

RESOLUTION OF THE BOARD OF DIRECTORS
OF THE LEGAL SERVICES CORPORATION

In the Matter of the Application of the
Urban Law Institute of
Antioch School of Law for Special Determination Under
Section 1006(a)(1)(A)(ii) of the Legal Services Corporation Act

WHEREAS the Urban Law Institute of Antioch School of Law ("Antioch") has for some years been receiving financial assistance under Section 1006(a)(1)(A) of the Legal Services Corporation ("LSC") Act, 42 U.S.C. §2996e(a)(1)A), but will shortly be severed from its current parent organization and is preparing to be consolidated with or acquired by the University of the District of Columbia ("UDC"); and

WHEREAS Section 1002(8) of the LSC Act, 42 U.S.C. §2996a(8), defines the District of Columbia as a "State" for purposes of the Act, and 31 D.C. Code § 1711 defines UDC as "an independent agency of the District of Columbia government;" and

WHEREAS Section 1006(a)(1)(A)(ii) of the LSC Act, 42 U.S.C. §2996e(a)(a)(A)(ii), provides that the Corporation is authorized to provide financial assistance to qualified programs furnishing legal assistance to eligible clients, and to make grants and contracts with --

State and local governments (only upon
application by an appropriate State or local

agency or institution and upon a special determination by the Board that the arrangements to be made by such agency or institution will provide services which will not be provided adequately through nongovernmental arrangements);

and

WHEREAS Antioch, to secure approval of its consolidation with or acquisition by UDC, has by correspondence of May 8, 1986, submitted to this Board an Application for such special determination; and

WHEREAS Antioch, although it has not yet been consolidated with or acquired by UDC and is therefore not the "appropriate State or local agency or institution," supra, to apply for such special determination, has by counsel represented to LSC that UDC is aware of the Application and would have joined in submitting it if more time for formal authorization had been available; and

WHEREAS pending administrative litigation poses an issue whether such special determination would be made were application properly submitted; and

WHEREAS both the language and legislative history of Section 1006(a)(1)(A)(ii) of the Act, 42 U.S.C. §2996e(a)(1)(A)(ii), are clear, unambiguous, and permit no doubt that Congress intended that LSC should provide financial assistance to State and local governmental entities for the provision of legal services only in such exceptional circumstances as would enable the LSC Board of Directors to find, as a matter of actual fact, that no private recipient could adequately provide legal services; and

WHEREAS approximately 35,000 active attorneys are licensed to practice law in the District of Columbia, innumerable private non-profit organizations, as well as incorporated entities, are able to provide legal services in the District of Columbia, and an array of local private law schools could be funded for support of an existing law school clinic or for establishment of a law school clinic; and

WHEREAS the Board of Directors of the Legal Services Corporation concludes that it can not specially determine that adequate legal services could be provided only through arrangements made by a governmental agency or institution in a major urban area such as the District of Columbia; and

WHEREAS Antioch or UDC is free to apply for a discretionary grant from LSC under the Law School Clinic Program which, because funds for discretionary grants are provided pursuant to Section 1006(a)(3) of the LSC Act, 42 U.S.C. §2996e(a)(3), does not require a special determination,

NOW, THEREFORE, the Board of Directors of the Legal Services Corporation, having fully considered the merits of Antioch's Application, as set forth in Antioch's correspondence of May 8, 1986 and its supporting papers,

RESOLVES: That Antioch's Application of May 8, 1986, for a Special Determination under Section 1006(a)(1)(A)(ii) of the LSC Act, 42 U.S.C. §2996e(a)(1)(A)(ii), be, and it hereby is, Denied.

Attest:

Timothy H. Baker,
Secretary

Date: _____