



Legal Services Corporation
Office of Program Performance

Final Report
From the
Program Quality Visit
to

Legal Aid Society of Mid-New York, Inc.
Recipient No. 233150

April 12-16, 2010

LSC Review Team

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Table of Contents

INTRODUCTION.....	1
PROGRAM OVERVIEW AND SERVICE AREA.....	1
SUMMARY OF FINDINGS	2
PERFORMANCE AREA ONE. Effectiveness in identifying the most pressing civil legal needs of low-income people in the service area and targeting resources to address those needs.....	3
Criteria 1, 2, 3 and 4. Periodic comprehensive assessment and ongoing consideration of legal needs. Setting goals and objectives, developing strategies and allocating resources. Implementation. Evaluation and adjustment.	3
PERFORMANCE AREA TWO. Effectiveness in engaging and serving the low-income population throughout the service area.....	5
Criterion 1. Dignity and sensitivity.....	5
Criterion 2. Engagement with the low-income population	6
Criterion 3. Access and utilization by the low-income population.....	7
PERFORMANCE AREA THREE. Effectiveness of legal representation and other program activities intended to benefit the low-income population in the service area.....	9
Criterion 1. Legal representation.....	9
Criterion 2. Private attorney involvement (PAI).....	13
Criterion 3. Other program services to the eligible client population.....	15
PERFORMANCE AREA FOUR. Effectiveness of governance, leadership and administration.....	15
Criterion 1. Board governance.....	15
Criterion 2. Leadership.....	17
Criterion 3. Overall management and administration.....	17
Criteria 4, 5 and 6. Financial Administration. Human Resources Administration. Internal Communications.....	19
Criterion 7. General resource development and maintenance.....	20
Criteria 8 and 9. Coherent and comprehensive delivery structure. Participation in integrated legal services delivery system.....	21

INTRODUCTION

The Legal Services Corporation's (LSC) Office of Program Performance (OPP) conducted a program quality visit to the Legal Aid Society of Mid-New York, Inc. (LASMNY) from April 12 – 16, 2010. The team members were Cheryl Nolan, Team Leader/OPP Program Counsel; Tillie Lacayo, OPP Program Counsel, Cynthia Schneider, OPP Deputy Director and consultant Alex Gulotta.

Program quality visits are designed to ensure that LSC grantees are providing the highest quality legal services to eligible clients. In conducting its assessment, the team carefully reviewed the documents LSC has from the program including its grant application narrative for 2010, its case service reports (CSRs) and other service reports (OSRs), the numerous documents the program submitted in advance of the visit including advocates' writing samples and an electronic survey of LASMNY staff. On site, the team visited the Binghamton, New Paltz, Syracuse, and Utica offices. In addition to speaking to most of the LASMNY staff members, the team conducted telephone interviews or met in person with a sample of board members, judges, members of the bar and community organization members.

In performing its evaluation of the grantee's delivery system, OPP relies on the LSC Act and regulations, LSC Performance Criteria, LSC Program Letters, and the ABA Standards for the Provision of Civil Legal Aid. The evaluation is organized according to the four LSC Performance Areas that cover needs assessment and priority setting; engagement with the low income community; legal work management and the legal work produced; and program management including board governance, leadership, strategic planning, resource development and coordination within the delivery system.

PROGRAM OVERVIEW AND SERVICE AREA

LASMNY was incorporated in 1952 under the name of Legal Aid Associates, Inc. The program first changed its name to Legal Aid Society of Oneida County, Inc. in 1957, and changed its name a second time in 1984 to Legal Aid Society of Mid-New York, Inc. The present configuration began on January 1, 2004 as a result of the reconfiguration of three legal services programs in the state: LASMNY, Legal Services of Central New York, Inc. (LSCNY) and Legal Aid for Broome and Chenango Counties, Inc.

LASMNY provides a full range of legal services to eligible low-income people in 13 counties located in the central region of New York from eight offices – the Utica, the main office, and the New Paltz, Syracuse, Cortland, Watertown, Oswego, Binghamton and Norwich branch offices. A staff member provides services to clients in the Oneonta region at an area agency office, Opportunities for Otsego, Inc or at a private law office space. The program employs 62 attorneys and other staff members working throughout its service area. In 2010, LASMNY received \$2,027,963 in basic field LSC funding and \$318,690 LSC migrant funding. In 2009, LASMNY received \$1,878,198 in basic field LSC funding, and \$295,154 in LSC migrant funding. In 2008, it received approximately

\$2,488,140 from non-LSC sources and in 2009 it received approximately \$2,259,201 from non-LSC sources.

The LASMNY service area covers 13,075 square miles and has a poverty population of 192,708¹, which is 13% of its overall population. The ethnicity of the service area is approximately 79.6% white – non-Hispanic, 12% African American, 5% Hispanic, 1% Native American, 2% Asian, and 2% other.² The primary languages of a significant portion of the limited-English proficient (LEP) population are Spanish, Bosnian and Russian.

The program's legal work is centered on advice and counsel, brief service and representation in consumer, education, employment, family law (with a focus on domestic violence), health, housing, welfare/public benefits, immigration and elder law. LASMNY has specialized projects for the limited English proficient community. The program has a high-volume intake, advice and referral unit called the HelpLine. The program has a migrant component, the Farmworker Law Project (FLP), funded by LSC. The migrant component is staffed by a full-time managing attorney, two full-time bilingual paralegals, and a full-time bilingual intake specialist/receptionist. Migrant staff personally conducts outreach across the service area.

SUMMARY OF FINDINGS

LASMNY's delivery structure is marked by its partnership in the Justice Alliance of Central New York, created by LASMNY and the non-LSC funded provider in the service area, LSCNY. This collaboration is a hallmark of the program's mission statement. The program's leadership has maintained a unified vision for the program's work promoting the collaboration of the Justice Alliance of Central New York. Staff and management of both programs meet on a regular basis. While program priorities are well-defined and divided among the partners of the Justice Alliance, services in the Binghamton office are predominantly family law matters as the result of a specialized local grant.

