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LEGAL SERVICES CORPORATION  
BOARD OF DIRECTORS

OPEN SESSION

TELEPHONIC CONFERENCE CALL

Monday, August 18, 2008

The Legal Services Corporation  
3333 K Street, N.W.  
Washington, D.C.

BOARD MEMBERS PRESENT:

- Frank B. Strickland, Chairman
- Lillian R. BeVier
- Jonann C. Chiles
- Thomas A. Fuentes
- Herbert S. Garten
- David Hall
- Bernice Phillips-Jackson
- Michael D. McKay
- Thomas R. Meites
- Sarah Singleton

1 STAFF AND PUBLIC PRESENT:

2 Helaine M. Barnett, President, ex officio

David L. Richardson, Treasurer and Comptroller

3 Patricia D. Batie, Manager of Board Operations,  
Office of Legal Affairs

4 Stephen Barr, Director, Media Relations

5 Victor M. Fortuno, Vice President for Legal Affairs,  
General Counsel, and Corporate Secretary

6 Katherine Ward, Executive Assistant to VP for Legal  
Affairs

7 Mark Freedman, Assistant General Counsel

Charles Jeffress, Chief Administrative Officer

8 Laurie Tarantowicz, Assistant Inspector General and  
Legal Counsel

Jeffrey Schanz, Inspector General

9 John Constance, Director, Office of Government  
Relations & Public Affairs (GRPA)

John Meyer, Director, Office of Information Management

Treefa Aziz, GRPA

10 David Maddox, Assistant Inspector General for  
Management & Evaluation

11 Alice Dickerson, Director, Office of Human Resources

12 Don Saunders, National Legal Aid & Defender Association (NLADA)  
Hillary Evans, NLADA

13 Terry Brooks, Standing Committee on Legal Aid &  
Indigent Defendants (SCLAID)

14 American Bar Association (ABA)

Deborah Hankinson, Chairman, SCLAID, ABA

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## C O N T E N T S

OPEN SESSION	PAGE
1. Approval/Adoption of agenda	4
2. Consider and act on whether to authorize transfer or reprogramming of fiscal year 2008 loan repayment assistance program (LRAP) funds to fiscal year 2009 management and administration budget	5
A. Staff report	6
B. Public Comment	25
4. Consider and act on other business	45
5. Consider and act on adjournment of meeting	46

Motions: 5, 42, 46

## 1 P R O C E E D I N G S

2 CHAIRMAN STRICKLAND: Let me call to order the  
3 meeting of the Board of Directors of the Legal Services  
4 Corporation for August 18, 2008 via conference call,  
5 pursuant to notice published in the Federal Register.

6 We have a number of people who have been  
7 identified before we convened the meeting. I'll ask  
8 Helaine whether the Court Reporter already has everyone  
9 logged in to the record.

10 MS. BARNETT: He indicates that he does.

11 CHAIRMAN STRICKLAND: All right. Then we  
12 don't do a roll call. There may be some other people  
13 who join the call. Most likely the next person to join  
14 will be Tom Meites, if he's available. He can  
15 announce his arrival, and the Reporter can log him in  
16 at that time.

17 The first item to be considered is to consider  
18 to act on adoption of the agenda for today's meeting,  
19 which was contained in the amended notice of the Board  
20 meeting as published in the Federal Register.

21 I would entertain a motion to approve the  
22 agenda. Is there such a motion?

1 M O T I O N

2 MR. FUENTES: I move the approval of the  
3 agenda as presented.

4 CHAIRMAN STRICKLAND: Is there a second to  
5 that?

6 MR. MCKAY: Second.

7 CHAIRMAN STRICKLAND: Any discussion?

8 [No response.]

9 CHAIRMAN STRICKLAND: Hearing none, all those  
10 in favor of adopting the agenda as submitted, please  
11 say aye.

12 [Chorus of ayes.]

13 CHAIRMAN STRICKLAND: Those opposed, nay.

14 [No response.]

15 CHAIRMAN STRICKLAND: The ayes have it and  
16 the agenda is adopted.

17 Next is to consider and act on whether to  
18 authorize the transfer or reprogramming of LSC's FY  
19 2008 loan repayment assistance program funds to LSC's  
20 FY 2009 management and administration budget.

21 Under that item is listed Staff Report and  
22 then Public Comment. I think we will first take a

1 staff report as management might present, and then we  
2 can have some discussion about that or questions, and  
3 then we will have public comment and discussion and  
4 questions.

5 First, I would ask Helaine to tell us who is  
6 going to lead the discussion of the presentation that  
7 we should consider today.

8 MS. BARNETT: Charles Jeffress will begin  
9 accompanied by David Richardson.

10 CHAIRMAN STRICKLAND: Gentlemen, if you are  
11 within range of the microphone, please proceed.

12 MR. JEFFRESS: Thank you, Mr. Chairman. This  
13 is Charles Jeffress, chief administrative officer.

14 The proposal before you was outlined to you in  
15 a memo dated August 11, 2008 that went to each Board  
16 member with attachments.

17 It documents the shortfall of \$1.4 million for  
18 fiscal year 2009 in the management and administration  
19 account.

20 Just to briefly review the background, the  
21 shortfall is a result of flat funding for management  
22 and administration for the past five years. Our

1 increased operating expenses over that five year  
2 period, as a result of inflationary increases and  
3 salary increases, are carried forward, having been  
4 reduced primarily this past year because of lower  
5 vacancy rates, but each year, we have used more of our  
6 higher percentage of the fund, and then reduced  
7 interest rates this year.

8 We are confronted as a result of flat funding  
9 and increased costs, reduced carry over with a  
10 shortfall for 2009.

