre Haute: WCEDD) <input type="checkbox"/> Area 8 Aging (Indianapolis: CICOA)	<input type="checkbox"/> Area 9 Aging (Richmond) <input type="checkbox"/> Bloomington Elder Clinic <input type="checkbox"/> CDBG – East Chicago <input type="checkbox"/> CDBG – Gary <input type="checkbox"/> CDBG – Hammond <input type="checkbox"/> Civil Legal Aid Funds (CLAF) <input type="checkbox"/> District 12 Pro Bono <input type="checkbox"/> District 4 Pro Bono <input type="checkbox"/> District 5 Pro Bono <input type="checkbox"/> District 8 Pro Bono <input type="checkbox"/> E. Chicago Family Stability Proj. <input type="checkbox"/> ECRP – Reintegration Project <input type="checkbox"/> Equal Justice Fund <input type="checkbox"/> Equal Justice Works	<input type="checkbox"/> Evansville HUD <input type="checkbox"/> IFLA: Inst. for Foreclosure Legal Asst. <input type="checkbox"/> IHFA-HUD Housing Grant <input type="checkbox"/> Indiana Bar Foundation <input type="checkbox"/> Law Clinic – Indy <input type="checkbox"/> Marion Cty Bar Pro Bono Sub Grant <input type="checkbox"/> Pulliam Grant <input type="checkbox"/> SBFJC South Bend Family Justice <input type="checkbox"/> Tax Clinic – LITC <input type="checkbox"/> United Way – Central Ind. <input type="checkbox"/> United Way – Lake Area <input type="checkbox"/> United Way – Madison Co. <input type="checkbox"/> United Way – Posey Co. <input type="checkbox"/> United Way – St. Joseph Co.
Problem Code: _____	Closing Code: _____	Outcome Code: _____ (Required for cases closed F-K)
(Use "X" if completed; "n/a" if not applicable)		
<input type="checkbox"/>	all necessary orders entered	
<input type="checkbox"/>	appearance withdrawn	
<input type="checkbox"/>	client billed for outstanding expenses or unused client funds returned	
<input type="checkbox"/>	adequate final communication with client	
<input type="checkbox"/>	extra copies and extraneous materials removed from file	
<input type="checkbox"/>	important papers or exhibits returned to client	
<input type="checkbox"/>	adverse party information on file	
File may be destroyed after seven (7) years <input type="checkbox"/> Yes <input type="checkbox"/> No Retain file until: _____		
Retain file indefinitely: DO NOT DESTROY		

Remember to attach LSC compliance checklist if case is reportable to LSC

Casehandler: _____ Date: _____

Supervisor: _____ Date: _____ (Closing Date)

LSC Compliance Checklist:

Client Financial Eligibility:

Income at/below 125% ___Yes ___No **or**

If between 125% and 200%, are factors documented? ___Yes ___No **or**

If over 200%, are proof of medical expenses and waiver from Executive Director in file? ___Yes ___No

Assets below \$3,000 ___Yes ___No If no, is waiver from Executive Director in file? ___Yes ___No

If there are no "yes" answers to income and asset questions, deselect – case is not LSC reportable.

Client Eligibility:

Citizenship Declaration in file? ___Yes ___No **or**

Eligible Alien Status documented (*Need photocopy unless no personal contact and limited service*) ___Yes ___No **or**

Kennedy Amendment/Trafficking Exception ___Yes ___No

If "group client," does file show group cannot afford legal assistance **and** either:

- is composed primarily of persons who would be LSC eligible ___Yes ___No **or**

- group's main activity is serving LSC-eligible persons and legal work relates to such service. ___Yes ___No

If there are no "yes" answers above, deselect - the case is not LSC reportable

Eligibility Code: (proof of decision regarding factors)

00 Prima Facie Eligible

01 High expenses and income less than 200% FPG

02 Govt. Bens. for poor and income less than 200% FPG

03 Exceptionally high medicals, ED waiver and income exceeding 200% FPG

04 Equitable value disregard/over 60, handicapped, institutionalized

06 Court Appointed

Other LSC Compliance Issues:

Signed Retainer Agreement in file? ___Yes ___No If no, is closing code A or B? ___Yes ___No

Retainer Agreement Timely? ___Yes ___No

Scope of representation adequately described in Retainer Agreement? ___Yes ___No

Signed Client Statement of Facts/Complaint in file? ___Yes ___No **or**

___N/A – client was defendant or no court litigation was contemplated

Duplicate Case: Same client, same case, same year? ___Yes ___No (*If yes, deselect one of the two*)

Multiple clients represented in one legal case with one court docket number? ___Yes ___No

If answer is "yes", report only one client and deselect the remainder.

