

LEGAL SERVICES CORPORATION  
BOARD OF DIRECTORS

MEETING OF THE  
PROVISION FOR THE DELIVERY  
OF LEGAL SERVICES COMMITTEE

Friday, April 24, 2009

2:15 p.m.

Embassy Suites Hotel  
319 Southwest Pine Street  
Portland, Oregon

COMMITTEE MEMBERS PRESENT:

David Hall, Chairman  
Thomas A. Fuentes  
Bernice Phillips-Jackson (by telephone)  
Sarah Singleton  
Frank B. Strickland, ex officio

OTHER BOARD MEMBERS PRESENT:

Lillian R. BeVier  
Jonann C. Chiles (by telephone)  
Herbert S. Garten  
Thomas R. Meites

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## STAFF AND PUBLIC PRESENT:

Helaine M. Barnett, President  
Karen M. Dozier, Executive Assistant to the President  
Victor M. Fortuno, Vice President for Legal Affairs,  
General Counsel, and Corporate Secretary  
Mattie Cohan, Senior Assistant General Counsel, Office  
of Legal Affairs  
David L. Richardson, Treasurer and Comptroller, Office  
of Financial and Administrative Services  
Karen J. Sarjeant, Vice President for Programs and  
Compliance  
Charles Jeffress, Chief Administrative Officer  
Jeffrey E. Schanz, Inspector General  
Joel Gallay, Special Counsel to the Inspector General,  
Office of the Inspector General  
Thomas Coogan, Assistant Inspector General for  
Investigations, Office of the Inspector General  
David Maddox, Assistant Inspector General for  
Management and Evaluation, Office of the Inspector  
General  
Mathew C. Glover, Associate Counsel, Office of the  
Inspector General  
John Constance, Director, Government Relations and  
Public Affairs Office  
Kathleen Connors, Executive Assistant, Government  
Relations and Public Affairs Office  
Laurie Mikva, Board of Directors Nominee  
Thomas J. Matsuda, Executive Director, Legal Aid  
Society of Oregon  
Aleta Doerr, Legal Aid Society of Oregon  
  
Don Saunders, National Legal Aid and Defenders  
Association (NLADA)  
Terry Brooks, American Bar Association (by telephone)  
Deborah Perluss, Northwest Justice Project

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

2

(2:15 p.m.)

3

CHAIRMAN HALL: I would like to call the  
4 provisions committee meeting to order. Those on the  
5 phone, welcome. My name is David Hall, and I'm chair of  
6 the provisions committee, and would like to officially  
7 call the meeting to order.

8

We have some members of the committee who are  
9 present, and we also have some who are on the phone.  
10 Sarah Singleton, Tom Fuentes. Bernice Phillips is also a  
11 committee member. We have some others who are here as  
12 well, other board members, who we are glad to have. And  
13 on the phone I think Jonann Chiles is with us?

14

MS. CHILES: Yes. Good afternoon.

15

CHAIRMAN HALL: And Terry Brooks from the ABA,  
16 you're on the call as well?

17

MR. BROOKS: Yes. Good afternoon.

18

CHAIRMAN HALL: Okay. Welcome.

19

I'd like to first ask for an approval of the  
20 agenda.

21

M O T I O N

22

MR. FUENTES: Move to approve.

1 MS. SINGLETON: Second.

2 CHAIRMAN HALL: All in favor?

3 (A chorus of ayes.)

4 CHAIRMAN HALL: I would then -- agenda  
5 approved.

6 I'd like to seek an approval of the minutes of  
7 the meeting of January 30, 2009. And before even seeking  
8 a motion, I'd also like to thank Sarah Singleton for  
9 deciding and choosing and agreeing to serve as an acting  
10 chair in my absence at the last meeting.

11 But could I get a motion to approve the  
12 minutes?

13 M O T I O N

14 MR. FUENTES: Move to approve the minutes as  
15 submitted.

16 MS. SINGLETON: Second.

17 CHAIRMAN HALL: All in favor?

18 (A chorus of ayes.)

19 CHAIRMAN HALL: Opposed?

20 (No response.)

21 CHAIRMAN HALL: Minutes are approved.

1 MR. FUENTES: Mr. Chairman?

2 CHAIRMAN HALL: Yes?

3 MR. FUENTES: Just a clarification. Is Bernice  
4 Phillips-Jackson with us?

5 CHAIRMAN HALL: Yes. She's on the phone.

6 MR. FUENTES: Oh, she is? Okay. Great. Thank  
7 you.

8 CHAIRMAN HALL: As you can see, we have a  
9 number of staff reports that constitute the major portion  
10 of our agenda for today. And I think we need to start  
11 into those items.

12 Item No. 3 is a presentation on the private  
13 attorney involvement action plan. And Karen Sarjeant is  
14 present, so I assume you will give us that update?

15 MS. SARJEANT: I will. Thank you very much,  
16 Chairman Hall.

17 Good afternoon. I'm Karen Sarjeant, vice  
18 president for programs and compliance. I do have four  
19 brief updates to share with the committee today. And I  
20 believe parts of the information are in the report, the  
21 president's report, that was given to you by President

1 Barnett. But I wanted to add a few other details to it.

2           And I will start with the PAI honor roll. But  
3 even before discussing that, I think that the LSC private  
4 attorney involvement action plan, "Help Close the Justice  
5 Gap: Unleash the Power of Pro Bono," was really  
6 demonstrated today by the program visit this morning and  
7 the luncheon we just had this morning.

8           The amount of private attorney involvement in  
9 Legal Aid Services of Oregon is just quite impressive,  
10 and this is exactly the kind of involvement that we had  
11 hoped we would see in programs. And so I wanted to  
12 acknowledge that in the program we're visiting today.

13           And we heard about the engagement of the staff  
14 in private bar activities with the bar associations and  
15 taking leadership positions, and that is exactly the way  
16 we think that legal services and the private bar will be  
17 connected in very fruitful ways.

18           Now I will give you a very brief report on the  
19 honor roll. At the January meeting, we shared a staff  
20 proposal on the honor roll, a proposed way for the LSC  
21 board to recognize the significant efforts of private

1 attorneys in their work with LSC programs on behalf of  
2 clients.

3           While there continued to be a very strong  
4 desire on the part of the board to find ways to recognize  
5 private attorneys, there was a very substantial concern  
6 about the honor roll as being the correct vehicle through  
7 which to do this.

8           It was noted that the practice of recognizing  
9 private attorneys at board meetings around the country by  
10 the LSC board, as we just recently did during today's  
11 luncheon, is a very meaningful way for the board to be  
12 engaged and to show their support of their activities.  
13 And the board wants to continue those activities.

14           Based on the discussion at the board meeting in  
15 January, we went back to our staff and considered the  
16 range of concerns that were stated. And we decided that  
17 we would not pursue any further the idea of an honor  
18 roll.

19           We will continue to consider creative ways to  
20 have the LSC board involved in recognition activities,  
21 and the board committee, in fact, asked us to think about



1 how to encourage pro bono participation by those who are  
2 not already engaged in such work.

3           And while we don't have the answer to that  
4 right now, we will continue to work on that. We will be  
5 speaking with the ABA, as we were encouraged to do at the  
6 January meeting. And we'll be attending the Equal  
7 Justice Conference in a few weeks, which has a heavy  
8 focus on pro bono and private attorney involvement.

9           So we will continue to look at ways that LSC  
10 and the LSC board can engage in recognition of private  
11 attorneys who devote large amounts of time and effort to  
12 our programs on behalf of clients. But it will not be  
13 done through the honor roll that was proposed.

14           CHAIRMAN HALL: If I could -- only because I  
15 wasn't here, if you could maybe restate what the concerns  
16 were or the objections were to pursuing that approach  
17 last time?

18           MS. SARJEANT: I can. There were issues raised  
19 about the role of the ABA and whether they were  
20 supportive of what we were doing. But the main issues, I  
21 think, had to do with how we would actually make the

1 selection, the fact that if it was going to be a  
2 selective honor roll, there would have to be an  
3 administrative process and some way to get to a number,  
4 for example, of 10 or 15 to honor, as opposed to honoring  
5 137, one from each of our programs.