11 At the Board meeting on August 2, we noted  
12 that management had identified \$724,000 in  
13 non-compensation savings for fiscal year 2009, working  
14 with our office directors to identify expenses that  
15 could be postponed next year.

16 Since the August Board meeting, we have  
17 identified another \$256,000 in non-compensation savings  
18 for fiscal year 2009, for a total of \$980,000 in one  
19 time savings from the 2009 budget for things that we  
20 can postpone or avoid spending that year.

21 That leaves with us with a \$500,000 shortfall  
22 for the 2009 budget from current operations.

1           After considering a number of difficult  
2 choices and a number of competing options to address  
3 the shortfall, management recommends to the Board that  
4 to cover the remaining \$500,000, that LSC reprogram  
5 that amount from the LRAP account to the management and  
6 administration account.

7           Assuming that the continuing resolution in  
8 Congress and the fiscal year 2009 appropriation  
9 continue the LRAP funding for fiscal year 2009 at the  
10 present level, reprogramming will have no effect on  
11 LRAP recipients for calendar year 2008 and it will have  
12 no impact on all LRAP recipients receiving their full  
13 three years of LRAP support.

14           Each year as we make awards, we reserve enough  
15 money from that year's appropriation to carry the  
16 recipients for the full three year period.

17           The ones who were awarded money last year, the  
18 ones who will be awarded money in October will receive  
19 their full three years of funding under LRAP.

20           Management intends that if the LRAP funds are  
21 reprogrammed in 2008, that the same amount be restored  
22 to the program in 2009 once the final LSC



1 appropriations bill is passed and signed by the  
2 President, assuming that the M&A appropriation is at  
3 least \$14.5 million, which is the halfway point between  
4 the House and the Senate bills.

5 We do not expect to know whether that is  
6 actually going to be the case until February or March  
7 of next year.

8 Should the management and administration  
9 appropriation for 2009 be less than \$14.5 million,  
10 either as a result of the continuing resolution  
11 continuing for the full year or receiving an  
12 appropriation less than what we currently expect, then  
13 the potential or any potential LRAP class for 2009 will  
14 not be funded, and the pilot program will end one year  
15 earlier than we had hoped.

16 Actually, it was originally planned for only  
17 three years. It has already run four years, and it's  
18 well demonstrated its point. Other folks, including  
19 Congress, have taken note that LRAP was successful, it  
20 made a difference in recruitment and retention. Other  
21 loan repayment assistance programs have been authorized  
22 since LSC started its pilots.

1           From the points of view of LSC and our  
2 grantees and the attorney recipients, I think the LSC  
3 pilot program has been a success.

4           Should the reprogramming of LRAP funds not be  
5 approved, either by the Board or by Congress,  
6 management is prepared to begin a reduction in force  
7 process to reduce the staff to achieve the balanced  
8 budget for fiscal year 2009.

9           That is the proposal to you in summary. David  
10 Richardson, John Constance, Vic Fortuno and I are all  
11 here to respond to any questions that you all may have  
12 about the proposal.

13           CHAIRMAN STRICKLAND: Before we go to  
14 questions, let me ask David Richardson if you have  
15 anything to add to what Charles has just presented.

16           MR. RICHARDSON: No, sir. We have worked  
17 collaboratively on this to get the information to you,  
18 to get it in a short and concise format so that you  
19 have full information.

20           CHAIRMAN STRICKLAND: Are you in agreement  
21 with the reprogramming recommendation that Charles just  
22 proposed?

1 MR. RICHARDSON: Yes, sir.

2 CHAIRMAN STRICKLAND: Vic or John, do you have  
3 anything to add before we entertain some questions from  
4 Board members?

5 MR. FORTUNO: This is Vic. Nothing at this  
6 point.

7 MR. CONSTANCE: Frank, this is John Constance,  
8 Director of Government Relations and Public Affairs.  
9 The only thing that I would say or add to this is to  
10 put something on the public record that we had talked  
11 about briefly in Wilmington.

12 That is that the reprogramming was recommended  
13 based really on a risk analysis of the options that we  
14 had before us.

15 There is technically another option, and that  
16 is to work with the Congress towards an anomaly status  
17 or some language in the 2009 bill that would in some  
18 formula way, not with additional funding, but in some  
19 formula way essentially achieve some of the same  
20 purposes here.

21 The problem with that is really twofold. One  
22 is it is clearly a higher risk option. It has to be

1 approved at the full committee level in terms of any  
2 kind of anomaly language in a continuing resolution.  
3 It has to be voted on by the entire Congress.

4           It is a lot more outside the control of the  
5 Corporation to see that go ahead, and it still does not  
6 change the fact that the options of the funding that we  
7 have to reach toward in order to make this adjustment  
8 in M&A are essentially the same accounts that we have  
9 before us now.

10           Given the fact that those options really don't  
11 change, it is just a higher risk approach to achieve  
12 essentially the same goal that you would do with  
13 reprogramming.

14           I just wanted to mention that. We had  
15 mentioned it, I think, in my legislative briefing, but  
16 hadn't talked about it since then. I just wanted to be  
17 sure that was on the table.

18           CHAIRMAN STRICKLAND: While you are talking,  
19 John, would you or someone with knowledge remind us of  
20 the process, just hypothetically, if we were to approve  
21 the proposal and adopt a resolution to that effect,  
22 what happens then?

1           Do we send it to Congress? Do we await a  
2 positive response? Does a certain amount of time pass  
3 and if there is no response, we move ahead?

