



NLADA
National Legal Aid & Defender Association

Sent by email to mfreedman@lsc.gov

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EQUAL JUSTICE.
OF THE PEOPLE.
FOR THE PEOPLE.

James J. Sandman
President
Legal Services Corporation
3333 K Street NW
Washington DC 20007-3522

Re: Comments on Draft Program Letter No. 12-1 - Financial Eligibility Screening Guidelines

Dear Jim:

Thank you for the opportunity to comment on draft Program Letter No. 12-1 concerning financial eligibility screening guidelines. NLADA's Restrictions and Regulations Committee has reviewed the draft letter and offers the following comments for your consideration.

First, we appreciate LSC's effort to clarify eligibility screening in the online intake context. As new technological approaches to intake are developed, an effort that has been encouraged by LSC in its TIG program, existing regulations and policies may not always provide easy answers to new questions.

Second, an overall concern is that guidance in this area not unduly restrict the development of new efficient and effective approaches to intake. Thus, if there are ways in which financial eligibility can be appropriately determined through "reasonable inquiry regarding sources of the applicant's income, income prospects and assets" (1611.7(a)(1)), by the use of technology, then the requirement in the draft program letter of "sufficient direct follow-up with the applicant to confirm that the applicant understood those questions determinative of eligibility and that the applicant's responses to those questions are accurate and complete" would be unnecessary.

Third, there is no current requirement in 1611 or other LSC regulations, or in the LSC CSR Handbook, that an LSC-funded program must engage in "sufficient direct follow-up with the applicant to confirm that the applicant understood those questions determinative of eligibility". 1611.7(a)(1) requires "reasonable inquiry", but there is no provision that the inquiry must be performed by direct follow up. Rather, the program "shall adopt simple intake forms and procedures to obtain information from applicants and groups to determine financial eligibility in a manner that promotes the development of trust between attorney and client." 1611.7(b). We do

not propose that programs should never engage in direct follow-up with the applicant. There are many situations when that is appropriate as well as times when it is required by 1611.7(c) ("If there is substantial reason to doubt the accuracy of the financial eligibility information provided by an applicant or group, a recipient shall make appropriate inquiry to verify the information...".) Rather, we raise the point that based on the applicant's responses to questions raised on intake forms, over the telephone or in person, that there are situations when direct follow-up is not required. The language in the draft program letter appears it may add an additional "direct follow-up" requirement to non-online methods of intake, where no such requirement currently exists.

Fourth, the requirement of "direct follow-up with the applicant" raises questions about the appropriate procedure when the applicant is incapacitated and unable to provide the information. In this situation, programs often receive information from a relative or other representative, not the applicant themselves.

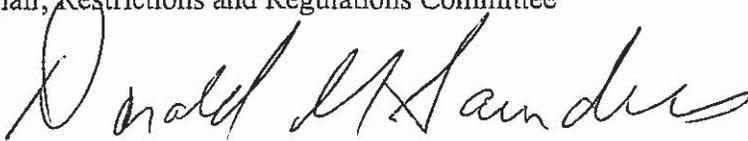
Finally, there are occasions when one person applies for services on behalf of a household – the application could include a spouse, unmarried partner, three generation families, siblings, etc. From the wording in the draft program letter, it is unclear whether the direct follow-up must be of others who would be represented or assisted, or whether contact with one person would be adequate.

Thank you for considering these comments. If you have any questions or wish to discuss this further, please feel free to contact either of us.

Sincerely,



Dennis Groenenboom
Chair, Restrictions and Regulations Committee



Don Saunders
Vice President for Civil Legal Services