6           There was concern about the role of the LSC  
7 board in really just not having a significant role in the  
8 selection of who was actually being proposed for the  
9 honor roll. And the feeling was that there was a much  
10 more direct connection when the board is at a program, as  
11 the visit we just did, and has the opportunity to  
12 interact with the awardees and participate in that way.

13           There were concerns about the budget and what  
14 it would cost. I think several of the committee members  
15 shared their experiences in working with other boards and  
16 other award situations, and the amount of time that it  
17 took.

18           CHAIRMAN HALL: Thank you.

19           MS. SARJEANT: So additionally, in the area of  
20 private attorney involvement, at the last meeting we  
21 reported to you that we were in the process of and had

1 invitations out to a group of executive directors and pro  
2 bono coordinators from programs to be on our private  
3 attorney involvement advisory group.

4           And we have now designated that committee. It  
5 is comprised of executive directors and private attorney  
6 involvement coordinators from our grantee programs. I  
7 believe there are 10 or 11 field representatives on the  
8 advisory group.

9           And the purpose of the group is to assist LSC  
10 in identifying areas in the private attorney involvement  
11 regulation, and that's 1614, that might benefit from  
12 additional guidance. And then if it is determined that  
13 such additional guidance is determined, the advisory  
14 group will help LSC in working on what the parameters of  
15 that guidance should be.

16           So we have had two very lively telephonic  
17 meetings -- this group is meeting by conference call --  
18 and both meetings surfaced issues to be considered as we  
19 move forward.

20           In broad categories, let me share what some of  
21 those issues are. There are issues like what activities

1 can have their cost allocated to the 12-1/2 percent of  
2 the regulation; what client-related work can be counted  
3 as PAI, and there was a lot of discussion about -- there  
4 is clarity in our case service reports handbook on what  
5 cases can be counted.

6           And there was discussion about are there other  
7 things that should be counted. There's a lot of private  
8 attorney involvement activity that is not counted under  
9 the regulation right now. And so there were questions  
10 about do the LSC rules allow programs to report a true  
11 picture of the range of PAI activity that is done.

12           We're also inviting other stakeholders to  
13 participate in the meetings from time to time. At the  
14 meeting earlier this week, we had a representative from  
15 CLASP, Linda Perle, join us on that call. We are  
16 inviting representatives from the ABA for the next call,  
17 Steve Scudder and Terry Brooks.

18           And at the last meeting in January of this  
19 committee, it was suggested that we also reach out to  
20 hours, whether it's the access to justice community,  
21 other representatives from faith-based organizations.

1           And so we will reach out as -- you know, right  
2 now the discussion is very much centered on the  
3 regulation and additional guidance that is needed for the  
4 regulation. But we will reach out as appropriate to  
5 others, and try to bring as much discussion to this issue  
6 as possible.

7           CHAIRMAN HALL: What would you see as the  
8 greatest benefit growing out of the advisory group going  
9 forward around this issue? Do you have a vision of what  
10 it would really allow you to tackle that you're not able  
11 to tackle now?

12           MS. SARJEANT: I think what it will do is I  
13 think it's important for LSC to have discussions with our  
14 programs about are there areas of the regulation that are  
15 impeding their ability to take on and be creative about  
16 private attorney involvement.

17           And so, you know, it's hard to say right now  
18 what our end product will be because it really does  
19 depend on the discussion and what we unearth and what the  
20 areas of concern are that the programs raise.

21           But if there is the need for additional

1 guidance without -- at this point, we're not necessarily  
2 proposing in any way to rewrite the regulation. But we  
3 are looking at if there are ways that we can make things  
4 more clear about what is allowable to be charged to PAI,  
5 all of those kinds of things.

6 Our goal is to be -- is to not narrow what the  
7 regulation allows, but to be -- to look and see if  
8 there's a need to be more expansive, still within the  
9 requirements of the regulation, so that programs can  
10 count some of the work that they're doing.

11 CHAIRMAN HALL: Is there a process now that  
12 allows programs to learn best practices from each other  
13 around private attorney involvement? And if there isn't,  
14 can this advisory board help serve that function?

15 MS. SARJEANT: Well, I think that there are  
16 different ways that that happens. I think, as I  
17 mentioned before, the Equal Justice Conference that is  
18 coming up in a few weeks, that is a joint conference with  
19 ABA participation and NLADA participation. And there are  
20 many programs that participate in that conference, and  
21 the workshops do highlight and demonstrate best practices

1 that the programs, pro bono programs and private attorney  
2 involvement programs, have used.

3           We also have our laboratory resource website  
4 where we try to post information and abstracts of private  
5 attorney involvement projects that -- and best practices  
6 from programs. And this is another opportunity, I think,  
7 to allow the discussions to happen so that we can  
8 determine whether there were are other areas that we need  
9 to be looking for best practices and finding out from  
10 programs what those are.

11           The third area under the private attorney  
12 involvement action plan focuses on law school activities.

13       And at the last meeting, President Barnett was planning  
14 on participating in the Yale Law School colloquium, and  
15 since that time she has done that. And in preparation  
16 for that, nearly 50 of our programs shared with us  
17 information about their collaborations with law schools  
18 in delivering services to clients.

19           And so we want to take the information --  
20 there's a wealth of information that we received from  
21 programs, and we want to put that into essentially a

1 user-friendly format so that other programs can look and  
2 see and be encouraged by what their colleagues are doing,  
3 and get ideas about how to engage with law schools.

4           For example, we have programs that are  
5 collaborating with law schools to staff medical-legal  
6 partnership programs. We have programs that have law  
7 school faculty as board members, so there's the  
8 connection of the school environment with our programs.  
9 We have programs that co-counsel cases with law school  
10 faculty.

11           We have law students that provide research to  
12 programs on poverty law issues that are contemporary with  
13 client work that's being done by the programs. We have  
14 legal services attorneys in our programs who are adjunct  
15 professors at law schools, and so they're able to  
16 connection the reality of poverty law practice to what --  
17 the training in the law schools.

18           And one that was very interesting is that we  
19 have a program that's working with the law school and  
20 other university resources to do a legal needs study. So  
21 they're able to pull and get the resources from the



1 university, from their social science department, to help  
2 support the legal needs study.

3           So that is, very quickly, the update on our  
4 private attorney involvement action plan.

5           CHAIRMAN HALL: Any questions from board  
6 members on this topic?

7           MR. FUENTES: Mr. Chairman, more, I think, a  
8 comment than a question. I think, Karen, your  
9 determination on the honor roll seems to be a wise one.  
10 I've just come through an annual involvement that I have  
11 of judging scholarships. There were 80 applicants and  
12 perhaps of them received the awards.

13           But it was weeks and weeks of work. And I  
14 share that task with colleagues who sit on the foundation  
15 board with me. So it was weeks and weeks of work of  
16 perhaps five or six professionals, and back at  
17 headquarters of the foundation, literally months of work  
18 on the part of staff.

19           And I think that we had a very good intention  
20 here to consider this honor roll. I think it was a noble  
21 idea. But I think also that with wisdom as to where we

1 need to be concentrating our efforts of limited  
2 resources, staff, and hours, I think this is a good  
3 determination on your part and that of your colleagues  
4 who bring us more or less this conclusion.

5 I think that our hours and time can be better  
6 spent, and yet I don't want it to come out or appear that  
7 we don't think that there is appropriate reason for  
8 recognizing and acknowledging those who do serve.

9 Further, I'd like to comment on this item that  
10 having been the chairman of the board of a law school for  
11 some years in California, I think that we ought to be  
12 giving encouragement not only for the students to be  
13 involved, but you mentioned efforts toward the faculty.  
14 And I'm wondering if that can't be networked with the  
15 boards of those law schools as well.