4           Tom Meites, did you join us?

5           MR. MEITES: I'm here, Frank.

6           CHAIRMAN STRICKLAND: Mr. Reporter, if you  
7 would note the presence of Tom Meites at the meeting.

8           Tom, we are in a discussion. Charles Jeffress  
9 and others have just made their recommendation for  
10 reprogramming. I just asked John Constance a question  
11 about the process if we were to adopt the resolution.  
12 Let's go ahead and hear what John or the appropriate  
13 person has to say on that subject.

14          MR. CONSTANCE: Mr. Chairman, what we would do  
15 is go ahead and file a letter to the majority and the  
16 minority of both House and Senate Appropriations, at  
17 the subcommittee level, the chairmen and ranking  
18 members of our two controlling subcommittees, Senate  
19 and House, laying out for them the reasons that we are  
20 making this recommendation, the dollars that would be  
21 associated with that, what account it would be coming  
22 from, what account it would be going to, what our

1 assumptions would be, and let them know we stand by to  
2 answer any questions they might have.

3 The rules within appropriations law and  
4 regulation are generally and certainly specifically in  
5 this case that we would actually be noticing them that  
6 we would be reprogramming that money within 30 days,  
7 unless we hear an objection from them regarding that  
8 action.

9 You are not technically requesting their  
10 approval. You are technically noticing them and  
11 standing by for an objection if they have one.

12 As I had also mentioned in Wilmington, in  
13 trying to get some kind of a determination as to  
14 whether we were dealing in the realm of the possible,  
15 we have had discussions on both sides, House and  
16 Senate, about the list of options and this one was  
17 certainly brought up.

18 CHAIRMAN STRICKLAND: Okay. Thank you. That  
19 is most helpful. Since this is in the area of finance,  
20 let me first ask Mike McKay, our Finance Committee  
21 chairman, if you have any comments or questions at this  
22 point before we move to others.

1           MR. MCKAY: I would just say that I have  
2 carefully gone through the memo. By the way, thank you  
3 for the memo. It is very helpful in understanding what  
4 was presented to us in Delaware. By getting this memo  
5 and the attachments and having a chance to reflect upon  
6 it, I certainly have a better understanding.

7           I intend, unless I hear something from a  
8 fellow Board member or speaker, to vote for it.

9           To summarize, we have a serious problem. We  
10 have a shortfall of nearly \$1.5 million. Management  
11 has identified about \$724,000 worth of savings, but we  
12 still have a problem of about \$756,000. If we don't  
13 address it, we can lose eight to ten FTEs.

14           The way to save these positions, the best way,  
15 is presented by management. I certainly can't think of  
16 another way. As painful as this is, because I don't  
17 like certainly the optics not to mention the realities,  
18 of dipping into the LRAP account. That is what has  
19 been recommended.

20           Certainly, to save eight to ten positions, it  
21 makes a lot of sense to me. I intend to support it.

22           I am heartened by the fact that the Higher

1 Education Act has been signed by the President. There  
2 are still some funding questions that may come up. I  
3 had some side discussions with Mr. Constance and he  
4 informed me that there is a high confidence that this  
5 thing will be funded. Again, when we are  
6 thinking about eight to ten positions, I think it is  
7 important that we forge ahead with this plan.

8 The one comment I have, Vic, you shared a  
9 legal analysis with us. Are we considering that a  
10 privileged communication at this point?

11 MR. FORTUNO: It is at this time. Obviously,  
12 the Board can waive the privilege. At this point, it  
13 was provided in response to a request for legal advice.  
14 It is currently privileged.

15 MR. MCKAY: I will treat it that way. I will  
16 just simply indicate that I looked at that and take  
17 that into consideration when I state my position as I  
18 just have.

19 I will say with regard to this legal advice we  
20 received, and I do ask that maybe we place on the  
21 agenda for our next meeting a general discussion by the  
22 Board about what information we should be receiving.



1           Of course, this issue of reprogramming and the  
2 nature in which we were apprised of the problem is one  
3 topic, but also I would observe that perhaps we should  
4 receive this advice, legal advice, from management as  
5 part of our analysis rather than having to ask for it.

6           I don't want to press this further because it  
7 would necessarily cause us to go into discussing this  
8 privileged information, but I do suggest we probably  
9 should have received that. Maybe I am missing  
10 something here.

11           At the very least, Mr. Chairman, perhaps we  
12 can put this on the agenda for discussion amongst the  
13 Board members, and perhaps we can advise management  
14 with a little more specificity of the kind of  
15 information we should be receiving in the wake of  
16 Sarbanes-Oxley and the GAO audit.

17           To summarize, I will support this  
18 recommendation. It is the lesser of the evils, unless  
19 I hear to the contrary from a colleague. Thank you.

20           CHAIRMAN STRICKLAND: Thank you, Mike.  
21 Helaine, if you would note that so that we remember  
22 Mike's suggestion about the agenda for our next meeting

1 and a discussion of the matters he mentioned.

2 MS. BARNETT: I have done that, Mr. Chairman.

3 CHAIRMAN STRICKLAND: Thank you very much.

4 Board members, what is your pleasure? Do you  
5 prefer to have some Q&A with management right now or do  
6 you want to go ahead and hear public comment before we  
7 do that?

8 MS. PHILLIPS-JACKSON: Frank, this is Bernice  
9 Phillips. I just wanted to say that it is unfortunate  
10 about this deficit spending, especially when you are  
11 handed a lose-lose situation, either you are cutting  
12 staff or you are taking away from the field.

13 With all due respect to management, especially  
14 when we have been hiring for 2007 and 2008, and then  
15 we're talking about hiring another person for this OPP  
16 position, I just don't think that filling that position  
17 at this time would be a plus for other employees to  
18 lose their position. I just don't think it's worth it.

