



# Northwest Justice Project

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Patrick McIntyre  
Executive Director

September 21, 2006

Ms. Mattie Cohan  
Senior Assistant Counsel  
Legal Services Corporation  
3333 K Street, NW  
Washington, D.C. 20007

Re: Comments on Proposed Revision to Part 1621

Dear Ms. Cohan:

I am writing on behalf of the Northwest Justice Project (NJP), the statewide recipient of funds from the Legal Services Corporation in Washington State. Please consider these comments to proposed revisions to Part 1621 with respect to the client grievance process. As an initial matter, I believe it is important to note that in NJP's experience the current regulation on client grievance procedures has worked very well and is relatively easy to administer. All NJP line staff are aware of the need to advise prospective clients of their ability to grieve the decision to deny service as well as of the ability of clients to grieve the quality of services rendered. Virtually all client grievances are resolved at the director level and without the need for review by the board grievance committee.

In this case, the proposed language in 1621.3 regarding board involvement in reviewing case acceptance decisions in the first instance is extremely problematic. While the language of providing an opportunity to confer with the Executive Director or designee and to the extent practicable a member of the governing body in reviewing denials of assistance is in the current regulation, the need for a "simple" procedure regarding routine decisions related to financial eligibility, restricted representation, or priorities is removed in the proposed revision. The proposed change would require that the "simple" procedure *must* "at a minimum" provide for conferring with a member of the governing body as practicable. This is a substantive change from the current regulation and unnecessarily and inappropriately involves the governing body in day to day case acceptance decisions.

Also, the way proposed 1621.3 is written it appears that a recipient must have a procedure in place to review *all* "decisions to deny legal assistance to applicants" and not just decisions on which an applicant makes a complaint. This is a big difference from the current regulation and is certainly problematic from NJP's perspective as a program that deals with

thousands of callers to our hotline system every year. I urge you to clarify that 1621.3 only applies to actual complaints (similar to how proposed 1621.4 is now worded). The language should read: “A recipient shall establish a simple procedure for the review *of complaints by applicants about the denial of legal assistance.*” (Italics note suggested language change).

The way proposed 1621.3 is written, the language “adequate notice as practicable of the complaint procedures” seems highly duplicative of “information about how to make a complaint”. The language of current 1621.4 is much clearer and simpler and makes the point that the complaint procedures must include method(s) designed to give (1) adequate notice of the applicant’s right to file a complaint and (2) information about how to do so. The language should make clear (as suggested by the commentary) that different methods may be appropriate for different delivery systems within a multi-faceted program or delivery system.

Finally, current 1621.4 uses the term “person”, while proposed 1621.3 uses the term “applicants”. We assume that for purposes of this regulation, the definition of “applicant” in 1611.2(c) defines the scope of whom this applies to and would continue to exclude seeking persons seeking legal assistance supported by funds other than LSC funds. If a different scope is intended, then the regulation should define the terms for purposes of the grievance process. We also assume that a decision to “deny” legal assistance means something other than providing less assistance than what the client might desire or potentially need to fully resolve the problem, *e.g.* if a hotline gives advice only and tries to refer for extended representation, but is unable to do so, this is NOT a decision to deny assistance. LSC has variously defined these terms when for example it has sought data regarding “turn aways” or “inability to serve” due to lack of resources. If this assumption is wrong, then some definition of “a decision to deny” or “denial” may be warranted. However, such a definition should not be adopted without adequate opportunity for public comment.

Thank you for your consideration of these comments. If you would like any clarification or additional information, please do not hesitate to contact me.

Sincerely,

Deborah Perluss  
Director of Advocacy/General Counsel

C Patrick McIntyre