

August 28, 2013

Via e-mail: PAIRULEMAKING@lsc.gov

Mr. Mark Freedman
Senior Assistant General Counsel
Legal Services Corporation
333 K Street, NW
Washington, D. C. 20007

RE: Recommended revisions to LSC's PAI Rule 45 CFR Part 1614

Dear Mr. Freedman:

The Legal Aid Society of Northeastern New York ("LASNNY") submits these comments for consideration regarding the recommended revisions to LSC's PAI Rule, 45 CFR Part 1614. LASNNY's PAI program has been in existence since 1985, when the regulation went into effect. The program covers a diverse geographic area encompassing 16 counties in upstate New York. Through this program, LASNNY has created and fostered partnerships with the judiciary, other legal service providers, bar associations, Albany Law School, the private bar and government lawyers. LASNNY credits these partnerships and strong relationships as the main components for its successful PAI program. LASNNY's PAI program includes advice, brief and extended service programs.

To follow are LASNNY's comments regarding the topics for the proposed changes in LSC PAI Rule 45 CFR Part 1614.

Topic 1: LSC Pro Bono Task Force Recommendation 2(a)—Resources spent supervising and training law students, law graduates, deferred associates, and others should be counted toward grantees' PAI obligations, especially in "incubator" initiatives.

LASNNY fully supports this recommendation. LASNNY's PAI program currently offers services to clients that are supported by Albany Law School. In order to maintain this effective relationship, LASNNY trains and supervises (directly and indirectly) law students with other funds. This cultivation has enabled long term and meaningful projects to exist and allowed LASSNY to increase the number of clients served. This work should be counted towards our PAI obligation.

By creating projects which offer law student support, LASNNY has been able to create projects that might otherwise not be possible. Some examples are as follows: First,

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“Wills for Heroes”. For this project, LASNNY was able to create a partnership with a local firm and the law school by which an attorney at the firm works with a law student to prepare a will and advance directives for a Veteran. The firm has conveyed more than once how helpful the students are and a main reason why the program takes place once a month.

Another example is LASNNY’s Veterans Bankruptcy Project. For this, LASNNY was able to commit a private lawyer to handle Chapter 7 bankruptcies for Veterans with assistance from law students. Of note, the private lawyer would only do the program if law students would assist with clients.

By revising the regulation to include this recommendation, LSC will enable sustainability of needed PAI programs, creation of innovative programs and assist in cultivating new partnerships with the private bar, judiciary and local bar associations. Law students are capable and simply need the resources to enable them to provide assistance. In order to do this, it is important that legal services organizations are able to provide the needed training and supervision. This work should count towards our PAI obligations.

Law students offer much needed support to volunteer attorneys. Much of LASNNY’s service area is suburban or rural and consists of small firms and solo practitioners. Law student assistance allows these attorneys to handle more pro bono matters. PAI programs that include law students also plant the seeds for future pro bono service. To provide the same support by recent law graduates also promotes future PAI involvement. This recommendation should be implemented immediately.

LASNNY currently trains and mentors lawyers doing pro bono work. In addition, PAI programs monitor the handling of the matter until conclusion for LSC reporting purposes. All of this time is allowable under the LSC regulations. LASNNY’s mission is to provide quality legal service, whether in-house or through a referral to a volunteer. For these purposes LSC should revise its regulation to include law students and law graduates assisting attorneys providing pro bono assistance. Training, mentoring and supervising law students should also be countable under the regulations.

Topic 2: LSC Pro Bono Task Force Recommendation 2(b)—Grantees should be allowed to spend PAI resources to enhance their screening, advice, and referral programs that often attract pro bono volunteers while serving the needs of low-income clients.

LASNNY fully supports this recommendation. Screening, advice and referrals are essential components to providing quality service, creating invaluable long term relationships and assisting as many clients as possible.

The number of people in need of pro bono service outweighs the capabilities of one program's capacity to help. Through screening and referrals to other providers, private attorneys or agencies, people receive assistance that they otherwise would not have received. In order to ensure effective referrals and even in-house assistance, we must have an effective screening system. The ability to apply PAI resources to this work is instrumental to pro bono legal services programs.

LASNNY notes that all legal service providers have to have an effective screening and intake system. It is an integral part of any program. Therefore, all resources spent to ensure this are the exact opposite of fraud, waste or abuse and not an issue.

Topic 3: LSC Pro Bono Task Force Recommendation 2(c)—LSC should reexamine the rule, as currently interpreted, that mandates adherence to LSC grantee case handling requirements, including that matters be accepted as grantee cases in order for programs to count toward PAI requirements.

LASNNY supports this recommendation. By restricting PAI activity to solely LSC eligible cases, LSC inhibits the ability of legal services pro bono programs to work with other community or legal pro bono programs. By allowing this activity, whether an equal partnership or supporting role, LSC's pro bono programs will be more effective and appealing to the judiciary, legal and community partners. Some relationships have been hindered and projects not developed because of LASNNY's intake requirements. In addition, implementing this recommendation would help close the justice gap by offering legal assistance to more people.

Currently LASNNY only has a few PAI advice programs. One of those, our VA Medical Center legal clinic, would greatly benefit from collaboration. Currently, we are only able to schedule veterans who are LSC eligible for appointments. There are instances when a volunteer is scheduled to appear on a date and we need to cancel because we do not have LSC eligible clients. This leads to a decrease in the number of volunteers willing to participate in our advice program and cancellations by volunteers when we do have clients scheduled. If we were able to screen and schedule all veterans who called, the volunteers would know that when they are scheduled, there will be clients. It will without a doubt strengthen relationships and ensure sustainability of this type of program.

Collaboration will allow for more programs to become a reality for LSC legal services providers. Programs could be held more often as the number of available support staff and volunteers increase when we combine resources. This will also aid in strengthening community and legal partnerships which in turn will lead to more pro bono programs, and more people being helped.

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LASNNY recommends that LSC allow the time spent on screening, referring and supporting collaborative pro bono activities to be billed to LSC. However, a case may not be counted unless the client is screened for eligibility and a grantee case is opened. This will prevent any fraud, waste or abuse of LSC resources.

These comments have been read and approved by LASNNY's PAI Advisory Committee whose members include: Hon. Vito C. Caruso – Fourth Judicial District Administrative Judge, Hon. Thomas Mercure - Third Judicial District Administrative Judge, Daniel J. Hurteau, Esq., Lisa M. Mills, Esq., Malcolm O'Hara, Esq., Joel Peller, Esq., Bethany Schumann-McGhee, Esq., Lillian M. Moy, Esq, Executive Director for LASNNY and Linda LaRue, PAI Paralegal.

Thank you for considering these comments. Please let me know if you have any questions. My direct line and e-mail are 518-689-6322 and kcinelli@lasnny.org.

Respectfully,

Kristie M. Cinelli
PAI Director