19 I also believe we should think about  
20 consolidating. I think that should be an option,  
21 instead of hiring another director for OPP, we should  
22 consolidate OPP and OCE since you already have a

1 director that is in place, he could head the whole  
2 operation until LSC can afford the luxury of having a  
3 separate OPP director again.

4 CHAIRMAN STRICKLAND: I appreciate those  
5 comments. We can consider that but not at this  
6 meeting. We are limited to the agenda item as  
7 published on voting yes or no on the reprogramming  
8 proposal. We would have to take up your suggestions at  
9 a future meeting when that item is on the agenda.

10 MS. SINGLETON: Frank, I have a question that  
11 I think makes Bernice's comments somewhat germane, to  
12 the topic that was noticed, and that is has anyone from  
13 the Board gone over in detail the cuts that management  
14 determined they should make and the cuts that  
15 management determined they should not make?

16 Has anyone from the Board done an analysis of  
17 this budget to see if there are further cuts that could  
18 be made by thinking creatively or differently along the  
19 lines of the kind of thing that Bernice was suggesting?

20 Has Mike done that? Have you done that,  
21 Frank?

22 CHAIRMAN STRICKLAND: I have not done that;

1 no.

2 MR. MCKAY: I haven't either.

3 MR. MEITES: I appreciate both Bernice and  
4 Sarah's remarks. I am, however, reluctant to get into  
5 that level of nuts and bolts' analysis, but I think if  
6 the rest of the Board wants to do it, I'll go along  
7 with it.

8 I have a simpler question. You said there is  
9 public comment to be had. Can you identify the people  
10 who are there who would be interested in making public  
11 comments?

12 CHAIRMAN STRICKLAND: As far as I know, it is  
13 Deborah Hankinson on behalf of SCLAID and perhaps Terry  
14 Brooks in addition to Deborah, and also Don Saunders  
15 and maybe someone else from NLADA.

16 MR. MEITES: Thank you.

17 CHAIRMAN STRICKLAND: Is there anybody else  
18 that would be making any public comment at the  
19 appropriate time?

20 MR. GARTEN: Frank, I think the Board would  
21 benefit from hearing from the public and those people  
22 at this time.

1 MS. PHILLIPS-JACKSON: When the public talks,  
2 can we go back and ask questions for management to  
3 management?

4 CHAIRMAN STRICKLAND: Oh, sure; absolutely. I  
5 think once we get into the agenda, we can certainly do  
6 that.

7 MR. HALL: Before public comment, there was  
8 one question that I had of management that may be a  
9 segue to the public comment. I think the thing that  
10 troubles me the most is there is an implication, and I  
11 guess it may be mandatory based on budget realities,  
12 that if we do this, then we are ending going forward  
13 with the LSC LRAP program based on the assumption that  
14 now we have this other program.

15 I guess my question to management is am I  
16 right in that assumption and are there any ways where  
17 this temporary reprogramming of funds will not have the  
18 consequences or is not intended to be an end to us  
19 having this type of program going forward, or is that  
20 not possible/feasible based on your kind of budgetary  
21 foresight? If it is feasible, what would have to  
22 happen in order for that to occur?

1           CHAIRMAN STRICKLAND: Who would best to answer  
2 that question for David Hall?

3           MR. JEFFRESS: Let me respond initially. The  
4 intent of management here is to restore the \$500,000 to  
5 the LRAP account in 2009, once the appropriations bill  
6 for the full year passes Congress, provided that the  
7 appropriation for M&A is at least the mid point between  
8 what the House and Senate currently have authorized.

9           The goal here is not to end it in 2009, but  
10 the goal is to restore the monies so that we continue  
11 in 2009.

12           If insufficient funds are appropriated, if the  
13 CR continues for the full year, we don't believe we  
14 will be able to do that.

15           As to whether it extends beyond 2009 or not,  
16 that's up to the Board. At the October meeting of the  
17 Finance Committee, they will consider what kind of  
18 request to make to Congress for 2010, and at that time,  
19 I am sure they will be discussing has the pilot program  
20 lived out its usefulness and is it time to move on or  
21 should we continue it.

22           MR. HALL: You are not implicitly recommending

1 that we discontinue it by the reprogramming, you are  
2 seeing that as an open question going forward after  
3 2009?

4 MR. JEFFRESS: That's right. We  
5 actually -- our intention is to restore the money and  
6 to have LRAP available in 2009, assuming there is a  
7 Congressional appropriation sufficient to do that.

8 So, far from sending a signal that it's the  
9 end, we will be sending a signal that we intend to  
10 restore it, but as to whether it goes forward in 2010  
11 or not, that would be up to the Board to decide this  
12 Fall.

13 CHAIRMAN STRICKLAND: I thought as an aside to  
14 that, David, I guess by definition, a pilot project  
15 suggests that it is what it is. Rather than continuing  
16 a pilot project, if the Board wanted to continue an  
17 LRAP program other than a pilot, we could certainly  
18 take that up.

19 MR. HALL: I would assume sometimes you do a  
20 pilot because you want to see whether you want to do it  
21 permanently.

22 CHAIRMAN STRICKLAND: Correct. I just wanted

1 to add that to the discussion. The current program  
2 does have the name "pilot" associated with it.

3 Anybody else on the Board have questions  
4 before we take up any public comment?

5 MS. PHILLIPS-JACKSON: Is it that simple?  
6 When I was reading Helaine's memo, I got the impression  
7 that it was simple to move money out of the M&A line  
8 back into the LRAP line. Is it that simple? Maybe I  
9 should ask Vic that.

