

Program Letter 15-1

TO: All Executive Directors

FROM: Ronald S. Flagg
General Counsel and Vice President for Legal Affairs

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SUBJ: Eligible Client Members for Recipients' Governing Bodies Under 45 C.F.R. § 1607.2(c)

Introduction

LSC is issuing this Program Letter to provide guidance to recipients on the definition and selection of eligible client members for a recipient's governing body. LSC has become aware of questions as to what is meant by the term "eligible client member" as defined in 45 C.F.R. § 1607.2(c).

Must an eligible client member of a recipient's governing body meet LSC's financial-eligibility requirements?

Yes. The Legal Services Corporation Act (LSC Act), 42 U.S.C. § 2996 *et seq.*, requires that at least one-third of a recipient's governing body members be eligible clients. The LSC Act further provides that eligible client members must be eligible for legal assistance when selected for the recipient's board. 42 U.S.C. § 2996f(c).

45 C.F.R. Part 1607 implements the Act's requirements regarding governing board composition. Section 1607.2(c) clearly states that eligible client members must be "financially eligible to receive legal assistance under the [LSC] Act and [45 C.F.R.] Part 1611 at the time of appointment to each term of office[.]" Part 1611 establishes the financial eligibility requirements that each individual must meet in order to receive legal assistance from a recipient. A recipient may not use any broader financial-eligibility requirements of a non-LSC funding source when determining a client member's financial eligibility to serve on the governing body.

LSC explained in the Preamble to Part 1607 that the recipient must screen potential client members for financial eligibility for legal assistance each time the member is appointed to a new term on the governing body. 59 Fed. Reg. 65249-65250 (Dec. 19, 1994). The recipient can choose to delegate this responsibility to the appointing organization. Regardless of which entity screens the potential client member, the individual can only serve as an eligible client member if the individual meets the LSC financial-eligibility requirements for legal assistance. An eligible client member is not required to have actually received legal assistance at the time of appointment.

Can an eligible client member seat be filled by someone who represents a group of eligible clients but does not personally meet the LSC financial eligibility requirements?

No. Section 1007(c) of the LSC Act clearly states that eligible client members are “persons who are, when selected, eligible clients who may also be representatives of associations or organization of eligible client members.” 42 U.S.C. § 2996f(c). The Act does not permit the appointment -- as an eligible client member -- of a representative of an organization of eligible clients who is not himself or herself eligible to receive LSC-funded services. Consistent with the LSC Act, 45 C.F.R. Part 1607 requires that every individual appointed as an eligible client member meet the financial eligibility requirements set out in the Act and in 45 C.F.R. Part 1611.