16 I think you have oftentimes very community-  
17 minded folks who step up to serve on those boards, and if  
18 there couldn't be some interface to elevate the need for  
19 more pro bono activity. It's a noble call for the  
20 students, for the faculty, and for the board. And I  
21 think we ought to try to examine the programs that are

1 going on to ask the question: Is every school reaching  
2 out to all of those elements?

3 Thank you, Mr. Chairman.

4 CHAIRMAN HALL: Other questions?

5 (No response.)

6 CHAIRMAN HALL: Should we assume that since  
7 50 grantees responded that they have some connections,  
8 that we have about 50 that do not? Or is it just that  
9 they may not have responded? Or what should we  
10 extrapolate from that?

11 MS. SARJEANT: I think it's more the latter.  
12 Now, I don't think all of our programs have  
13 collaborations with law schools, and in fact, some of  
14 those 50 were from programs that said, we have no law  
15 schools in our service areas, and so they talked about  
16 the challenges that that presented.

17 And then as I looked through the list and read  
18 what had been presented, I know that there are some  
19 programs and some law schools that have collaborations  
20 that are not listed here.

21 So I think it's that some people got to it in

1 the list of things and some didn't. But I thought, you  
2 know, that a response of 50 out of 137 was very good.

3 MS. SINGLETON: Mr. Chairman?

4 CHAIRMAN HALL: Sarah?

5 MS. SINGLETON: Do you know if those responses  
6 would include collaboration that's done through something  
7 like an Access to Justice Commission or a state bar pro  
8 bono committee?

9 MS. SARJEANT: Some of them may have mentioned  
10 that, yes. Yes. But we are in the process of figuring  
11 out what is a good format to put this up on the website  
12 or get it out to programs somehow so it would be  
13 available and everybody can look through it and get  
14 ideas.

15 CHAIRMAN HALL: If there are no other  
16 questions, we should move to item No. 4, which is a staff  
17 update on the Herbert S. Garten Pilot Loan Repayment  
18 Assistance Program. I assume, Karen, you are making that  
19 update as well?

20 MS. SARJEANT: I am. And on ths Herbert S.  
21 Garten LSC Loan Repayment Assistance Program, there is a

1 third-year evaluation that is at page 9 in your board  
2 book. And as noted in that preliminary evaluation memo,  
3 those findings are very consistent with prior-year  
4 evaluation findings.

5           One of the highlights of this third year is  
6 related to retention issues because we now have three  
7 years of data looking at both participating attorneys and  
8 those attorneys who are similarly situated who did not  
9 participate in the LRAP program.

10           And so the evaluation is able to demonstrate  
11 that the overall dropout rates, for example, it made a  
12 difference for those attorneys who had the LRAP. Of that  
13 group, 34 percent of LRAP recipients left --  
14 voluntarily -- programs, whereas 45 percent of attorneys  
15 who did not have the LRAP left during that same period of  
16 time.

17           The evaluation -- these are preliminary  
18 statistics. Our staff person who is doing the evaluation  
19 is going to be doing some additional interviews to take a  
20 look at a little more in-depth about some of the reasons  
21 that the attorneys left the program.

1           The numbers say that the majority of them left  
2 because of financial pressure. There is another  
3 representation that a number of people left because of  
4 issues and dissatisfaction with the program management  
5 where they were. We want to look at that and see what  
6 that's about.

7           We also want to take a look at the evaluation  
8 data regarding the impact of the LRAP program on urban  
9 programs versus rural programs. We want to look at the  
10 effect of the LRAP on staff diversity in programs and  
11 additional information on retention issues.

12           So that -- you know, he will be doing that work  
13 right now. And I'm sure we will -- when it's complete,  
14 we will be reporting to you on a broader evaluation of  
15 that first LRAP class.

16           CHAIRMAN HALL: Okay. When I reviewed the  
17 report, there was one data point that was confusing to  
18 me, and it may be that I'm misunderstanding. On page 3,  
19 or 11 of the report, there was some data provided in  
20 regards to more experienced attorneys. It says, "The  
21 LRAP was especially important to more experienced

1 attorneys."

2 MS. SARJEANT: Right.

3 CHAIRMAN HALL: And then it defines "more  
4 experienced" as "less than 3 years experience."

5 MS. SARJEANT: That is -- that's actually  
6 incorrect. It was those with 3 years experience at their  
7 programs as of October '05. So that is -- that's not  
8 correct.

9 MS. SINGLETON: So you take out "less than"?

10 CHAIRMAN HALL: Yes. So it's 3 years or more?

11 MS. SARJEANT: Right. It's 3 years or more.

12 CHAIRMAN HALL: Three years or more. Okay.

13 Yes. It didn't --

14 MS. SARJEANT: Yes.

15 MR. FUENTES: Mr. Chairman?

16 CHAIRMAN HALL: Yes?

17 MR. FUENTES: Karen, help me just refresh my  
18 memory how this works now. If someone is receiving the  
19 loan repayment assistance and then exits from the  
20 program, does the loan repayment assistance recapture any  
21 of that, or what is the penalty, or how does that work?

1           MS. SARJEANT:  If they leave without good  
2 cause -- there are certain conditions under the LRAP  
3 program -- if they leave without good cause, then LSC  
4 will recoup the LRAP payments.  And so we do have some  
5 former recipient attorneys who are in the process of  
6 repaying the LRAP back to LSC that they received because  
7 they left the program for some reason that did not meet  
8 the good cause requirement.

9           MR. FUENTES:  So you say that 35 percent of  
10 those who were receiving LRAP did leave?

11           MS. SARJEANT:  Well, no.  The 35 percent is of  
12 the people who voluntarily left the program during that  
13 time period.  Not 35 percent of --

14           MR. FUENTES:  Of LRAP recipients?

15           MS. SARJEANT:  No.

16           MR. FUENTES:  Okay.  So are we talking,  
17 annually, big dollars or not big dollars or --

18           MS. SARJEANT:  I think, on average, there have  
19 probably been somewhere between maybe five and eight  
20 people who have left each year.  I'm not even sure it's  
21 that high.  But there have been -- and I can get the



1 exact numbers for you. But there have been -- in any  
2 given year, there are probably at least four, if not  
3 more, who leave for one reason or another.

4 MR. FUENTES: I understand this would be sort  
5 of a normal administrative oversight matter. But for  
6 curiosity's sake, does the inspector general keep an eye  
7 on this to see that if dollars are going out and somebody  
8 quits the program, we get them back?

9 MS. SARJEANT: He has not asked us about that,  
10 and we are pretty diligent about going after the money.  
11 We, for example, have had numbers of attorneys who had to  
12 leave who have pleaded with us quite a lot not to recoup  
13 the money.

14 But we've taken a fairly hard line on this  
15 because they're congressionally appropriated dollars that  
16 are funding this, and we set out in the guidelines for  
17 the program what the good cause reasons would be for  
18 being able to leave the program without any --  
19 essentially any requirement to pay the money back. And  
20 we've tried to stick to that.

21 MR. FUENTES: Yes. If the dollar comes back

1 in, potentially it can aid another --

2 MS. SARJEANT: That's right. It goes back --

3 MR. FUENTES: -- person in the program who can  
4 do good for our clients.

5 MS. SARJEANT: That's right. It goes back into  
6 the LRAP fund line. And so -- but, you know, those  
7 records are not only kept by the staff who are doing the  
8 LRAP administration on a daily basis, but the Office of  
9 Legal Affairs is involved in helping us, in making the  
10 communications to recover the funds. And the Office of  
11 Finance and Administration keeps track of what goes out  
12 and what comes in also.

13 MR. FUENTES: Thank you.

14 CHAIRMAN HALL: Any other questions? Sarah?

15 MS. SINGLETON: Mr. Chairman, I assume that  
16 ultimately these reports are going to lead to some kind  
17 of a recommendation about whether the program out to be  
18 continued or not. Since you keep reinserting the word  
19 "pilot" into it --

20 MS. SARJEANT: No, no. I didn't. I didn't.

21 MS. SINGLETON: All right. I'm assuming,

1    though, that that is contemplated at some point.  And I'm  
2    wondering:  Do we have any update on the other loan  
3    repayment assistance programs and funding for them, and  
4    what their status is?  You know, I'm talking about the  
5    one -- the Harkin amendment to the Title 8 or whatever it  
6    was that went through last year but didn't have funding  
7    at that time.