10 MR. FORTUNO: I think what would be the  
11 appropriate course would be for either Congress in our  
12 bill to move the money itself or if not itself moving  
13 the money, to insert some language specifically  
14 authorizing the Corporation to move funds from the LRAP  
15 line back to the management line.

16 The authority that we're using in this  
17 instance, which is Section 510 of our Appropriations  
18 Act, applies because we are experiencing a shortfall  
19 that would necessitate these personnel actions.

20 In order to avoid it, we would be moving these  
21 funds. I think since the circumstances would be  
22 different further down the road, I think the memo you



1 got suggests that some action on the part of Congress  
2 would be appropriate in order to achieve that.

3 CHAIRMAN STRICKLAND: Does that respond to  
4 your question, Bernice?

5 MS. PHILLIPS-JACKSON: Yes.

6 CHAIRMAN STRICKLAND: Any other Board members  
7 have questions before we hear public comment?

8 [No response.]

9 CHAIRMAN STRICKLAND: Hearing one, let's  
10 proceed to the public comment. I would leave it to  
11 those making comments to decide in which order you  
12 prefer to present. Deborah, please go ahead.

13 MS. HANKINSON: We appreciate the opportunity  
14 to be heard. It was interesting that at the ABA  
15 meeting recently in New York where SCLAID had its last  
16 subcommittee meeting, one of the things we were most  
17 pleased about was how much progress has been made with  
18 respect to LRAP in recent years.

19 As you all know, LSC has been out in the  
20 forefront with respect to its LRAP program. We have  
21 very aggressively used LSC as an example to be held up  
22 to other programs in the states in our efforts to

1 encourage other LRAP programs. We have made a lot of  
2 progress through IOLTA programs, through the state  
3 bars, in terms of increasing the number of LRAP  
4 programs and the number of dollars that are available  
5 to assist lawyers out in the field.

6           When we left New York and got back and got  
7 word that LSC might be looking at taking action to  
8 reprogram LRAP funds, it caused us concern, primarily  
9 because we are concerned about the message that LSC  
10 being a national leader on legal aid issues and a  
11 national leader in the LRAP movement, that we were very  
12 concerned about the message that gets sent to other  
13 programs about the way LSC treats its LRAP program.

14           We think that the message that would be  
15 conveyed by the LSC regarding any reprogramming of LRAP  
16 funds is critically important. It would be very easy  
17 for the reprogramming of these funds to be perceived  
18 out in the community as a license for those funds being  
19 readily available, to be used for other things, as not  
20 being important enough to be protected, so they are  
21 available to the field, or in the worse scenario, there  
22 was some message sent that the need for separate LRAP

1 programs has gone away, and it's a signal for people to  
2 end their LRAP programs and in fact, the opposite is  
3 the case.

4 We would also be concerned to the extent that  
5 this could be perceived as a message that the Higher Ed  
6 Reauthorization Act somehow eliminates the need for LSC  
7 and other LRAP programs when in fact that is not the  
8 case, that it's going to take all these programs in  
9 order to get the needs met and given the terms of the  
10 Act as well, we know that is not the case.

11 A lot of alarms, bells and whistles went off  
12 when we heard about the circumstance and that the Board  
13 was going to consider this, so we wanted to take the  
14 opportunity to share with you that on the ground and in  
15 a role where the ABA has worked very, very hard and  
16 committed substantial resources towards trying to  
17 facilitate the development of LRAP programs, that we  
18 are finally getting to the point where we have  
19 convinced a great many people how important these  
20 programs are and what a difference they make, that the  
21 reprogramming by LSC would in fact send a reversal of  
22 that message and could have other implications.

1           While we certainly don't purport to fault  
2 management or the Board on how the Corporation's funds  
3 should be managed, we really just wanted to voice our  
4 very strong concern about the message that would be  
5 sent and if management decides this is the best way to  
6 handle the circumstance, that also consideration be  
7 given to how this message is delivered.

8           We are very, very concerned that it will be  
9 received or perceived in a way that we know that  
10 neither the Board nor the management of the LSC intends  
11 for it to be delivered.

12           CHAIRMAN STRICKLAND: Thank you, Deborah.

13           MS. HANKINSON: I'd ask Terry if he has  
14 anything to add, if I could.

15           CHAIRMAN STRICKLAND: Do you, Terry?

16           MR. BROOKS: I do not have anything to add.  
17 Thank you.

18           CHAIRMAN STRICKLAND: Don Saunders? Why don't  
19 we hear all the public comment and then we will engage  
20 in question and answer.

21           Don, do you have some comments?

22           MR. SAUNDERS: Very short, Frank. I

1 appreciate the chance to talk to you and the Board  
2 about this important issue.

3           We certainly are not as well trying to tell  
4 the Board how it needs to resolve internal matters of  
5 management and administration. We share the ABA's  
6 concern, particularly about the message here, both the  
7 message grantees, who have had to do the same cutting  
8 process for a number of years and their funding in many  
9 instances has been cut back, and this effort is coming  
10 at the expense of a very, very important initiative of  
11 the Corporation.

12           I agree with Deborah. You have been leaders.  
13 This is one of the critical challenges that we face.

14           Our position would certainly be along the  
15 lines of where I thought Bernice and Sarah were going,  
16 to see if there were other ways in which these cuts can  
17 be made rather than coming out of monies for such an  
18 important purpose.

19           The HEA money is indeed limited, the  
20 protection and advocacy agencies are eligible for it,  
21 as are a whole array of other programs, and \$10 million  
22 will go not very far toward meeting the huge need. In

1 fact, the defender program was authorized for \$25  
2 million, and that's barely sufficient to begin to  
3 address the problem.

