



Washington State Office of Civil Legal Aid

1206 Quince St. SE
Olympia, WA 98504
MS 41183
360-704-4135
360-704-4003 (fax)

James A. Bamberger, Director
jim.bamberger@ocla.wa.gov

October 15, 2013

Mr. James Sandman, President
Legal Services Corporation
3333 K Street, NW
Washington, D.C. 20007-3522

Re: 2013 Rulemaking Re: LSC's Private Attorney Involvement (PAI) Regulation

Dear President Sandman:

We write in our capacities as the directors of organizations that together provide the largest source of annual funding for civil legal aid in Washington State. Each year, the Office of Civil Legal Aid provides more than \$11 million in funding for the LSC-funded Northwest Justice Project (NJP) and the Legal Foundation of Washington provides more than \$6 million in funding for more than 25 civil legal aid programs, including 16 stand-alone, locally operated volunteer attorney (pro bono) programs.

Since 2007 we have closely followed developments relating to LSC's interpretation of its private attorney involvement (PAI) regulation, 45 C.F.R. Part 1614. We have been particularly concerned about the potential impact of the limited interpretation adopted in AO-2011-001 regarding the allocation of costs related to pro bono intake and referral services where, as in the case of NJP, the LSC-funded entity is assigned this function as part of a comprehensive, integrated plan for the delivery of civil legal aid. Because of the potential fiscal and operational disruption that this interpretation might have on our statewide delivery system were it to stand, we were pleased when LSC's Pro Bono Task Force recommended that LSC consider whether and under what circumstances costs associated with supporting pro bono intake, screening, training, support and client referral – as well as other types of support for stand-alone pro bono programs – might be allocated as PAI support *LSC Pro Bono Task Force Report* at 20. We were also pleased to see LSC undertake a thoughtful process to explore a range of other questions relating to the current text and interpretation of LSC's PAI regulation.

As funders, we understand the importance of stretching scarce resources in service of our common objectives. We agree that private attorney involvement – both through the provision of reduced fee and volunteer service – can substantially stretch and enhance the quality and impact of our investments in civil legal aid. Between our two organizations, we invest more than \$1.3 million per year in direct support of our state's 16 stand-alone pro bono programs – an amount that exceeds 20% of LSC's annual grant to NJP.

We agree with the Pro Bono Task Force that Part 1614 as currently written may serve as a disincentive to effective private attorney involvement. We further support the Pro Bono Task Force's recommendation that the current PAI rule should be reviewed with an eye toward promoting innovation in PAI efforts and allowing for greater flexibility in meeting PAI requirements. Flexibility is particularly important in a state like Washington which has a highly integrated civil legal aid delivery system.

Volunteer private attorney involvement in civil legal aid in Washington State occurs for the most part by local, bar-sponsored organizations that are structurally separate from the LSC-funded Northwest Justice Project (NJP). Over more than three decades, we have found that this approach enhances local private attorney support and investment (time and money).

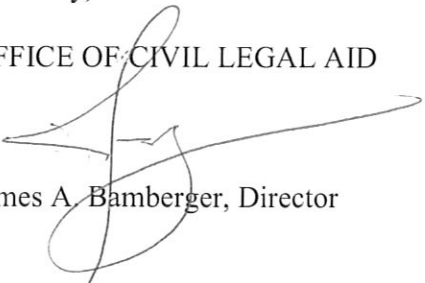
Since 1996, our Access to Justice Board's State Plan for the Delivery of Civil Legal Aid Services has assigned NJP the primary roles of providing unified, consistent and effective screening, intake and referral of eligible clients to pro bono programs, as well as providing coordination, training and support for effective and strategic engagement of local and statewide pro bono efforts. We hope that any revised the LSC regulatory regime will support NJP's critical role in Washington's statewide legal aid delivery system. We believe that NJP should be allowed to allocate to PAI expenses associated with providing intake and referral services as well as those associated with training and other direct support for volunteer attorney programs in Washington State. Failure to allow such an allocation may inadvertently result in the diversion of very scarce direct client service resources and place one component of our system in unhealthy competition with others for limited private bar volunteer services and support.

We have reviewed NJP's comments submitted in advance of the July workshop as well as those submitted on September 17, 2013 in response to the Federal Register Notice. We believe these thoughtful and comprehensive comments fairly and persuasively reflect the concerns that we have as co-underwriters with LSC of Washington State's civil legal aid delivery system. We endorse NJP's comments and commentary, and encourage LSC to revise the text of Part 1614 consistent with the positions taken in them.

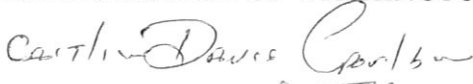
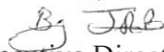
Thank you for the opportunity to comment on this important matter. We look forward to reviewing draft changes to LSC's PAI regulation.

Sincerely,

OFFICE OF CIVIL LEGAL AID


James A. Bamberger, Director

LEGAL FOUNDATION OF WASHINGTON


By 
Caitlin Davis Carlson, Executive Director

C: César Torres, NJP Executive Director