8                   MS. SARJEANT:  Right.  And I believe there is  
9    not any funding for that yet.  But certainly John  
10   Constance can speak to that.  But this board did indicate  
11   that once we have that information on the other programs,  
12   that they do want to have a discussion about whether the  
13   LRAP program should be continued.

14                   But I very purposefully did not use the word  
15   pilot.  It's no longer in the title.

16                   CHAIRMAN HALL:  Well, it is on the agenda.

17                   MS. SARJEANT:  Well, it's not supposed to be.

18                   MS. SINGLETON:  It did get on the agenda that  
19   way.

20                   MS. SARJEANT:  Oh, you know -- okay.  We're  
21   getting used to the new name.  We're trying to do it

1 correctly. I apologize for that mistake.

2 CHAIRMAN HALL: Since John is in the room now,  
3 there was a question asked by Sarah as to what is the  
4 status of some of the other congressional legislation  
5 around loan repayment or loan forgiveness and deferral.

6 MR. CONSTANCE: Mr. Chairman, for the record,  
7 I'm John Constance, director of government relations and  
8 public affairs.

9 As to current activity, the provisions  
10 regarding LRAP that were put in the reauthorization of  
11 the Higher Education Act last year, the funding of that  
12 still has not been made. Even the proposal of the  
13 funding from the administration has not been made public  
14 at this point. That will go up when the President's  
15 budget goes up. Now they're saying early May.

16 MS. SINGLETON: This confused me. I thought  
17 his budget went up, and that's how we knew that we  
18 were --

19 MR. CONSTANCE: No. It went up as a policy.  
20 The first year of any new administration, usually it goes  
21 up in two stages. The very first stage that goes up is

1 really a policy-level kind of broad discussion of  
2 appropriations. We were told privately, and we were told  
3 that it was going to be part of that going forward, as to  
4 what the administration was going to request for LSC.

5           When that number didn't go up with the February  
6 provision, we went back to the Office of Management and  
7 Budget and asked permission as to whether we could use  
8 that number publicly, and they said yes.

9           However, that kind of granularity on other  
10 accounts, such as the Department of Education, which is  
11 going to be the funding avenue for the LRAP money, that  
12 level of detail has not been made public yet. So we  
13 will know about that provision in May.

14           As to the only other thing that I'm aware of is  
15 that in S.718, which has been referred to as the Harkin  
16 bill, the reauthorization bill for LSC, there is a  
17 provision in there for a permanent LRAP program regarding  
18 LSC. I mean, that is part of that authorizing language  
19 that would establish the program on a continuing basis.  
20 So that is part of that legislation at the current time.

21           CHAIRMAN HALL: Thank you.

1                   Yes, Tom?

2                   MR. MEITES: I admit to my usual confusion when  
3 you give a description of Congress's actions. I thought  
4 there were two enactments. One was the Harkin bill and  
5 the second was another enactment, which was a broad  
6 enactment, which was public defenders, prosecutors, and  
7 our grantees.

8                   MR. CONSTANCE: I mean, that is correct. That  
9 was the earlier amendment to the Higher Education Act  
10 that covers all public service.

11                  MR. MEITES: And that is what you're speaking  
12 of?

13                  MR. CONSTANCE: That's what I'm speaking of in  
14 terms of the funding. That is law. That has been signed  
15 into law.

16                  MR. MEITES: There was a second --

17                  MR. CONSTANCE: The Harkin bill, which is the  
18 reauthorization act for LSC, which is S.718, which has  
19 only been introduced, that in the language that we have  
20 shared with the board does have a provision for a  
21 permanent LRAP.

1           MS. SINGLETON: I think he's thinking of the --  
2 there's a second program in loan repayment assistance of  
3 some sort --

4           MR. MEITES: Yes.

5           MR. CONSTANCE: Right.

6           MS. SINGLETON: -- besides the Harkin amendment  
7 to the education --

8           MR. CONSTANCE: That was an earlier act. So  
9 there are two that involve --

10          MR. MEITES: There are two?

11          MR. CONSTANCE: One is less helpful than the  
12 other. The earlier one is --

13          MR. MEITES: Well --

14          MR. CONSTANCE: We can provide again. We've  
15 provided the board in the past, and I can provide again,  
16 a detailed accounting of the provisions of both of those  
17 funding mechanisms. One has to do with loan forgiveness,  
18 and the other has to do with a proactive funding program  
19 for legal aid.

20          MR. MEITES: What you called the Harkin  
21 amendment is a third program, which would burden LSC

1 perpetually with managing a loan repayment program. Is  
2 that correct? My word, burden, not yours -- would impose  
3 upon LSC permanently a loan repayment program.

4 MR. CONSTANCE: It would authorize an ongoing  
5 loan repayment assistance program under --

6 MR. MEITES: Wouldn't it be helpful to  
7 Congress, before it decided to add a third program, for  
8 us to formulate our views about whether we think -- we,  
9 who are the experts, think it's a good idea?

10 We have been waiting for a considerable period  
11 of time to decide whether we're going to stay in this  
12 business or get out of this business. I for one think we  
13 should get out of this business, for a host of reasons.  
14 It was a pilot program. It works. Let the United States  
15 of America run it.

16 We are not, in my view, set up to do this  
17 hands-on, small bore, small number, person-intensive kind  
18 of program. We give our grants according to a formula.  
19 That works. But once you get to the kind of detail work  
20 that this program involves, we're doing something quite  
21 different.



1           But what I understand you saying how is that  
2   Senator Harkin proposes to make this program and our  
3   participation in this program permanent, and our board  
4   has never discussed, let alone received staff input for  
5   such a discussion, whether this is a good idea.

6           I don't know how this slipped by, but I really  
7   think that we should have a chance as a board to discuss  
8   whether we believe this program should be permanent  
9   before Congress tells us it is to be permanent.

10           MR. CONSTANCE:  Mr. Chairman, if I can just add  
11   that I would have every expectation that, as is the case  
12   with the normal process of legislation, that LSC and the  
13   LSC board will be invited to testify at a certain point  
14   in a legislative hearing on the legislation.

15           MR. MEITES:  Well --

16           MR. CONSTANCE:  The legislation is nothing  
17   more -- Tom, excuse me -- than a proposal.

18           MR. MEITES:  But if it's --

19           MR. CONSTANCE:  It's nothing more than that.

20           MR. MEITES:  Excuse me.  If it's part of an  
21   appropriations bill --

1           MR. CONSTANCE: No. It's not part of an  
2 appropriations bill. It is an authorizing bill.

3           MR. MEITES: Which is --

4           MR. CONSTANCE: This would only say that the  
5 program would be authorized. It neither -- it does not  
6 fund the program. The authorizing legislation that is  
7 S.718 sets a ceiling of authorization funding at  
8 \$750 million, and it authorizes a variety of things under  
9 that, one of which is an ongoing LRAP program.

10          MR. MEITES: Now, given your experience, is it  
11 the normal practice that our views will be solicited  
12 before this authorization bill is enacted?

13          MR. CONSTANCE: Absolutely.

14          MR. MEITES: Well, that's not true about  
15 appropriations bills. They can do that in the dark of  
16 the night without us --

17          MR. CONSTANCE: It's your recommendation that  
18 goes to the Appropriations Committee every year.

19          MR. MEITES: But they can add riders we never  
20 heard of. And that happens in the appropriations -- I  
21 know that happens in the appropriations process. You

1 said this is not part of appropriations. This is a  
2 normal piece of legislation? No, it's not. It's not  
3 like a bill to enforce customs in Guam. It's an  
4 authorization bill, which is something different.