Advocates are provided adequate training from national and local sources. LASMNY is staffed so as to effectively address the linguistic and cultural characteristics of its clientele. Attorneys and other staff do a great deal of outreach throughout the state.

LASMNY's intake is handled by the Central New York Legal HelpLine (HelpLine), which handles general intake, advice, brief services and referral for the program and its non-LSC funded partner LSCNY. LASMNY screens incoming applications for systemic legal problems and disability rights issues and refers cases

¹ These figures are based on the 2000 Census.

² Census data for ethnicity exceeds 100 percent due to the methodology for Hispanic responses. Census 2000 allowed respondents to report two or more races and asked separate questions for race and Hispanic origin. "Because Hispanics may be any race, data in this report for Hispanics overlap with data for racial groups." U. S. Census Bureau. (December 2004). *We the People: Hispanics in the United States. Understanding Data On Race and Hispanic Origin from Census 2000*. Retrieved February 2, 2010, from <http://www.census.gov/prod/2004pubs/censr-18.pdf>.

falling under these criteria to LSCNY for representation, class actions and policy work. The HelpLine is accessed by a toll-free number or by walking in to any LASMNY office. Advocates have appropriate, up-to-date technology to support their legal work, and it is used consistently by staff. LASMNY's case management system (CMS) is Clients for Windows[®] (also known as Kemps).

The program actively promotes private attorney involvement. LASMNY is engaged and well-respected by the judiciary and its community partners. The present executive director, who was formerly the litigation director for LSCNY, assumed his current position in 2007 and his transition has been well-received by staff, the board and members of the community. The program's board, leadership and management maintain a structure that allows the program to be effective in serving its clients. The board is active and involved in overseeing the work of the program. The program and board are focused on maintaining an integrated network of services and ensuring sound fiscal compliance. The board, executive director and financial administrators effectively oversee program finances. The firm's financial management staff is experienced. The board has minimal involvement with resource development. Staff seeks resources to serve clients in specific areas of need, such as family law, foreclosure, disability rights and increasing access through the HelpLine.

FINDINGS AND RECOMMENDATIONS

PERFORMANCE AREA ONE. Effectiveness in identifying the most pressing civil legal needs of low-income people in the service area and targeting resources to address those needs.

Criteria 1, 2, 3 and 4. Periodic comprehensive assessment and ongoing consideration of legal needs. Setting goals and objectives, developing strategies and allocating resources. Implementation. Evaluation and adjustment.

Finding 1: LASMNY last conducted a comprehensive assessment of legal needs in 2004. The program is responsive to reviewing community needs.

LASMNY completed a comprehensive assessment of the legal needs of its basic field clients in October 2004. The needs assessment involved written surveys and focus group meetings with constituent organizations and individuals from the client community. The program distributed 1420 written surveys to clients by mail, to walk-ins, volunteer attorneys, local bar representatives, staff and social service agencies. LASMNY received 492 responses in return.

The migrant program last assessed legal needs in 2005. The needs assessment sought direct input from migrant farmworkers, community organizations and local providers. It did not involve written surveys of migrant farmworkers. Migrant needs are reviewed annually. The program reports that migrant needs have not changed since the

last assessment. Immigration and employment issues remain the top areas of need for migrant farmworkers. In recent years, the Farmworker Law Project (FLP) has seen more migrant farmworkers working in non-traditional agricultural work, such as, dairy, greenhouses, and wine grapes. Fewer farmworkers are working in vegetable crops. In the area of employment law, staff finds that farmworkers are reluctant to complain about current working conditions upon first meeting project staff and while still working for the employer whom they have a complaint against.

At the time of this visit, the program reported plans to begin a new comprehensive needs assessment process in mid-year 2010. The program will first develop a needs assessment plan before embarking on surveying needs or conducting focus groups or meetings.

In recent years, LASMNY's client population experienced an increased need for foreclosure assistance as a result of the downturn in the economy. The need is evidenced in HelpLine data of requests for assistance, contacts with non-profit housing organizations and from collaborations statewide in the legal services community. Legal assistance for the growing LEP and refugee community in central New York is a significant area of emerging need. Utica has been among the top five largest refugee settlement centers in the country.³ Spanish, Bosnian and Russian are the most prevalent languages spoken by the LEP community.

Recommendation:

I.1.1.⁴ To the extent it has not already done so, LASMNY should begin work on its needs assessment work plan and timeline and begin the needs assessment process. LASMNY should consider creating a committee comprised of staff at all levels and board members to implement and coordinate the needs assessment.

Finding 2: LASMNY's Binghamton office case closing data for cases outside of the HelpLine shows an overemphasis of family law as the result of a local grant.

LASMNY's program priorities are family law, housing, welfare/public benefits, consumer employment, special education, immigration and health care. LSCNY handles special education cases, disability rights, fee generating cases, class actions and policy work. Interviews with staff and case service reporting indicate the program's services tend to be more grant-driven. In the Binghamton office, there is an overemphasis in family law as a result of a grant from Broome County for assigned counsel cases. In 2009, it closed 900 family cases out of a total of 1,115 with a majority related to child custody and visitation matters.⁵ The 2009 Binghamton cases show 8 closed in health, 15

³ *Refugee Resettlement – Utica, NY* wiki. Retrieved June 3, 2010 from <http://policyoptions.pbworks.com/Refugee+Resettlement+-+Utica,+NY>.

⁴ Recommendations are numbered as follows: the Roman numeral references the Performance Area followed by the finding number and lastly by the recommendation number that pertains to the finding.