4 We primarily, I think, share the foremost  
5 concern of the message. We have worked with the ABA  
6 and others to try to make sure that -- there are over  
7 100 law school programs now. We don't want to see  
8 those taken away because the HEA seems to have filled  
9 that need. That is simply not the case.

10 Charles' point about making it clear, and  
11 maybe in your reprogramming letter, the potential for a  
12 re-reprogramming is going to be coming down the road,  
13 or at least communicate the message that was given in  
14 response to Mr. Hall's question about does this signal  
15 the end of the LRAP program.

16 We have not had the opportunity to re-think  
17 whether or not we should recommend to LSC the  
18 continuation of some sort of earmark for LRAP. As you  
19 know, we generally look with disfavor on earmarks.

20 This issue is of such compelling importance  
21 that we had hoped to consider and testify before Mr.  
22 McKay's committee in October with regard to a

1 recommendation about whether or not you should continue  
2 this program.

3 We are just not prepared to do that now. I  
4 would ask that as you move forward and communicate your  
5 decision with regard to this, that you don't answer  
6 that question in response to this particular short term  
7 need.

8 Thank you.

9 CHAIRMAN STRICKLAND: Don, thank you very  
10 much.

11 Board members, any questions for our public  
12 commentors?

13 MR. MEITES: Frank, I have a question for John  
14 Constance, if he's there.

15 CHAIRMAN STRICKLAND: Yes, he is.

16 MR. MEITES: John, I read with interest Terry  
17 Brooks' comments, and his concern about the lengthy  
18 process that he envisions that will occur between now  
19 and when the Department of Education issues regulations  
20 and is able to begin accepting and ruling or providing  
21 decisions on applications.

22 John, could you take a step back and tell us

1     what each of the Acts contains, what the differences  
2     are between the two Acts, and when the dust settles,  
3     what attorneys and our grantees can hope to receive  
4     under these two programs?

5             MR. CONSTANCE:  Yes, Tom.  Let me just step  
6     back for a second and speak to the issue of timing  
7     first of all, which we had shared with the Board last  
8     week.

9             That is clearly, in the case of HEA, as an  
10    authorization and not a funding bill, it is going to  
11    require two things.  It's going to require essentially  
12    procedures to be put in place through the regulatory  
13    process by the Department of Education in order to  
14    establish what the guidelines and the rules and the  
15    applications, et cetera, will be for attorneys being  
16    able to benefit from this new authorization.

17            That's number one.  Again, there is an  
18    unspecified time associated with that.  Second of all,  
19    it will have to be funded.

20            In answer to the questions that we had  
21    received last week from the Board as to the likelihood  
22    of it being funded, I think most agree that with



1 Senator Harkin in the position of being the chairman  
2 for the Subcommittee in the Senate and Mr. Obie being  
3 the chairman of the Subcommittee in the House, both  
4 having been obviously supporters of this, and it was in  
5 fact Senator Harkin's amendment to the HEA that placed  
6 that in action.

7 As far as the LRAP program in that bill, all  
8 would think that's going to be funded, but it's not in  
9 fact going to be immediate.

10 I don't have in front of me all of the details  
11 of the two bills, Tom. We certainly could provide  
12 that.

13 It's just to say that I think the two bills  
14 can be contrasted in one way, and that is the ten year  
15 requirement for the previous Act would really put that  
16 outside to a certain extent some of the recruitment and  
17 retention goals that have been there.

18 MR. MEITES: Ten years being open to people in  
19 their first ten years of employment or repayment? What  
20 is the ten years?

21 MR. CONSTANCE: After essentially five years  
22 of their employment. The problem being that -- this

1 was in fact addressed in the HEA bill. I think Don can  
2 certainly speak to that.

3 This was seen to be as a better vehicle for  
4 loan repayment, for civil legal assistance, as well as  
5 the defenders, given (a) the higher dollar thresholds  
6 and the lower requirement in terms of those becoming  
7 eligible for that.

8 I think those are the differences, but I would  
9 add one other thing, if I might. I'm the only one, I  
10 guess, on the call -- Tarifa Azziz is here in the room  
11 with me -- that has been in the unique position of both  
12 going to the Hill for a year and a half and advocating  
13 for LRAP funding, and advocating based on the direction  
14 that has been provided by our Board for this program,  
15 and then going to the Hill and having some  
16 conversations about options to handle our M&A issue.

17 The way things are always said in Washington,  
18 it goes without saying, and then everyone goes ahead  
19 and proceeds to say what goes without saying.

20 In this case, I would only add that we have  
21 made it very clear in preliminary conversations, and I  
22 would agree that in any reprogramming letter, it would

1 be required by us, I think, to make clear our support  
2 for LRAP, to make clear our support for the program as  
3 it has existed, and indicate that this effort is  
4 without prejudice to see that the program be continued,  
5 and also would essentially imply the fact that we want  
6 to restore the money in the 2009 funding cycle.

7           Again, a long answer to a short question, Tom,  
8 but I just wanted to make clear that we have put both  
9 of those things on the table in our preliminary  
10 conversations with the Hill.

11           MR. MEITES: Thank you.

12           MR. GARTEN: May I?

13           CHAIRMAN STRICKLAND: Go ahead, Herb.

14           MR. GARTEN: It's clear to me after hearing  
15 from some of the Board members and what we just heard  
16 that we could address the issues raised by the Board  
17 members and also the issue of perception by having a  
18 resolution, if agreeable, stating basically that the  
19 Board believes the continuation of the LRAP program is  
20 one of our top priorities, and is directing management  
21 to do a top to bottom review of M&A expenses to  
22 identify ways that the program can continue regardless

1 of whether Congress appropriates less than \$14.5  
2 million identified in the memo of August 11, 2008.