5           What is an authorization bill?

6           MR. CONSTANCE: An authorization bill -- there  
7 are two committees. There are two committees within the  
8 structure of the United States Congress, authorizing  
9 committees and appropriating committees. There are  
10 jurisdictions for both of those.

11           We are under -- our authorizing communicating  
12 is the Health, Education, and Labor Committee of the  
13 United States Senate, and the Commercial and  
14 Administrative Law Subcommittee of the Judiciary  
15 Committee of the House. Those are the two committees  
16 that have responsibility for the LSC Act.

17           They essentially have ongoing authorizing  
18 responsibility for LSC. And if there is a  
19 reauthorization of the program, a routine piece of  
20 legislation would go through both of those committees,  
21 House and Senate.

1           There would be a legislative hearing on those  
2 matters, House and Senate, specifically on the  
3 legislation, at which point amendments -- you know,  
4 anything that would be, you know, offered at that point  
5 would be the first opportunity formally that LSC would  
6 have to participate.

7           MR. MEITES: I beg your indulgence,  
8 Mr. Chairman. When would you expect in this calendar  
9 year that to occur with regard to Senator Harkin's bill?

10           MR. CONSTANCE: I would say this, that given  
11 the fact that -- two factors. One is that the health --  
12 you know, his bill, which is in the lead right now, will  
13 come before the Health, Education, and Labor Committee of  
14 the Senate.

15           Two factors: One, the health of Senator  
16 Kennedy, and second, the health -- basically, the health  
17 legislation, health care legislation that they will have  
18 on their plate and have a deadline of the end of this  
19 year to enact or to take up, most folks on the committee  
20 and most folks that are observing this feel that, if at  
21 all, it will be late in this calendar year before it's

1 taken up.

2 MR. MEITES: Will you be in a position to  
3 advise us if it comes up sooner so that the board will  
4 have a chance to --

5 MR. CONSTANCE: You'll be the first to know.

6 MR. MEITES: Thank you.

7 MR. CONSTANCE: I mean, you know, that would  
8 certainly be our role.

9 CHAIRMAN HALL: Lillian?

10 MS. BeVIER: I apologize. I'm not a member of  
11 the committee, but you've said something just in response  
12 to Mr. Meites that strikes me as a departure from what I  
13 have understood our role to be when Congress is  
14 legislating about the Legal Services Corporation.

15 And I would like to have some more staff input,  
16 either from you or from Vic, about not just what is being  
17 proposed by Congress, but about the extent to which this  
18 board should take particular positions with respect to  
19 all of those changes that are being proposed in the  
20 authorization bill.

21 My understanding was that apart from

1 appropriations and our need for a particular amount of  
2 money, it was not the role of the board to be advising  
3 Congress about the legislation. I mean, I'm happy to be  
4 disabused of that if in fact that was not true and I've  
5 been under a misapprehension.

6           But I want that -- I need personally to have  
7 that clarified. I think the board needs to have it  
8 clarified because if it is our role as a board, I'm very  
9 much with Tom that we need to figure out what it is that  
10 we think about all of those provisions that are in fact  
11 being suggested.

12           It may not be that this particular board is the  
13 one to be advising on that, given our status. But at the  
14 same time, I think it's important that we begin that  
15 process of thinking about it.

16           CHAIRMAN HALL: Is there an answer?

17           MR. CONSTANCE: Yes. The only thing that I  
18 would say, Lillian -- and I would be more than happy to  
19 go back to the committee and talk to them about what  
20 their intentions are or what they would see as being the  
21 approach -- I only speak to this from my experience in my

1 previous programs as to who is called when an  
2 authorization bill is coming up.

3           And the experts are called, the people that are  
4 working in the program. In this case, you know, it would  
5 be up to the committee to determine that. They could  
6 call the board as a board. Assuming that there would be  
7 a consensus, they could call individual members of the  
8 board. They could call whom they wish to call for that  
9 advice.

10           I would only say that normal order or regular  
11 order would be calling the experts forward to talk about  
12 implications of various matters of law. And that is not  
13 to say that there would be unanimity or agreement in  
14 terms of what that would be or what those outcomes would  
15 be.

16           But I would be more than happy to talk to the  
17 committee and report back as to what their intentions  
18 are. You make a very good point as to the transition  
19 year for the board and a variety of things that are  
20 moving parts in regards to that. But that would be for  
21 Congress to take that under advisement as they move

1 forward.

2 I separate the world into what we control and  
3 what we don't control. What I'm talking about right now  
4 is something that we don't control. The Health,  
5 Education, and Labor Committee will call someone forward  
6 in order to testify on the matter.

7 MS. BeVIER: Well, if anybody -- excuse me.  
8 Just one more -- if anybody is going to testify about  
9 what the board position is, it better be pretty clear  
10 that it is the board position. So that's all I'm  
11 suggesting. And I think that's implicit in what Tom  
12 is saying. It needs to be the board's position, not a  
13 particular person's position.

14 CHAIRMAN HALL: Just being sensitive to time,  
15 and also trying to bring this back to focus, there have  
16 been some very interesting issues that I think, on a  
17 board level, needs to be explored. I guess from the  
18 provisions standpoint, the one that seems to be more  
19 germane is the future of the loan repayment program.

20 And I think there is -- since we have been  
21 getting reports back about the pilot program, and I think



1 some very good reports, there still seems to be some  
2 ambiguity as to whether we are committed to it going  
3 forward or not. As one who is committed to that, I think  
4 there probably needs to be some discussion since there  
5 are those who are not.

6           So what I would like to suggest is that staff  
7 would make a -- I know you were going to do some more  
8 investigation besides this, or the person who is pulling  
9 the data together was going to do some more digging to  
10 find out why certain people were leaving.

11           But maybe there should be a presentation from  
12 staff in regards to based on what you have observed in  
13 the last three years. You've had three years of reports.

14           And hopefully by that time we might have a better  
15 understanding of what -- this other legislation, or what  
16 level it's going to be funded at, and what gaps still  
17 remain, so that it could be put before provisions as to  
18 what your recommendation is in regards to going forward  
19 with the program that has been named after Herb.

20           MR. GARTEN: I would just like to refresh the  
21 board on the fact that we had a discussion at the prior

1 board meeting. Tom and I had a big difference of  
2 opinion. And I expressed the views on why we should  
3 retain it, and he has repeated today his reasons, so that  
4 this isn't something that is being brought up for the  
5 first time.

6           CHAIRMAN HALL: Sure. I understand that. But  
7 I guess the difference is I don't know if it ever came to  
8 a vote versus having a discussion. And it's clear that  
9 we do have different views about it, but I think, since  
10 this has been an initiative that has been born out of the  
11 provisions committee and we have received reports on it,  
12 it may be in our best interests to have a recommendation  
13 that we put forward to the full board after we've had a  
14 full discussion and have heard what management has to say  
15 on this issue.

16           And I in no way am trying to shun the other  
17 broader issues that are being raised at this particular  
18 time. I just feel that those broader issues, especially  
19 in regards to the reauthorization act, may be something  
20 to be looked at as a full board. And provisions got  
21 started a little late, and there are still some other

1 items and presentations.

2 So unless there is something more on the loan  
3 repayment issue, I would like to kind of move forward.

4 (No response.)

5 CHAIRMAN HALL: Okay. Thank you.

6 Item No. 5, the Native American delivery and  
7 funding program.

8 MS. SARJEANT: Okay. I'll finish these last  
9 two very quickly.

10 We continue to work with NAILS, the National  
11 Association of Indian Legal Services Programs, to develop  
12 the data to inform our consideration of Native American  
13 funding issues.

14 Since the last meeting, we did contract with a  
15 consultant, Research Advisory Services, to have them  
16 develop a set of data that both NAILS and LSC had agreed  
17 upon to update the 1998 Dahlstrom/Barnhouse report on  
18 legal needs and services in Indian Country.