⁵ This case closing data does not include HelpLine and pro bono services for this office. In 2009, the HelpLine closed 117 consumer, 9 education, 29 employment, 129 family, 9 juvenile, 8 health, 252 housing,

closed in housing, 22 closed in consumer, 56 closed in income maintenance and 28 closed for wills and estates/advanced directives.

Recommendations:

I.2.1. LASMNY should take care to ensure that core priorities are served throughout the service area and that specialized grants supplement or enhance high priority work.

I.2.2. LASMNY should utilize meaningful, inclusive processes for determining client needs in the core poverty law areas and develop short and long range plans to generate resources targeted at meeting those needs.

PERFORMANCE AREA TWO. Effectiveness in engaging and serving the low-income population throughout the service area.

Criterion 1. Dignity and sensitivity.

Finding 3: LASMNY is linguistically and culturally competent, and it treats clients with dignity and respect.

LASMNY's language access efforts on behalf of persons with LEP are excellent. LASMNY has an LEP coordinator who is committed to her work on behalf of the LEP community and has a long-standing and sincere interest in this aspect of legal services delivery, dating back to her childhood. The program was one of the first in the country to create an LEP policy. LASMNY has an LEP procedures manual available on the program's website. The website contains content in Spanish, Bosnian, Russian and Vietnamese. The program's brochures are translated into these same languages. LASMNY's shared drive has multi-lingual intake documents, form letters, and community education materials.

Nine LASMNY staff persons are bilingual. Seven are bilingual in Spanish, one in French, and one in Japanese. Another staff person is multilingual in French, Finnish and German. Staff interviewed demonstrated sensitivity to the needs of LEP persons seeking legal assistance. The program advises persons seeking services of the availability of free interpretation in over 40 different languages and posts signage in public waiting areas to that effect. In-house training is available to staff in interpretation. The training is presented by the bilingual intake specialist staffed by the FLP, who is working toward a degree in interpretation and translation at New York University. Staff use interpreters as needed and are familiar with and understand how to use Language Learning Enterprises[®] (LLE)⁶, the program's telephone interpretation service.

The program has established relationships with organizations that work with LEP populations and with the community leaders in those communities such as the Somali

99 income maintenance and 29 other/wills cases. The pro bono closures for 2009 add 106 consumer, 146 family, 1 health, 15 housing, 17 income maintenance and 36 other/wills cases.

⁶ LLE is also referred to as LLE Link.

Bantu. LASMNY staff has provided community education to area agencies on their responsibilities toward the LEP population. The program sought and obtained funding to conduct outreach and provide assistance to LEP populations. It has an IOLA grant for outreach to H-2A workers, and a special project to help refugees become U.S. citizens. There is also a special grant to develop a legal interpretation course. LASMNY continues to seek funding in this area. The program submitted a 2010 LSC Technology Initiative Grant (TIG) to create video and audio website content in the more commonly encountered languages in its service area (Spanish, Bosnian, Burmese/Karen, Russian, Somali Maay Maay and Vietnamese).

The program has addressed systemic problems on behalf of the LEP community, such as the failure of the Oneida County Department of Social Services (DSS) to provide interpretation services which resulted in the frequent denial of public benefits to members of the Somali Bantu community. LASMNY filed administrative complaints with DSS and as a result, the agency began providing interpreters.

Criterion 2. Engagement with the low-income population.

Finding 4: LASMNY is actively engaged and visible in the client community.

The program's staff members are well connected with the service provider networks in their respective communities; connection with low-income client groups is less in evidence except in some limited circumstances. LASMNY responds to the low-income community, including the LEP, in times of crises, such as by coordinating and participating in advice clinics conducted in May 2009 after the shootings at the American Civic Association in Binghamton. There, the program collaborated with community organizations in organizing and conducting the clinics and tapped into the resources of the private bar in utilizing the services of seven pro bono attorneys (some of whom were bilingual).

Recommendation:

II.4.1. LASMNY should increase meaningful contact and collaboration with low-income community groups beyond community groups working with the LEP population.

Finding 5: The Farmworker Law project works closely with the migrant farmworker community.

The Farmworker Law Project (FLP) serves the legal needs of migrant farmworkers in all 57 counties of New York State. FLP staff has divided the state into regions assigning one staff person to each region. A non-LSC funded program, Farmworker Legal Services of New York (FLSNY), also covers the western part of state and the two programs work together on servicing that part of the state. The FLP covers H-2A farms statewide. FLP staff work out of an office in New Paltz, in the Hudson Valley, which offers ready access to clients and to other nearby areas for farmworkers, despite a reported decline of the apple industry in that area.

The primary work of the project is outreach to the farmworker community, which is conducted 11 months a year. During outreach, staff provides legal information on employment law, worker's compensation, and health and safety issues. After each outreach event or activity, staff meets and documents the issues they identified and the locations visited. At the time of the visit, the FLP did not have a written outreach plan. However, subsequent to the visit, a 30 month written outreach plan was developed. The plan memorializes what the FLP has already accomplished from January 2009 to June 2010 and continues prospectively through June 2011 on a weekly basis for each individual FLP advocate.

The FLP works closely with the New England farmworker projects and especially with the Farmworker Project of Pine Tree Legal Assistance. Together they publish an English/Spanish Harvest Calendar that advises farmworkers of their rights in a variety of legal areas. The calendar has a newsletter insert addressing issues targeted to H-2A workers. The programs also jointly attend meetings with the Mexican consul in Boston to discuss issues encountered by Mexican farmworkers. FLP coordinates with FLSNY, a non-LSC funded provider in the western region of the state, on dividing the services they provide. There is some coordination with FLSNY on outreach, but staff reported that this is an area that can be improved.