Client resident of service area? ___Yes ___No If no, is legal problem in service area? ___Yes ___No

*Case type and legal activities are not prohibited but fall within those approved by LSC? ___Yes ___No

*Case file shows the legal work done and/or legal advice given? ___Yes ___No

*Timely Closing: Closing Code F thru L: Last legal action/court decision this year or last? ___Yes ___No

*Closing Code A or B: Opened this year or after 9/30/ last year? (*If no, does file document reason to keep file open?*) ___Yes ___No

If you answered "no" to a question with an () asterisk, you must deselect the case. Other "no" answers leave cases reportable, although they do violate LSC regs or the CSR manual and will result in findings of non-compliance.*

APPENDIX L

REPORT ON COMMITTEE ON INTAKE POLICIES, PROCEDURES AND FORMS

(S. Byers, M. Goldberg, J. Miller)

Charge: Review Intake Policies, Procedures and forms to ensure that they comport with findings in LSC-OCE Draft Report.

Recommendations:

A. Forms:

The Standardized Intake Form was mandated for use throughout the agency has been approved by LSC. All branch offices and projects shall use only this document in performing intakes when intake is not directly entered into Legal Files.

B. Policies & Procedures:

1. Consistent Application of Eligibility Criteria.

A. Of special note were some discrepancies in interpretation of standard definitions set forth by ILS and or LSC.

i. Definition of HOUSEHOLD for purposes of LSC Eligibility. The ILS Eligibility Rules as revised on June 11, 2010 states :

“3. “Household” means persons who live together and are related by blood or marriage and who have a legal obligation of support for one another. If the applicant is a victim of domestic violence, only the assets and income of the applicant and members of the applicant’s household other than those of the alleged perpetrator of domestic violence shall be considered...”

ii. **Over-income case acceptance.** Where household income is below 125% of the federal poverty guidelines, the applicant is income-eligible. Applicants between 125% and 200% and have a factors as defined in the ILS Eligibility Rules are *over-income but eligible*.

Applicants with household income over 200% are ineligible except in cases where Executive Director determines otherwise.

iii. **Definition of Assets:** Defined in sec. 1611.2(d) as cash or other resources of the applicant or members of the applicant's household that are readily convertible to cash, which are currently and actually available to the applicant.

iv. **Citizenship attestation :** Sec. 120.70 of the ILS Legal Work Manual states "When an application is completed in person, rather than on the telephone, the Intake Interviewer must obtain a signed "Citizenship Attestation" or documentation of immigrant status. Further information in Sec. 220.00

v. **Conflicts checks.** Sec. 120.30 of ILS Legal Work Manual provides complete procedure for conducting a conflict of interest check, including requirement that conflict check be performed prior to conducting intake interview.

vi. **Factors.** ILS Eligibility Rules Sec 2 A 3 clarified to include the following examples as Fixed debts and obligations: Mortgage, rent, student loans, bankruptcy payments/court costs, wage garnishments, etc.

vii. **ILS Standardized Intake Form** All reference in the Legal Work Manual to *ILS Client Intake Sheet* shall be amended to read **ILS Standardized Intake Form**. Further, *Form 120.00A and Form 120.00B* shall be merged into 120.00A and shall refer to the **ILS Standardized Intake Form**.

viii. **Prospective Income** ILS Standardized Intake Form mandates the collection of prospective income information from all applicants for services through ILS. Training of all staff on this topic will be included in Intake Training.

C. Standardize Intake Training for Staff and Volunteers

1. Standardized Training of Staff & Volunteers.

Within 30 days of receipt of the OCE Final Report, ILS will conduct Regional trainings for all existing staff and volunteers on the ILS Standardized Intake Form, the Intake policies and procedures contained in the ILS Legal Work Manual and the eligibility criteria contained in the ILS Eligibility Rules updated June 11, 2010.

- i. The ILS Standardized Intake Form shall be used in all intake interviews to ensure that staff and volunteers are conducting the same interview and eliciting the same information.
- ii. The training team shall consist, at a minimum, of the Managing Attorney or his or her designee and a staff Intake Paralegal.
- iii. All staff MUST attend training in their area and sign a statement attesting to their compliance with this training requirement.
- iv. At the conclusion of the training hereunder, each regional Office of ILS shall designate an existing staff member, who has attended the training for existing staff, as their Intake Training Liaison for purposes of training new staff and volunteers.
- v. The training of new staff and volunteers will take place within 30 of either their hiring date or beginning of volunteer commitment.