3 That seems to me with what I have heard from  
4 some Board members that something along those lines, a  
5 resolution, should give assurance to the public and  
6 other programs that we are going to do everything  
7 within our power to keep the program, regardless of the  
8 dollar amount.

9 I think that would help our perception. That  
10 would be a suggestion I would like to make.

11 CHAIRMAN STRICKLAND: I think that's a good  
12 suggestion. The question I have is as to whether we  
13 can take that action today in the form of a resolution.

14 The item we have before is number two, whether  
15 or not to authorize the transfer or reprogramming of  
16 LRAP funds.

17 MR. GARTEN: Certainly, the minutes of the  
18 meeting could identify that these issues have been  
19 raised and what our thinking is.

20 CHAIRMAN STRICKLAND: No question about that.  
21 In terms of the action we can take today under the  
22 published agenda is what I was addressing.

1           MS. SINGLETON: Mr. Chairman, I like Herb's  
2 suggestion and I'd like to suggest that we put that on  
3 the agenda for our October meeting so we can properly  
4 notice it, a discussion of that proposed resolution.

5           I'm wondering whether we would be able to add  
6 a "Whereas" clause to the current resolution that is on  
7 today's agenda without running afoul of any kind of  
8 notice provision, and that could say something like,  
9 you know, whereas, the Board doesn't intend for its  
10 actions to indicate that other LRAP programs are no  
11 longer needed or that the LSC LRAP pilot project should  
12 not continue. Just insert that as a "Whereas" clause.

13           CHAIRMAN STRICKLAND: We might be able to do  
14 that. Let's ask Vic if that's possible, in case that  
15 is the wish of the Board.

16           MR. FORTUNO: I think the answer to that is  
17 yes.

18           MR. HALL: I would certainly support that  
19 approach and may not have the exact language, but I  
20 think my major concern and the hesitation in supporting  
21 what management has suggested are the two things I have  
22 heard loud and clear from the individuals in the

1 public, which is one, how this is going to be  
2 interpreted, and I think that is something we have to  
3 be concerned about.

4           Second, our own continuing commitment to this  
5 particular issue, even though we started it as a pilot,  
6 I think at least from my perspective we started it as a  
7 pilot with the hope that if it was working, it would be  
8 something we could continue, and the last report that  
9 we received at the Provisions Committee was it was  
10 working and working very successfully.

11           Those sorts of commitments being attached to  
12 the resolution that we pass would allow me to feel more  
13 comfortable with embracing management's recommendation.

14           MR. MEITES: I actually want to get us out of  
15 the LRAP business. There are lots of reasons why I  
16 want to get us out. I agree, this isn't the time to  
17 have that discussion.

18           I just want to make sure that nowhere as we  
19 put into this resolution commits us to a decision on  
20 that until we have had a chance to fully assess it.

21           MS. PHILLIPS-JACKSON: I am also concerned  
22 with what message is being sent. I don't want it to

1        seem like LSC is taking money from the field that helps  
2        this grantee recruit new attorneys that will increase  
3        client services.

4                Also, I don't want it to look as if it is only  
5        important until LSC over spends its budget or needs  
6        money.

7                I'm also concerned about what message is sent.

8                MS. BeVIER:    Mr. Chairman, I just have one  
9        comment with respect to the choice that confronts us.  
10       Just to remind us of the issues of compliance and so  
11       forth that we have been confronted with with the GAO  
12       report.

13               That is it's M&A's budget that is responsible  
14       for a lot of the fixing of some of the issues that have  
15       been pointed out to us.

16               I agree that we are between a rock and a hard  
17       place here. I think we have lost sight of the fact  
18       that we are not in fact discontinuing the payment of  
19       any LRAP grants that have been made and that they are  
20       going to be funded so that no one who has been promised  
21       one is going to be disappointed by this.

22               We have a variety of jobs to do on the Board.

1 One of them is to make certain that we are in a  
2 position to help our grantees comply with the law that  
3 Congress has enacted and under which we are  
4 administering these funds.

5 It's already clear that several of the cuts  
6 that are suggested, that management plans to make, are  
7 from those budgets, from the OPP and so forth, and  
8 Compliance and Enforcement reduce their budget by  
9 \$135,000, adjusting the number of visits of consultants  
10 that would normally be used.

11 It is of some concern to me that we keep in  
12 mind that it is in part preserving these positions, but  
13 it is also to preserve our ability to do that aspect of  
14 our mission.

15 CHAIRMAN STRICKLAND: Good point. Are there  
16 any other comments?

17 MS. PHILLIPS-JACKSON: I just have one  
18 question for Vic about the memo that was sent. I know  
19 I'm going backwards.

20 In the memo, the LRAP funds, is it saying it  
21 would not lay off staff at the beginning of 2009 or is  
22 it saying it would not lay off staff for 2009 entirely?



1           MR. FORTUNO: I think the legal opinion  
2 addresses the question of the layoff's to that degree.  
3 Charles or Dave can maybe speak to that. I think what  
4 it does is it allows at least to simplify it, break it  
5 into two transfers.

6           That is the one to occur this year from LRAP  
7 to M&A. If that transfer is made this year, then the  
8 funds are carried over into 2009. In 2009, there would  
9 be no need, it appears, for layoff's because the  
10 \$500,000 when coupled with the \$900,000 and some odd  
11 dollars, close to a million, that are being kind of  
12 squeezed out of the existing M&A budget, would make up  
13 the \$1.4 million and change deficit or shortfall, I  
14 should say.