Recommendation:

II.5.1. The FLP should consider developing a written annual work plan that describes outreach plans for the year or for each quarter. The plan should be based on the prior year's work, including issues uncovered during the prior year. The plan could also address the FLP's partnerships and provide for enhanced collaboration with FLSNY.

Criterion 3. Access and utilization by the low-income population.

Finding 6: LASMNY's HelpLine and other intake services ensure a high degree of access to and utilization of program services by the low-income community. LASMNY is appropriately focused on broadening access to its overall service delivery.

Intake at LASMNY is primarily conducted by telephone through a centralized intake, advice and referral unit called the HelpLine. Calls are toll-free throughout the service area. The HelpLine system handles all general telephone intake for all LASMNY and LSCNY offices.

The HelpLine has successfully integrated advanced telephone technology programwide. Clients are able to access intake via multiple points of entry including walk-in, telephone and online application. Staff intake efforts are well-defined and focused on client intake. Support staff in the smaller local offices primarily handles their own intake and can forward calls to the central HelpLine intake unit for further assistance. The HelpLine is staffed by one full-time managing attorney, two full-time

bilingual intake specialists and two intake attorneys (one from LASMNY and one from LSCNY). A full-time intake paralegal is assigned to the HelpLine to identify cases for referral to pro bono attorneys. The Helpline staff is located in the Utica and Binghamton offices.

Recently, the program converted one of its intake specialist positions to a paralegal position to increase access and lessen wait times in the intake queue. The new paralegal position will provide limited advice under the direct supervision of the managing attorney and will work in the Utica office where the managing attorney is housed.

Finding 7: Incorporating pro bono attorneys to handle HelpLine calls is an innovative approach to increasing access to services by telephone. Currently, the return on the program's investment is limited.

The HelpLine uses part-time pro bono attorneys to supplement HelpLine services to applicants. The program provided two pro bono attorneys with laptops and connection to their telephone queue. LASMNY loaded the requisite software directly onto another attorney's computer. The pro bono attorneys handle calls off-site to previously screened applicants by callbacks or by taking live calls from the HelpLine queue. Pro bono attorneys can log into the queue when they are available to handle calls or they can be scheduled a shift. They handle calls from throughout the service area. If needed, the attorney will arrange to review client documents as part of the advice and counsel. Pro bono attorneys are trained with a manual of written materials, tutorials on using the technology, shadowing and scripts of questions and advice. At the time of this visit, there were three volunteer attorneys working on HelpLine calls. The pro bono attorneys handled three calls in 2009 and 17 calls in the first quarter of 2010.

Recommendation:

II.7.1. The program should consider a minimum monthly pro bono commitment for providing a program laptop to pro bono attorneys for use on HelpLine. LASMNY should consider either a time commitment of three to four hours per week or a commitment to handle a specific number of calls to improve the return on their investment in training, supervision and technology equipment.

Finding 8: Wait times for incoming calls indicate HelpLine intake specialists are working at maximum capacity.

The HelpLine is a high volume system handling a full range of legal problems for both LASMNY and LSCNY. Walk-ins to local offices can be screened by the receptionist or may contact the HelpLine directly by phone, unless their legal problem requires immediate attention. Live telephone intake is supported by some use of callbacks as a back up when necessary, and for pro bono and online applications. In addition, the telephone system allows callers to request an automatic callback.

The managing attorney oversees all calls for the HelpLine. She has call management software on her desktop to supervise quality by incoming call volume, wait times, the number of calls in queue, calls being handled and number and percentage of abandoned calls. The program actively monitors the quality of intake through monthly call reports for the intake and the attorney queues. The managing attorney ensures quality of service by answering staff questions via chat, email, phone, or in person and helping with calls when necessary. She also reviews closed cases.

Staff answers calls through a queue that provides them with basic call information such as the caller's wait time. HelpLine intake specialists review eligibility, enter applicant information into the case management system, and collect facts about the legal problem. Screened calls are then sent to the HelpLine attorneys for advice and counsel. After advice or referral, the HelpLine attorneys close the case or transfer the case for extended service. When cases require extended service, they are transferred via email to the appropriate local office for a callback. Referrals are provided to callers who cannot be served by LASMNY or LSCNY. Staff members sometimes provide written materials to callers to support the information provided. All notes are kept in the CMS, Clients for Windows[®] (Kemps).

Monthly reports for calls answered live and via callbacks by intake specialists indicate longer wait times and a higher percentage of abandoned calls. Clients are waiting longer to speak to an intake specialist and a significant percentage of callers are sent into a callback queue. In addition, the call data reports show a high volume of calls passing through the intake queue. In 2009, an average of 1524 calls were made to the HelpLine each month, which were handled by a staff of two intake workers⁷.

Recommendations:

II.8.1. LASMNY should begin planning to expand HelpLine by increasing its staffing, particularly intake specialists. The program might consider using receptionist staff in branch offices to support the HelpLine screening duties.

II.8.2 LASMNY should evaluate the effectiveness of the new paralegal position at meeting the demand at intake and determine whether it should add another paralegal or intake specialist to the HelpLine.

PERFORMANCE AREA THREE. Effectiveness of legal representation and other program activities intended to benefit the low-income population in the service area.

Criterion 1. Legal representation.

Finding 9: LASMNY's legal work management staff and case handlers are experienced and aware of the key issues in their substantive areas of practice.

⁷ The HelpLine managing attorney and staff attorneys provide some back up to the intake specialists when available.

LASMNY's legal work management structure is distributed by regional responsibilities and coverage for grants. Some staff reported that management is increasingly project-based. The program has one senior managing attorney and six managing attorneys, who review the work of attorneys in their offices and, in some cases involving large grants, supervise the staff assigned to a grant activity.