19 That preliminary data has been delivered to us.

20 At the same time, NAILS agreed to develop and update  
21 several sets of other information. It was more than

1 census information. It was the impact of the Indian  
2 Child Welfare Act and the litigation that's going on in  
3 the Cobell Trust case, tribal recognition work, and the  
4 impact on programs and what they were having to do.

5           We have been in contact with the NAILS  
6 chairperson, Levon Henry. He's been trying to get this  
7 information from his colleagues within NAILS. They're  
8 working on it. They have not completed that.

9           So we are continuing to work with them. We are  
10 going to go ahead and analyze the data that we have with  
11 the consultant and with NAILS. We're going to encourage  
12 NAILS to get their information completed so that can be a  
13 part of the consideration.

14           As you will remember, LSC has been very clear  
15 that if we were to consider any change, it would need to  
16 be based on some clear data, including the information  
17 that was being presented in the update to the report.

18           So we can -- at this time, what we can plan to  
19 do is come back at the July meeting with the analysis  
20 that we have at that time. And hopefully, by then we  
21 will have the data from NAILS and we will have hopefully

1 some preliminary recommendations.

2           There are a lot of issues related to this.

3 It's not just should there be an increase in funding, but  
4 there are issues related to who should be funded. You  
5 know, should we open the Native American funding up to do  
6 something other than how we've historically funded Native  
7 American programs, and where are we funding them? There  
8 are just a lot of issues.

9           But we are moving on this, and we have some  
10 interesting data to look at.

11           CHAIRMAN HALL: Okay. Thank you. Any  
12 questions on that report?

13           (No response.)

14           CHAIRMAN HALL: The last one from Karen is a  
15 staff update on legal services programs and deferred law  
16 firm associates.

17           MS. SARJEANT: Yes. This is -- it's actually a  
18 new report to the committee, and there are materials in  
19 the board book that begin at page 13.

20           And as many of you are aware from reading the  
21 legal papers and even just the daily newspapers, the

1 economic downturn has had an impact on the legal  
2 profession. And many law firms are laying off attorneys  
3 and support staff, reducing their summer hiring, and  
4 deferring the start dates of their new classes of  
5 associates anywhere from three months to one year.

6           Some firms are taking the opportunity to  
7 encourage their deferred associates and others to connect  
8 with public interest organizations for short- or long-  
9 term projects. Some of the firms are providing stipends  
10 to do so; some are not. There are pro bono opportunities  
11 involved in this in addition to hiring. And there are  
12 lots of issues to consider.

13           LSC became aware of this phenomenon, and in  
14 working with other national organizations, has taken the  
15 role of being a provider of information. We are not  
16 trying to do matches between programs and private  
17 attorneys. We don't have the staff to do that.

18           But we are trying to get all of the information  
19 out to our programs so they can consider whether this is  
20 an opportunity for them. And fortunately, several of the  
21 other organizations, as you can see in the materials in

1 the book, have prepared guidance materials on the issues  
2 that need to be considered. And there are a lot of  
3 issues that need to be considered.

4           And so for some of our programs, this will be  
5 an opportunity. For others, it will not be something  
6 that they can take part in. But we're trying to get  
7 out -- we've sent two all-grantee e-mails about this,  
8 giving them all of the information that we have.

9           We participated on April 1st with the National  
10 Association of Law Placement at their annual meeting in a  
11 workshop with law school representatives, career services  
12 representatives, law firm representatives, and several  
13 other public interest organizations, including NLADA,  
14 Equal Justice Works, and the Pro Bono Institute. And we  
15 participated on a panel about connecting the private  
16 attorneys with public interest organizations, and  
17 discussing what some of the real-life, on-the-ground  
18 challenges and opportunities would be.

19           So you can also link to this same information  
20 on the ABA pro bono website, the various guidance that's  
21 out there right now. But there are many issues to

1 consider, but, you know, for some it'll be a good  
2 resource.

3 MR. FUENTES: Mr. Chairman?

4 CHAIRMAN HALL: Yes.

5 MR. FUENTES: Karen, my experiences with the  
6 young people who I have occasion to be in contact with or  
7 mentoring, who are in law school right now and who have  
8 gotten this very impacting news that the job they were  
9 hoping for to start on graduation has now been deferred  
10 or actually, in some cases, eliminated, I feel that the  
11 contact point ought to be the law schools, that that is  
12 their world. That is their environment.

13 And I don't know, to be trying to reach out to  
14 those private sector firms one by one to offer this kind  
15 of alternative, I think that there are existing  
16 relationships with the placement offices of the law  
17 schools who have existing interface with the firms who  
18 come on the campus to recruit the good kids, to be able  
19 to start with them.

20 And I didn't hear in your report a strong  
21 emphasis on a law school focus to get this done. I think



1 it's noble what your end goal is. But how do we help the  
2 law schools understand this?

3 MS. SARJEANT: Well, actually, let me just  
4 restate very clearly. LSC's role in this is only to  
5 share information. We are not trying to do any of the  
6 matching, and this really has not been a large amount of  
7 resources that we've put to this in terms of staff time.  
8 But we do think it's information we want to get out to  
9 programs.

10 So in the NALP presentation that we  
11 participated in with career services from law schools and  
12 from law firms, the placement folks from law firms, that  
13 really was the focus, that it really is -- the impetus in  
14 large part needs to come from them.

15 Now, the law schools have -- they're torn  
16 somewhat because many of them have been working with  
17 students who went to law school with the intention of  
18 doing public interest work.

19 And so now they are faced with a situation  
20 where all of a sudden they have, you know, law graduates  
21 who had the intention of doing public interest who are

1 now competing with law students who did not have the  
2 intention of doing it, but these firms may be providing a  
3 stipend for them. So the programs are, you know, caught  
4 with, do I take the student who comes with no funding or  
5 the student with funding?

6 I think you're right that a lot of the focus  
7 has to be with the law schools in working with the  
8 students, and it needs to be with firms in working with  
9 the law schools, and that when these matches are made,  
10 they are going to be done very locally, that it is going  
11 to be between those programs that have relationships with  
12 firms or are developing relationships with firms.

13 So when we have the opportunity to talk about  
14 this, we do encourage that the focus needs to be at that  
15 level you're talking about, which is the law schools and  
16 the firms together. And again, there are some programs  
17 that will take advantage of it, and there are some that  
18 it'll just be too much for them to take on.

19 MR. FUENTES: Thank you.

20 CHAIRMAN HALL: However, just building on that,  
21 part of this problem -- and I think the materials kind of

1 highlight this -- is that some of these individuals are  
2 not just law graduates. These are people who have had  
3 two, three years of experience who are now being let go  
4 in somewhat a creative way.

5           So it's something that even goes beyond the law  
6 school. It's something that really affects the entire  
7 profession, to a large extent.

8           MS. SARJEANT: That's true. But I do have to  
9 say that the career services offices are saying that  
10 they're hearing from even those folks who have been out  
11 from two or three years, and they're calling them up and  
12 saying, "What do I do now?" And there are all kinds of  
13 questions attached to this.

14           But it really is a kind of seismic shift in the  
15 legal profession that we are witnessing right now. And I  
16 don't think anybody knows how this is going to come out.

17

18           But initially, there was this flurry of  
19 activity because there were reports of firms just saying,  
20 "Here's \$70,000, you know. Go away for a year." And not  
21 saying that in a mean way but, you know, "You're deferred

1 for a year. And you can go work with a public interest  
2 organization."

3 CHAIRMAN HALL: Sarah?

4 MS. SINGLETON: I just -- if that person, or  
5 the person they talked about from Skadden who was going  
6 to take salary reduction to \$80,000 came to New Mexico  
7 and worked with legal aid, they'd be the highest-paid  
8 person in the program. Is this not causing any kind of  
9 problems?

10 MS. SARJEANT: That is very much one of the  
11 issues, when you go through the materials, that they have  
12 raised, that for some, the 70- or \$80,000 that they were  
13 saying is your stipend for the year was about what some  
14 of the executive directors or senior attorneys who had  
15 been working for many years were making.