15           As for the layoff's, I think what we are  
16 avoiding are the layoff's in 2009. I would defer to  
17 David and Charles.

18           CHAIRMAN STRICKLAND: Do either of you want to  
19 comment on that, David or Charles?

20           MR. RICHARDSON: The budget has been  
21 constructed that there would be no layoff's in 2009  
22 with this funding. Certainly, we will face this again

1 in 2010 if we have flat funding again or we don't get  
2 an increase, just to put the cautionary note out there  
3 for the future.

4 Before 2009, it would be full employment for  
5 the existing staff.

6 CHAIRMAN STRICKLAND: Any other discussion?

7 [No response.]

8 CHAIRMAN STRICKLAND: Hearing none, I'd like  
9 to entertain a motion to adopt the resolution as  
10 presented, and if someone wants to amend the motion,  
11 they are free to do so, but perhaps we should first  
12 take a motion to adopt the resolution, and if someone  
13 wants to amend it, do that.

14 M O T I O N

15 MS. BeVIER: I move that we adopt the  
16 resolution.

17 CHAIRMAN STRICKLAND: Is there a second?

18 MR. McKAY: Second, and for the record, we're  
19 talking about Resolution 2008-012, which was sent out  
20 to us about an hour ago.

21 CHAIRMAN STRICKLAND: Correct. That has been  
22 moved and seconded. Is there any amendment to the

1 resolution?

2 MS. SINGLETON: I would like to propose a  
3 friendly amendment, that we add a "Whereas" clause, a  
4 third "Whereas" clause, that says "Whereas, the Board  
5 does not intend for its actions to indicate that other  
6 LRAP programs are no longer needed or that the LSC LRAP  
7 pilot project should not continue."

8 MR. McKAY: I second the amendment, the motion  
9 as amended.

10 CHAIRMAN STRICKLAND: It has been moved and  
11 seconded that Resolution 2008-012 as amended be  
12 adopted.

13 Is there any discussion on the motion as  
14 amended?

15 MR. MEITES: Sarah's "Whereas" is hard to  
16 parse because it's written in the negative. Let me ask  
17 her, Sarah, do you see that phrasing as a commitment  
18 from LSC to continue either the pilot program or the  
19 LRAP program on a permanent basis?

20 MS. SINGLETON: No. I intentionally worded it  
21 using a verb that I thought was not binding.

22 MR. MEITES: Thank you very much.

1           MR. GARTEN: Sarah, could you repeat it,  
2 please?

3           MS. SINGLETON: Yes. "Whereas, the Board does  
4 not intend for its actions to indicate that other LRAP  
5 programs are no longer needed or that the LSC LRAP  
6 pilot project should not continue."

7           MR. GARTEN: Thank you.

8           CHAIRMAN STRICKLAND: Any further discussion  
9 of the motion on the resolution as amended?

10           [No response.]

11           CHAIRMAN STRICKLAND: Hearing none, let's  
12 proceed to a vote on the adoption of the resolution as  
13 amended.

14           All those in favor, please say aye.

15           [Chorus of ayes.]

16           CHAIRMAN STRICKLAND: Those opposed, nay.

17           MS. PHILLIPS-JACKSON: Frank, can I abstain?  
18 I'm not sure.

19           CHAIRMAN STRICKLAND: If you want to abstain,  
20 we will note that you are abstaining.

21           MS. CHILES: Frank, I'm going to vote against  
22 the motion.

1                   CHAIRMAN STRICKLAND: The vote, I'm voting  
2     aye, if we have ten on the call, there are eight votes  
3     in favor, one nay and one abstention. The nay vote is  
4     Jonann Chiles and the abstention is Bernice  
5     Phillips-Jackson.

6                   Is that a correct statement of the vote?

7                   MS. CHILES: Yes.

8                   CHAIRMAN STRICKLAND: The next item is to  
9     consider and act on other business. Is there any other  
10    business?

11                  MR. FUENTES: Mr. Chairman, I don't think any  
12    of us are happy that we have to take up such an agenda.  
13    It's a tough matter to adjust. It's not necessarily a  
14    happy ending.

15                  I do want to say for the record, and I think I  
16    am probably joined by all of my colleagues, and they  
17    can speak for themselves, I know that both you, Mr.  
18    Chairman, and also our very good Finance chairman, Mike  
19    McKay, put an awful lot of effort in this, once this  
20    matter arose.

21                  Both of you have been responsive to the input  
22    of fellow Board members. You have been working with

1 staff. You have been working with both our top  
2 administration and our legal counsel to try to find a  
3 solution to this.

4 This is effort above and beyond what the rest  
5 of us Board members do. It is your time, it is your  
6 energy, and it is your commitment to the cause of  
7 serving the poor in America, and I just want to take a  
8 moment here to say Chairman Strickland and Chairman  
9 McKay, I for one of your colleagues appreciate your  
10 efforts.

11 CHAIRMAN STRICKLAND: Tom, you are very kind.  
12 We appreciate those thoughts very much.

13 MR. MCKAY: Thank you.

14 CHAIRMAN STRICKLAND: Any other new business?

15 [No response.]

16 CHAIRMAN STRICKLAND: Next, we will consider  
17 and act on a motion to adjourn the meeting. Is there  
18 such a motion?

19 M O T I O N

20 MS. BeVIER: So moved.

21 MR. MCKAY: Second.

22 //

1                   CHAIRMAN STRICKLAND: Hearing no objection to  
2           that motion, I will declare the meeting adjourned.  
3           Thank you very much everybody.

4                   [Whereupon, at 4:29 p.m., the meeting was  
5           adjourned.]

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