The FLP unit is staffed by an experienced managing attorney, two paralegals and an intake specialist. The paralegals and intake specialist are bilingual in Spanish. The FLP managing attorney also supervises the attorney who operates the refugee citizenship project. In the summer, the program employs a part time paralegal from the New England Migrant Project and another part time paralegal who is experienced in farmworker law.

LASMNY shares a director of advocacy with LSCNY at no cost to the LASMNY. The director of advocacy is staffed by LSCNY and reports directly to its executive director. The director of advocacy coordinates the work of both programs to ensure the quality of referrals among programs and to support the core vision of the Justice Alliance of Central New York. He oversees the substantive work groups, who meet monthly to discuss new cases, ongoing cases, emerging issues or trends and to share expertise and training. There are work groups for family law, disability, housing, and public benefits. Staff attends the work groups by telephone and in person.

LASMNY is home to a significant number of senior, dedicated staff members. Advocates demonstrated knowledge in their respective substantive areas. Advocates generally appear plugged into the statewide systems, such as listservs and trainings, necessary to maintain competence. Staff members have access to current technology and other tools necessary for a modern law office, although some desktop computers may be in need of upgrades.

The team interviewed many experienced advocates in the program. Overall, advocates interviewed during the visit were well-trained and aware of substantive and procedural issues relevant to their assigned area of responsibility. The firm is staffed by experienced and competent attorneys and paralegals with demonstrated expertise to represent and advocate on behalf of clients in appropriate legal forums across the service area. Staff reported several cases involving significant outcomes to clients. Examples include the work on behalf of LEP welfare recipients for required translation services, custody and family law matters involving serious domestic violence and the foreclosure work.

Finding 10: Extended representation in core poverty law areas differs greatly in the Binghamton office.

The program budgets adequate resources for litigation support and expert witnesses. LASMNY's grant driven revenue enhancement strategies have generated new funding, but have also been a driving force of the program's advocacy to the degree that extended representation in core poverty law areas is largely unavailable to clients

served by the Binghamton office of the program's service area. There is comparatively very little consumer, housing and public benefits advocacy being handled by that office.

The writing samples and interviews revealed that the program's casehandlers overall possess the knowledge about the clients' legal problems and the requisite practice skills to address them. Program advocates are provided sufficient resources to accomplish the program's mission. Legal research resources include online research tools, listservs, task forces, the program's in-house library, practice publications, and other state and national support centers. Training of new attorneys is largely on-the-job, with open door support from supervising attorneys. The workgroup system offers a meaningful way for program advocates to interact in particularized substantive areas across traditional geographic boundaries. Casehandlers make use of the assistance of in-house advocates with expertise in a specific area. All casehandlers have desktop computers and access to the Internet. Staff has ample opportunity to earn CLE hours (internal and external) and receive training from a variety of sources including attendance at conferences. LASMNY does not use a programwide brief and pleading bank, but it uses a shared drive to share sample pleadings. Some staff reported saving and sharing sample pleadings with other staff.

Recommendation:

III.10.1. LASMNY should review future potential grant requests to ensure that the new resources to be obtained are adequate to fully cover the direct and indirect costs of completing the work promised under the grant unless the grant directly supports the provision of high quality, extended representation in core poverty law areas.

Finding 11: LASMNY does not have uniform, written legal work management policies and protocols.

LASMNY management gauges the efficiency and effectiveness of its legal work by reviewing outcomes recorded in the case management system and through quarterly case review meetings with advocates. There is evidence of high quality legal work being performed by advocates in every office; however there are not adequate systems in place to ensure that such high quality representation occurs uniformly throughout the program. Quality control systems such as regular, hands-on, case file reviews and written performance evaluations do not occur with the uniformity and regularity necessary to ensure that clients receive high-quality representation. The program does not have uniform, written legal work management policies and protocols. Some staff reported a need for more programwide policies to support case review, legal work management and case file maintenance.

New cases are assigned by the managing attorneys based on caseload and skill levels of the attorneys receiving the cases. Cases are also assigned by the HelpLine managing attorney. Ongoing case review occurs quarterly, but some staff reported less frequent intervals due to the managing attorneys' workload. Some managing attorneys reported reviewing cases electronically in the case management system. Several staff reported discussing cases with their managers on an ongoing basis as needed.

LASMNY's close relationship with LSCNY helps ensure that systematic issues are addressed in a timely and effective manner

As noted above, the programs share a director of advocacy; this relationship allows clients to have access to the full-range of services necessary to resolve their problems. This is accomplished from the director of advocacy's oversight of the substantive work groups and the coordination of services among both programs. These efforts ensure that incoming cases are reviewed for assistance from both programs. The program does not seem to engage in co-counseling of cases in a regular or systematic manner.

Recommendations:

III.11.1. LASMNY should implement written policies and procedures for case file maintenance, case handling standards, new attorney protocols and legal work management.

III.11.2. LASMNY should conduct regular, hands-on, case file reviews and written performance evaluations.

III.11.3. As part of the new attorney protocols and case handling standards, LASMNY should consider integrating the use of co-counsel relationships as a tool to increase skills, develop substantive depth and foster interoffice camaraderie.

III.11.4. Program management should consider a more intentional approach to training opportunities afforded to staff.

Finding 12: LASMNY's case service reporting demonstrates a highly productive program.

The program's 2009 case closings are well-above national medians. In 2009, the program closed 402 cases per 10,000 poor persons in its service area. This compares to the national median of cases closed per 10,000 poor of 265. In 2009, LASMNY closed 2,011 extended service cases (26% of the total cases) and 5,723 limited service cases (74% of the total cases). This compares to a national extended service average of 21%.