16 So that presents problems. The amount of  
17 supervision that's required. There were issues if -- you  
18 know, whether they were actually going to still have a  
19 relationship with the firm or whether they were just  
20 completely cut loose. And then what were the ethics  
21 issues around if they were going back to the firm.

1           And for programs, you know, the concerns were,  
2 are we going to be left with a lot of cases at the end of  
3 this stipend period where we're now going to have to  
4 figure out how we cover these cases that have now been  
5 opened.

6           And again, I don't -- I think that for some  
7 programs in some of the large urban areas that have  
8 existing relationships with these firms, they will be  
9 able to work something out that will be successful and  
10 very helpful. There are other places where I think it's  
11 just not realistic for it to happen.

12           But there is, there still is, the possibility  
13 of increased pro bono out of this.

14           CHAIRMAN HALL: Any other questions?

15           MR. FUENTES: Mr. Chairman, not really a  
16 question to this. But I just asked Herb by note how's  
17 his agenda for our next segment because I'm thinking  
18 about -- we have in finance committee quite a full  
19 agenda, so we don't want to get in the crush.

20           I wonder, Herb, how long do you think that --

21           MR. GARTEN: I think a half hour should be

1 adequate.

2 MS. BARNETT: And may I just point out it's a  
3 rolling agenda, so each committee goes until it finishes  
4 its business and the next one begins then, and that's  
5 how --

6 MR. FUENTES: That's exactly why I wanted to  
7 raise it because I didn't want finance committee to get  
8 pushed out late into the evening.

9 MS. BARNETT: No. You can go over.

10 MR. MEITES: Tom, I have about 75 minutes of  
11 remarks for the audit committee, but I probably --

12 (Laughter.)

13 MS. BeVIER: You could defer them.

14 MR. GARTEN: But it all depends upon --

15 CHAIRMAN HALL: Well, based on that, let's move  
16 along.

17 Our next item is a presentation on creative  
18 approaches to recruitment and retention. And Tom  
19 Matsuda, the executive director who we've heard from  
20 early informally, we'll get a chance to hear on the  
21 record about some of the important things that are

1 happening at this local program. So welcome.

2 MR. MATSUDA: Thank you, Chairman Hall. My  
3 name is Tom Matsuda. I'm the executive director of Legal  
4 Aid Services of Oregon.

5 Before I start, because of the concerns about  
6 time, how much should I plan to take for these remarks?

7 CHAIRMAN HALL: How much time were you  
8 originally planning?

9 MR. MATSUDA: I was planning for 10 minutes,  
10 just to do a quick overview, and then if there are  
11 questions, if that's --

12 CHAIRMAN HALL: I think that's still  
13 sufficient. I think that's still sufficient.

14 MR. MATSUDA: All right. I was asked to do a  
15 presentation about our local program's experience with  
16 the question of recruitment and retention of staff. And  
17 so what I'm going to do is very briefly go over the  
18 challenge on that issue as we experienced it, and what we  
19 tried to do to solve it -- or, more accurately, what we  
20 are still currently trying to do to solve it.

21 For me, as one of the administrators of the

1 program, the challenge related to recruitment and  
2 retention is stated fairly simply. This is how I think  
3 about it. The success of our mission depends on having  
4 employees who are skilled, productive, and motivated to  
5 provide high-quality services to clients in a tough  
6 working environment. That's the challenge.

7           And how it plays out for us I think is worth  
8 noting in the specifics of Oregon. And many of you, if  
9 not most of you, were at the presentation this morning,  
10 so I think you have some sense of the challenges that we  
11 face day to day on the ground.

12           In the issue of recruitment, we actually do not  
13 have a problem with recruitment in the urban offices that  
14 you saw on the map this morning. Just as anecdotal  
15 examples, the most recent staff attorney vacancies that  
16 we had in Portland and in the Hillsboro office, which is  
17 part of the Portland metro area, we had somewhere in the  
18 neighborhood of 50 to 75 applicants for each of those  
19 staff attorney positions. And this was in the fall of  
20 last year.

21           MS. SINGLETON: Were they entry level?



1 MR. MATSUDA: I'm sorry?

2 MS. SINGLETON: Were they entry level  
3 positions?

4 MR. MATSUDA: Well, they probably could not  
5 have been funded at higher than about three or four years  
6 of experience at the most.

7 Okay. Now, even if you eliminate applicants  
8 who were clearly not qualified, we still were looking at  
9 at least a dozen, maybe 15 applicants for each of those  
10 positions who merited an interview. And when it came  
11 down to final decision time, we were probably looking at  
12 two or three who we wanted to have on our staff. That's  
13 the urban situation.

14 The rural offices that we have are far  
15 different. It's very difficult, and has historically  
16 been very difficult, for us to recruit attorneys. The  
17 Pendleton office, you heard from our regional director  
18 this morning, recently had a vacancy for a part-time  
19 attorney position. And as far as we know, there were  
20 about 12 applicants for that position, most of whom were  
21 not qualified.

1           We recently reopened the Klamath Falls office  
2 down in southern Oregon, and had a staff attorney hire  
3 about a year ago. And we really, to be honest, didn't  
4 have a great selection even at the finalist level. We  
5 had to choose based on values, not on skill. Okay? And  
6 that was at the beginner level. Fortunately, you know,  
7 the person that we hired has turned out to be pretty  
8 good.

9           But the problem in the rural offices, and I'm  
10 sure this is true in many other rural states in the  
11 country, is it's simply a matter of remoteness. People  
12 do not want to move to these communities.

13           And where we've had success is the people who  
14 are hired happen to be the types of people who would move  
15 into a new, strange community and have the social skills  
16 or whatever you call it, you know, to blend in and  
17 become, you know, an integrated member of the fabric of  
18 that community.

19           In, for example, this hire in Klamath Falls, he  
20 moved back to Klamath Falls to be close to his parents.  
21 So there's a person who can be integrated, who's

1 motivated. But for someone just coming out of law school  
2 who's looking for a public interest law experience with  
3 legal aid, it's very hard to recruit those people to our  
4 rural offices.

5           And I want to say that pay is not necessarily  
6 the issue even in those hires. It's really about moving  
7 into an isolated community, and frequently in an office  
8 that has only two attorneys at most. That doesn't look  
9 like a very good environment for learning your skills as  
10 an attorney.

11           Now, on the issue of retention, I actually have  
12 a handout that if I could -- this is a very simple  
13 handout of some statistics that we put together.  
14 Currently, for our staffing in the 15 offices that we  
15 have around the state, and it has to do with -- what we  
16 tried to depict in this very simple chart is three  
17 things.

18           Looking at our staff and just the number of  
19 years that they have with the program, that's the top  
20 chart. The middle chart is the number of years of  
21 experience in their particular field or job description.

1 And then the final chart at the bottom is the rate of  
2 attrition for attorneys and non-attorneys.

3 Now, from my perspective as the executive  
4 director of a statewide program, what I'm looking for for  
5 the long-term for the stability and the viability of a  
6 program is a number of staff people, and especially staff  
7 attorneys, in all levels of experience, from zero years  
8 fresh out of law school all the way up to, you know, 30  
9 years or more.

10 And we're very fortunate, if you look at the  
11 middle chart, to be able to say that we actually have  
12 that spread in our program, with a little bit of thinness  
13 in the middle years between step 11 and step 25. But  
14 that -- I hope I can say this fairly -- is by design. We  
15 have tried to set up a system of compensation and support  
16 and training for our employees so that they will be  
17 motivated to do this work.

18 And when I started this position eight years  
19 ago, I must say that -- well, I asked a question coming  
20 in, and I didn't get a satisfactory answer. And the  
21 question was: What is the connection between the

1 compensation structure that this organization has and  
2 achievement of the mission?

3           And I really didn't get a straight answer. I  
4 think what had had happened is pretty typical for many  
5 longstanding legal aid programs. A system was created,  
6 probably back in the late '70s or early '80s, and is just  
7 kind of evolved.

