

Montana Legal Services Association



Provide, protect and enhance access to justice.

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April 2, 2012

Mattie Cohan
Senior Assistant General Counsel
Office of Legal Affairs
Legal Services Corporation
3333 K Street NW
Washington, DC 20007

Re: Proposed Revisions to 45 CFR Parts 1606, 1618, and 1623

Dear Ms. Cohan:

I am writing on behalf of the Montana Legal Services Association (“MLSA”) to comment on the proposed rulemaking that would allow LSC to impose additional sanctions on grantees in certain circumstances. I urge LSC not to pursue the proposed rulemaking without further clarification and revision.

As an LSC grant recipient, MLSA is responsible for compliance with LSC rules, regulations, guidelines and instructions, and we make every effort to comply with LSC’s complicated regulatory scheme. However, sometimes compliance can be difficult when these rules, regulations, guidelines and instructions are subject to differing interpretations by various LSC staff members and administrators over time. Under the proposed rule changes, MLSA is concerned that it could be subject to a reduction in funding of up to \$60,000 if an LSC staff member or administrator determined that a prior LSC communication or interpretation about a rule or regulation was incorrect. Such a reduction in funding would almost certainly translate into the layoff of one or more positions, and MLSA has already experienced two major layoffs in the past three years and dipped into its reserves to maintain service delivery. MLSA is especially concerned that these consequences could be imposed without any clear requirements for an opportunity to rectify the violation before imposition of the sanction, the right to explain the situation to LSC, or the right to appeal from an adverse decision made by a particular LSC staff member or administrator. Since MLSA is the only provider of free civil legal assistance for most of the State of Montana, the effects of the imposition of these sanctions could have serious consequences for Montana’s remote rural low income population.

Accordingly, I urge LSC that prior to the adoption of any new rules on additional sanctions, you consider an approach that includes more due process for programs, and includes a

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requirement for notice of a potential sanction prior to the enforcement. As with employees, the goal should be to design a progressive disciplinary system that has the goal of improving a program's performance, rather than immediately punishing the program for violating a guideline without a fair chance to explain its position or appeal the decision.

Thank you for your consideration of these comments.

Regards,



Alison L. Paul

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