The HelpLine has been a real success in providing access to a large number of clients including clients from underserved portions of the service area. In 2008, the program expanded the HelpLine programwide. In 2007, the program reported it closed 4,278 cases with 687 closed by HelpLine. In 2008, the program reported it closed 5,721 cases with 1,653 cases closed by the HelpLine. Extended service cases remained nearly the same in both years. At the end of 2008, LASMNY lost 7% of its case handling staff yet extended services increased by 6.3% from 2008 to 2009. In 2009 HelpLine cases increased to 4,230 and it reported to LSC a total of 7,734 cases. The program credits the significant increases and status of extended services to the efficiencies resulting from the implementation of the HelpLine.

In addition to the HelpLine, a broad mix of service delivery options provides a range of potential options for clients, particularly those clients capable of and suitable for limited assistance and pro se advice.

Finding 13: FLP staff is experienced. The FLP case closings and other case data indicate a limited level of litigation or complex advocacy.

The FLP project director is an experienced farmworker law attorney. She is very willing to work with other program staff on immigration issues. The FLP's litigation capacity has decreased by half since the departure the program's second attorney in March of 2008, despite the fact that migrant funding has increased.

The FLP receives \$318,690 in LSC funding for 2010. In addition, the FLP received funding from IOLA in 2010 of \$75,000 for immigration work on a citizenship project and for work on behalf of H-2A workers (foreign agricultural workers.) Despite the level of experience of the FLP's managing attorney (25 years), the FLP does not appear to have engaged in much court work in recent years. Since 2004, it closed one case in the litigation-related case closure categories. At the time of the visit, there were only 27 open cases from 2009, none of which were in court. Seven of these are immigration cases. In 2008, the FLP closed 71 cases; 52.1 % involved employment issues, 18.3% were income maintenance, and 26.8% were individual rights. 38% of cases closed in 2008 involved extended services. In 2009, the FLP closed 74 closed cases; 40.5% involved employment issues with a total of 29 advice and brief service cases, 8.1% involved income maintenance, and 47.3% individual rights. 12.1% of cases closed in 2009 involved extended services.

Legal writing samples, interviews, and CSR data showed that little complex advocacy is being conducted by the project. The program states that until recently, few federal or state administrative law remedies were available on wage violations due to agency policies. The program further states that now that this has changed it, expects to file more administrative wage cases.

Recommendation:

III.13.1. The FLP needs to engage in more complex farmworker advocacy. The FLP should consider co-counseling in appropriate cases with FLSNY.

Criterion 2. Private attorney involvement (PAI).

Finding 14: LASMNY effectively integrates private attorneys into its legal representation and client services.

Overall, LASMNY's PAI program is excellent. LASMNY offers a wide range of pro bono opportunities to volunteer attorneys. These pro bono projects serve a large portion of unmet client needs. The program uses volunteer attorneys in a variety of ways.

PAI activities include using volunteer lawyer panels, pro se divorce clinics for uncontested divorces, a pro bono counsel and advice program through the HelpLine, participation in training events for private attorneys, legal aid education events for clients, training by private attorneys for LASMNY staff, and work with the Pro Bono Action Committee in the 5th, 6th and 7th judicial districts to develop and enhance pro bono programs.

In most regions, clients can receive pro bono assistance with uncontested divorces and Chapter 7 bankruptcies. The program uses many form letters. The innovative, new projects to provide representation in unemployment insurance cases and to provide representation in housing court create exciting new possibilities for increased extended representation in areas of critical need.

The PAI component is supervised by a managing attorney based in Binghamton. She supervises three paralegals, two of whom work full time. The LASMNY managing attorneys also have responsibility to identify cases for pro bono referral and assist with recruitment. The program receives special funding from the 6th Judicial District to fund a PAI attorney coordinator for that district.

The PAI managing attorney is experienced, organized, creative, and strategic. She demonstrates responsiveness to community needs. After reading an article in the New York Times about Temporary Protected Status for Haitians, she organized two events explaining adjustment of status procedures and family reunification issues using pro bono attorneys who previously helped with immigration issues. Creole speaking college students provided interpretation services at the events.

The program is currently developing an attorney of the day project that will place a volunteer attorney at Binghamton City Housing Court to provide counsel and advice, extended services and representation on housing cases. LASMNY has been certified as a continuing legal education (CLE) provider. Private attorneys get CLE credit for doing PAI. LASMNY has a PAI workgroup comprised of the PAI managing attorney, PAI paralegals, and the pro bono coordinators from 5th, 6th, and 7th judicial district. The PAI work group meets quarterly.

Criteria 3 and 4. Other program services to the eligible client population and other program activities on behalf of the eligible client population.

Finding 15: Consistent with its goals, objectives, and strategies, LASMNY participates in a wide range of services and activities that benefit the client population.

LASMNY is a partner in a twin system with LSCNY specifically designed to address systematic legal problems and improve economic opportunities for low-income clients. LASMNY provides a wide range of services in addition to the direct representation of clients. The program regularly conducts pro se divorce clinics; participants are provided with substantial ongoing support in their efforts to proceed pro

se. The program provides several periodic legal education sessions to client and community groups.

LASMNY has produced high quality language access materials and has trained other service providers regarding their duties under the law to provide services in a language the client can understand. Interviews with staff and community organizations evidenced reasonably strong connections in the communities served and program staff work closely with a number of other service providers. However, the program's direct contact with, support for and representation of, low-income community groups are somewhat limited.

Recommendation:

III.15.1. LASMNY should develop a plan to strategically increase collaboration with low-income community groups.

PERFORMANCE AREA FOUR. Effectiveness of governance, leadership, and administration.

Criterion 1. Board governance.

Finding 16: LASMNY has an active board. LASMNY's board demonstrates effective oversight and is actively engaged in decision making. Board training has not been a recent focus of the board.

The 26-member board meets quarterly. Meetings are consistently well-attended in person and via telephone as needed for some members. The board's composition is appropriately diverse in proportion to the service area's population.