8           And I think much of that is generational. I'm  
9 speaking only from my knowledge of this program. But I  
10 think many of us who started in legal services at the  
11 beginning of our careers in that time frame were single.

12       We didn't have families to support. Money was clearly  
13 not much of a motivation; we just wanted to do the work.

14           The picture today is far different. We have  
15 people with families to support. We have people coming  
16 out of law school who want to hire on with us who have,  
17 as you know, somewhere between 50- and \$100,000 in law  
18 school debt, which we didn't have when I was starting as  
19 a staff attorney. And I think some of the expectations  
20 about the kinds of support and training that we provide  
21 to staff attorneys are different now.

1           And so in order for us to deal with, as  
2 management, with this tricky question of motivation in a  
3 nonprofit setting, we needed to step back because of that  
4 disconnect between mission and structure and ask  
5 ourselves, okay. What can we do to fix this structure,  
6 especially as it comes to compensation, to try to  
7 connection those two things back up?

8           So what we did in our program was to form what  
9 amounted to a task force, with a broad range of points of  
10 view, from different job categories and different  
11 locations around the state, and to formulate, first of  
12 all, a set of values about compensation to make sure that  
13 those in leadership positions in the organization weren't  
14 misunderstanding what was really motivating the people  
15 who were choosing to work for us.

16           And some of the values that came out of it were  
17 really not surprising. And I'm just listening to some of  
18 the key themes that came out of this examination.

19           All of our staff, you know, were there to serve  
20 clients, and they strongly believed in the mission. They  
21 said that they were not in it for the money, but they

1 needed enough, you know, to survive. It was pretty  
2 basic.

3           A key value for them was fairness in terms of  
4 how the compensation and benefit structure might change  
5 because of this effort. They wanted to make sure that,  
6 in the end, people felt that they were treated fairly.  
7 And they also completely bought into the idea that the  
8 pay structure should help to achieve the mission. It was  
9 refreshing to hear that just because we had not asked the  
10 question for maybe 20 years. Okay?

11           So in the process of -- in the next stage of  
12 this task force, we investigated the market. And we  
13 actually defined what the market is, not to be comparing  
14 ourselves to the big firms in the high rises here in  
15 downtown Portland, but comparing ourselves to other  
16 nonprofit legal services firms that are essentially  
17 serving the same clientele.

18           And we chose this region, not just the state of  
19 Oregon but basically the Northwest region, because we  
20 felt that's where we were competing the most, you know,  
21 for hires.

1           And so we got salary information from those  
2 organizations. We did some averaging, and we compared it  
3 to our existing pay scale. And we found, interestingly,  
4 that by far the lowest-paid people in all of the job  
5 categories were the staff attorneys at the zero to five-  
6 year level. And I think I mentioned to some of you this  
7 morning that our starting salaries three years ago were  
8 \$28,000 for someone fresh out of law school. We learned  
9 that the average was closer to 35 at that time, and it's  
10 higher now.

11           And then at the opposite end of the spectrum,  
12 we learned that some of our support staff and some of our  
13 most experienced attorneys were actually above, and in  
14 some cases significantly above, the average for the  
15 market.

16           And I can talk to you about why. I'm not sure  
17 I want to waste everybody's time. I have my theories  
18 about why we got to that place. But what we clearly  
19 needed to do was we had a -- if you graphed it, we had  
20 pay scales that were on a steep slope like this, and we  
21 clearly needed to flatten them.



1           And so we went through a process of talking  
2 about how we were going to try to do that. That's a  
3 complicated thing because we have a union, and so we had  
4 to involve the union in those negotiations.

5           MS. SINGLETON: Who's in the union?

6           MR. MATSUDA: I'm sorry?

7           MS. SINGLETON: Who's part of the collective  
8 bargaining unit?

9           MR. MATSUDA: All non-management employees.

10          MR. MEITES: Including attorneys?

11          MR. MATSUDA: Yes. And so in the end -- I'll  
12 skip over how we did this and I'll just get to the end  
13 result -- in the end, we were able, perhaps for the first  
14 time in the relationship between management and the  
15 collective bargaining unit, to agree to increase the  
16 salaries for only one sector of the collective bargaining  
17 unit. And that was the staff attorneys.

18                 But because we had done the comparison, this  
19 issue of fairness that I talked about earlier played a  
20 major role in helping us to get agreement on that issue  
21 because people understood, after looking at the data,

1 that one sector of the staff was really severely  
2 underpaid compared to the market.

3 MS. SINGLETON: Did everybody agree fairness  
4 should be defined by how you're paid compared to the  
5 comparable market? I mean, why didn't people say  
6 fairness is paying the person who works hardest the most?

7 MR. MATSUDA: Well, the old concept of  
8 fairness, when things were simpler, was to simply give  
9 everybody the same percentage increase each year. But  
10 that's why we went --

11 MS. SINGLETON: So if you start higher --

12 MR. MATSUDA: Right. You get more of a dollar  
13 increase, and that's why, over time, it became so skewed.  
14 Right? So people saw the result of that application of  
15 the concept of fairness. And then when we compared it to  
16 the data and saw, you know, the result, I think we were  
17 able to make a stronger argument about fairness a  
18 different way. I think that's the best answer to the  
19 question.

20 Now, that's in a nutshell what we did. You  
21 should also know that we have actually had an internal

1 loan repayment assistance program within LASO for --  
2 well, since before I started eight years ago. Currently,  
3 that benefit is really quite generous. It's \$400 a month  
4 for people who have law school obligations. It's up to  
5 \$400 a month, I should say, and it's really given as  
6 additional compensation to the attorneys.

7           But we have to do that for recruitment and  
8 retention purposes. That decision was made a long time  
9 ago because we were losing too many people because of  
10 debt.

11           And then the other thing we do because it's  
12 important for services to clients is we have a language  
13 add-on to the salary, particularly for folks who speak  
14 Spanish. So in all of our recruitment efforts, bilingual  
15 Spanish/English ability is a real plus because of our  
16 client base.

17           And then aside from compensation and benefits,  
18 the other things we're doing -- I'll just go through this  
19 real quickly -- is we're trying to create a supportive  
20 and challenging work environment for attorneys. And to  
21 do that, there are several things.

1           We have a lot of training, both in-house and  
2 out-of-house; a fairly elaborate system of mentoring,  
3 especially for newer attorneys, and especially in the  
4 remote rural offices. We do a lot of co-counseling  
5 between newer attorneys and experienced attorneys. And  
6 we encourage our attorneys to work in the community, to  
7 have close engagement with community partners, because we  
8 think that helps with the motivation quite a bit.

9           And then the last thing that we try to do to  
10 support recruitment and retention is -- I'll call it good  
11 management. There's a lot in there, in that term. But  
12 we try to manage well the human resources that we have in  
13 the organization, and that covers a whole gamut of things  
14 that would take me two hours to talk about. So I'll just  
15 use that term.

16           And that's really all I have to say about how  
17 we have dealt with the issue.

18           CHAIRMAN HALL: Thank you for an excellent  
19 report.

20           Are there any questions, being sensitive to  
21 time?

1 (No response.)

2 CHAIRMAN HALL: Thank you. This has been  
3 excellent, and appreciate it tremendously.

4 The next item is public comment. Is there any  
5 public comment to come before the provisions committee?  
6 Is there a question from someone on the line?

7 (No response.)

8 CHAIRMAN HALL: Is there any other business to  
9 come before the provisions committee?

10 (No response.)

11 CHAIRMAN HALL: Hearing none, I would consider  
12 an act to adjourn the committee.

13 M O T I O N

14 MR. FUENTES: So moved.

15 CHAIRMAN HALL: Second?

16 MS. SINGLETON: Second.

17 CHAIRMAN HALL: All in favor?

18 (A chorus of ayes.)

19 CHAIRMAN HALL: Meeting adjourned. And thanks  
20 to staff and our guest presenter.

21 (Whereupon, at 3:35 p.m., the meeting of the

1 provisions committee was adjourned.)

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\* \* \* \* \*