APPENDIX M

Retainer Agreement

Indiana Legal Services, Inc. (ILS) and I agree that:

1. ILS will assist me in the following case:
The scope of ILS's service, for which ILS will assist or represent me in this case, includes:
 Investigation Administrative Appeal Trial Court Litigation
 Negotiation Document Preparation Appeal to
Other Scope of Service: _____

2. ILS will not charge me for its services. I will pay for costs, such as filing and publication fees, whether my case is won or lost, unless we can get the other side to pay or get the court to waive the fees. If ILS recovers damages or back benefits for me, I will reimburse ILS for any expenses it has paid to handle this case.
3. I understand that sometimes ILS can try to get the other side of the case to pay for my lawyer or paralegal. If this is possible, I agree to let ILS ask for and keep this payment of attorney fees.
4. ILS will not settle my case unless I agree to the terms of the settlement.
5. I understand that I have the following obligations and will fully cooperate with ILS in its efforts to represent me:
 - a. I will tell you the truth about me and my case. What I have told you so far is true, as far as I know.
 - b. I will promptly respond to requests by ILS for me to contact ILS about my case.
 - c. I will promptly notify ILS if my income, any household member's income, my address, or my telephone number changes. I will notify ILS of any other changes that may affect my case.
 - d. I will appear at appointments and court or administrative hearings when asked to do so by ILS.
 - e. I will not talk to the other side's lawyer. I will call ILS right away if the other side's lawyer tries to talk to me.
6. I can tell ILS to stop representing me whenever I want. ILS can stop representing me for a good reason but only after telling me or making a reasonable effort to tell me. Some good reasons would be if I become financially ineligible or do not do what I have agreed to do in paragraph 5 above.
7. I can complain if I do not like the work being done on my case, or if you tell me you are going to stop representing me. I can complain by requesting the ILS grievance procedures.
8. I understand that ILS may be required to disclose certain information to its funding sources, auditors, and monitors, such as my name and address (unless protected by court order or statute), the nature and disposition of my case, the name and address of the opposing party, retainer agreement, financial records and eligibility records.
9. My ILS representative cannot represent me in an appeal to an appellate court without receiving permission in advance from the ILS Executive Director or the Executive Director's designee.
10. I have been given a copy of this form to keep.

Date

Client's Name

ILS Representative:

Declaration of Citizenship

I hereby declare that I am a citizen of the United States.

Date

Client signature

APPENDIX N

INDIANA LEGAL SERVICES, INC.

Payroll and Benefit Form Checklist

TO: _____

FROM: Joe Simpson, Director of Administration
Susan Wright, Controller
Anne Ward, Benefits Manager

DATE: _____

RE: Your Payroll and Benefit Forms

Please find the following enclosed:

- ^New Employee Memo
- #State *WH-4 Form
- #Federal W-4 Form
- #Federal I-9 Form
- *Employee Info & Emergency Contact
- ^Personnel Policy Handbook
- ^UNUM – voluntary Additional Life Insurance Info
- *UNUM Additional Life Application

Additional Packets:

- ^Anthem Blue Cross and Blue Shield Info; including the *Anthem BCBS Enrollment Application
- ^Flex Benefit info; including *Flex Benefit Enrollment Form

All forms marked with “#” and a copy of a check for direct deposit need to be returned to office manager immediately for submission to Susan Wright along with EAS (completed by your Managing Attorney or Office Manager).

All forms marked with an “*” need to be mailed to Anne Ward. Please note your completed Anthem Insurance application must be received by Anthem within **30 days** of the hire date, therefore, the application must be sent to Anne in a timely manner. If you chose to waive coverage you still must complete the waiver section and the life insurance section. If you are electing Anthem insurance coverage you must complete the flex enrollment form even if you do not wish to participate in the flex plan; this is to allow us to deduct your insurance premiums prior to taxes.

Items marked with a “^” are informational and for you to keep.

Any questions, please call Joe Simpson ext 2243, Susan Wright ext 2242 or Anne Ward ext 2285.

I hereby acknowledge receipt of the New Employee Package, including the documents listed above.
(Please return to Anne Ward)

X

Employee

Date