There are several committees tasked with specific duties. The present committees are: the executive committee, a joint audit and finance committee, as well as committees on personnel, facilities, benefits and pension, corporate governance, service delivery and pro bono, nominating, strategic planning, and resource development. However, there are no board member or committee descriptions.

Client board members are actively engaged in board decision making. The board has nine client members and all client positions are filled. Client board members interviewed for this visit were intelligent, interesting and committed. Client members serve on all committees and some serve on multiple committees. The 2nd Vice President is a client member who also serves on the audit and finance committee, and the service delivery and pro bono committee.

The board chair and executive director are in frequent contact with each other; they communicate at least several times each week. The board has not evaluated the executive director. Although the LASMNY board members overlap with the LSCNY board, board members interviewed for the visit expressed an awareness of their fiduciary

duties to each program. The board members are committed to the mission of both programs. As a whole, the board is diverse and representative of the various geographical areas and low-income populations served by the firm. The board demonstrates that it exercises independent judgment of the executive director, where appropriate. The board of directors is involved in major decisions of the firm. Board members and officers understand the major issues at stake for the program.

The board exercises financial oversight of the law firm through:

- quarterly review of financial reports;
- approval of budgets and prospective budget planning;
- review and approval of other management and regulatory reports
- evaluation of program services and the executive director and staff reporting to the full board; and,
- interim activities of the finance committee.

Ensuring that LASMNY and LSCNY services are appropriately integrated is a priority for the board. Other recent objectives reported by board members include addressing the salary scale, finalizing a collective bargaining agreement with the union, overseeing the recruitment of the new executive director and sound fiscal oversight. LASMNY's board members are involved and engaged particularly in the area of program budgeting and finance. Outside the area of finance, the board seems less engaged.

Recommendation:

IV.16.1. The board should plan to evaluate the executive director.

Finding 17: LASMNY does not have a strategic plan.

LASMNY does not have a written strategic plan in place and the board has not recently engaged in strategic planning. The program acknowledges strategic planning should occur following its next needs assessment and incorporating the work of the program's specialized substantive law work groups.

Recommendation:

IV.17.1. The program should seek board leadership in developing a strategic plan for the next several years developed in conjunction with LSCNY. The program and board should plan to begin strategic planning following the results of the needs assessment.

Finding 18: The board is less focused on board member training.

Board training has not been a focus of the board. The last new member orientation was held in September 2007. The orientation trained members on their fiduciary roles and responsibilities, as well as acquainting them with LASMNY's history, and the laws, regulations and policies affecting the organization and operation of LASMNY.

Recommendation:

IV.18.1. The board should prioritize training. Training on resource development should be considered as part of an overall training protocol. Board Source is a resource for non-profit boards.

Finding 19: The board is not actively involved in resource development.

The board has not been actively involved in fundraising and resource development activities. It has a resource development and fundraising committee that has not been actively meeting.

Recommendations:

IV.19.1. Board members should become more actively involved in resource development and the committee should be revived.

IV.19.2. The program should leverage board contacts and resources to develop a plan to improve program marketing and raise significant unrestricted resources from attorneys, private individuals and businesses.

IV.19.3. LASMNY should consider the creation of an ad hoc board committee to serve as a campaign advisory council to help further resource development activities.

Criteria 2 and 3. Leadership. Overall management and administration.

Finding 20: LASMNY has effective leadership, management, and administration.

The executive director assumed his position in December 2007 after serving as the director of advocacy at LSCNY for three years. The former executive director had served in that capacity for over 30 years and stayed on as senior counsel until January 2008 to help with the transition.⁸ The current executive director's legal career is marked by a commitment to legal services. Prior to his work at director of advocacy at LSCNY, he served as senior attorney and then managing attorney at LASMNY from 1986 to 2003. Based on interviews during the visit, the transition of the new executive director has been well-received by staff, board and outside partners. Interviews revealed that he is an effective leader, is adept at surrounding himself with highly effective staff, encourages active participation by board members and staff, and is quick to recognize merit. One of his primary focuses is on resource development and he is actively involved in grant writing and other development activities along with the senior managing attorney. All members of the program's management staff appear to take pride in their work and the work of the program.

⁸ The prior executive director has continued with his commitment to LASMNY as a pro bono attorney.

The program's leadership effectively inspires trust, confidence, and loyalty among staff and managing attorneys. The program provides opportunities for staff to develop and exercise leadership skills. It does not have a formal mentoring plan. LASMNY does not have a succession plan. Although the management team is generally strong, in some circumstances their ability to lead the program is impaired by excessive individual caseloads on the part of the managers. Some staff interviewed revealed a greater alignment to their prior program. The residual impact of the merger and reconfiguration continues to impair the program's ability to look to the future and be a high-quality program.

Recommendations:

IV.20.1. LASMNY should develop a formal succession plan.

IV.20.2. Because the program's reconfiguration period has been completed, LASMNY should focus attention on helping staff move past any unresolved issues and progress to a greater level of cohesion and integration within LASMNY.

Finding 21: LASMNY devotes appropriate resources to the management function.

LASMNY has a management structure that effectively uses middle managers. The management team is comprised of the executive director, the senior managing attorney, a director of advocacy shared with LSCNY, a managing attorney for each office and the HelpLine, a managing attorney for the pro bono who works in the Binghamton office and the certified public accountant (CPA) financial administrator. The program devotes appropriate resources to the management function, as evidenced by the recent creation of the senior managing attorney position. Program decisions are made in a timely fashion. The management team meets on a periodic basis and provides the executive director input on major program decisions. However, all program staff may not be aware of the role and function of the management team. In many offices, staff are not meeting to discuss program work on a regular basis. With the exception of the specialized work groups, LASMNY does not conduct office or programwide staff meetings. HelpLine staff is not regularly meeting as a unit.

Recommendations:

IV.21.1. LASMNY should educate staff on the role and function of the management team as a method of gathering information from and for sharing information with all program staff.

IV.21.2. The program should consider providing a brief written summary of the outcome of issues addressed at the managers' meetings.

IV.21.3. LASMNY should ensure that every office conducts in-person staff meetings on a regular, periodic basis. HelpLine staff should carve out time away from handling calls during intake to meet in-person, or by phone when necessary, on a periodic basis. Many

quality high volume intake programs conduct meetings once or twice per month and limit or close intake for the brief period of the meeting.

IV.21.4. LASMNY should plan for mandatory programwide, in-person staff meetings to discuss the provision of services to clients and to provide staff training, among other activities applicable to staff programwide. These meetings should be held regularly - at least annually and preferably twice a year.

Finding 22: LASMNY devotes appropriate resources to establish and maintain its technological infrastructure.

The firm is committed to using technology to its full potential. The management team developed the 2010 Technology Plan that addresses procedures for a contingency plan in the event of a disruption of computer and network services. The plan outlines comprehensive mission and vision statements that provide for maximizing productivity and efficiency within the organization and among staff through a strategic use of technology. A copy of the plan is available to all staff. LASMNY has allocated sufficient resources to the administration of technology with the staffing of an experienced, full-time technology administrator. The technology administrator uses remote access for repairs and other work and issues as they arise. The firm outsources technology support when needed. LASMNY has a technology committee comprised of management, the technology administrator and staff.

Staff in branch offices reported no connectivity issues or lack of stability with the CMS or the Internet. The LASMNY and LSCNY telephone system that includes the HelpLine has automatic call distribution (ACD), queuing and call management software, all of which function well. Technology training is provided to staff through one-on-one training. The technology administrator noted that now that he has completed much of the work integrating the branch offices and implementing the new phone system, staff training can become a greater focus.

Criteria 4, 5 and 6. Financial Administration. Human Resources Administration. Internal Communications.

Finding 23: The program has sufficient, capable, trained and effective staff dedicated to financial administration.

LASMNY's chief financial officer is a CPA and is highly experienced. She has over 22 years experience and has worked with LASMNY since 2006. She supervises the bookkeeper/human resources administrator. The bookkeeper has been with the program for over 40 years and is its longest tenured employee. She began her work as secretary helping with the bookkeeping until she was promoted to the bookkeeper position in 2007. LASMNY has an accounting procedures manual. The CFO attends the board and audit committee meetings. The program engages in financial planning for the following year. LASMNY uses Blackbaud as its financial management software.

Finding 24: LASMNY does not have a full-time human resources director. Staff evaluations are not being conducted on a regular basis.

LASMNY's bookkeeper devotes half her time to the program's human resources functions. She has been serving this role since she was promoted to the bookkeeper position. The program reported plans to send her to human resources training when the opportunity arises.

LASMNY's staff corresponds to the diversity of its service area. Interviews of staff demonstrate that morale is high. Although the program does not have a loan repayment assistance program (LRAP), three employees are participants in LSC's LRAP. The program has adopted significant strategies to ensure the retention of high quality staff including providing non-union staff with three weeks leave without pay to study for the New York bar examination, contribution to a retirement plan, the adoption of a plan that equalized salaries and benefits across the program, and raising the starting salary from \$31,000 to \$38,000, among other incentives. LASMNY provides numerous promotion opportunities among staff. Several staff has been promoted to higher positions and given leadership responsibilities after demonstrating strong performance and leadership skills.

LASMNY has a policy for staff evaluations to occur after the first 6 months of employment and then annually, unless otherwise necessary. Several staff reported that they are not being evaluated on a regular basis.

Recommendations:

IV.24.1. LASMNY should seek human resources training opportunities for its bookkeeper.

IV.24.2. LASMNY management should conduct staff evaluations and follow a plan of regular periodic reviews.

Criterion 7. General resource development and maintenance.

Finding 25: LASMNY does not have a resource development director. Grant writing and other resource development is primarily handled by the executive director and a managing attorney.

LASMNY does not employ a development director and has not made plans to replace the recently departed development director.⁹ The program does not have a written fundraising plan. Resource development is overseen and primarily handled by the executive director and a managing attorney who split their time between fundraising and their other duties and responsibilities. LASMNY has made significant efforts to expand its funding base through grant writing. The program has been highly successful

⁹ The development director served the program from August 2007 to February 2008 before leaving employment voluntarily. The program has not filled this vacancy due to budget constraints.

in these efforts. Since 2004, the managing attorney has raised over \$225,000 for the HelpLine and over \$2,000,000 in federal, state and local funding for client services. The high success rate in grant writing has also resulted in program activities that are heavily grant driven and in some offices; case acceptance for representation varies greatly.

Recommendations:

IV.25.1. LASMNY should plan to recruit a new development director. The program might seek assistance from an outside source that could help the program in its recruitment efforts.

IV.25.2. Once a development director is hired, the program can begin working on a broader approach to resource development to include more unrestricted funding and funding.

Criteria 8 and 9. Coherent and comprehensive delivery structure. Participation in integrated legal services delivery system.

Finding 26: LASMNY has a coherent, comprehensive delivery system that effectively coordinates its efforts with those of other providers.

The program makes effective, efficient use of staff, funding, private attorneys, and technology to deliver a broad spectrum of services to the client population. It draws on the leadership and experience of its director of advocacy, its management team and advocates from both LASMNY and LSCNY to establish its presence in the community, enhance client contact, facilitate intake, and bring about changes that are meaningful to the clients. The program's presence in the courts, the Pro Bono Action Committee, the New York Project Director's Steering Committee and other social service and community organizations has earned it an excellent reputation in the service area and has garnered significant benefits for its clients. The executive director and management staff are active participants and leaders in statewide organizations that provide, promote, and support civil legal aid.