



FINAL REPORT
LEGAL SERVICES CORPORATION
Office of Compliance and Enforcement

Central Virginia Legal Aid Society, Inc.
Case Service Report/Case Management System Review

March 14 – 18, 2011

Recipient No. 447030

I. EXECUTIVE SUMMARY

Finding 1: CVLAS' automated case management system ("ACMS") is sufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded.

Finding 2: CVLAS' intake procedure supports the program's compliance related requirements.

Finding 3: CVLAS' financial eligibility policy is substantially compliant with the requirements of 45 CFR Part 1611.

Finding 4: CVLAS is substantially compliant with LSC's income documentation requirement.

Finding 5: CVLAS is compliant with LSC's asset documentation requirement.

Finding 6: CVLAS is substantially compliant with LSC's citizenship/alien eligibility documentation requirement. However, CVLAS' citizenship attestation is non-compliant with CSR Handbook (2008 Ed.), § 5.5.

Finding 7: CVLAS is substantially compliant with LSC's retainer agreement requirement.

Finding 8: CVLAS is complaint with the requirements of 45 CFR Part 1636 (Client Identity and Statement of Facts).

Finding 9: CVLAS is compliant with the requirements of 45 CFR § 1620.4 and § 1620.6(c) (Priorities in use of resources).

Finding 10: The files that were reviewed during the visit indicate that CVLAS is in substantial compliance with CSR Handbook (2001 Ed.), ¶ 5.1(c), General Requirements, and CSR Handbook (2008 Ed.), § 5.6, Legal Assistance Documentation Requirements.

Finding 11: With eight (8) exceptions, the files that were reviewed during the visit demonstrated that CVLAS' application of the CSR case closure categories is consistent with Section VIII: Case Definitions & Closure Categories, CSR Handbook (2001 Ed.), and Chapter VIII: Case Definitions and Closure Categories, CSR Handbook (2008 Ed.).

Finding 12: The files that were reviewed during the visit indicate that CVLAS is in substantial compliance with CSR Handbook (2001 Ed.), ¶ 3.3, Timely Closing of Cases, and CSR Handbook (2008 Ed.), § 3.3 Timely Closing of Cases.

Finding 13: Two (2) sets of duplicates were identified among the files that that were reviewed during the visit.

Finding 14: CVLAS is compliant with the requirements of 45 CFR Part 1604 (Outside practice of law).

Finding 15: CVLAS is compliant with the requirements of 45 CFR Part 1608 (Prohibited political activities).

Finding 16: CVLAS is substantially compliant with the requirements of 45 CFR Part 1609 (Fee-generating cases).

Finding 17: CVLAS is not in compliance with the requirements of 45 CFR § 1610.5.

Finding 18: The activities undertaken by CVLAS to meet the requirements of 45 CFR Part 1614 are consistent with LSC regulations.

Finding 19: Based on information currently available, CVLAS may not be in compliance with the requirements of 45 CFR § 1627.4 (Membership fees and dues).

Finding 20: Review of documents and interviews with staff indicate that, contrary to the requirements of 45 CFR Part 1635 (Timekeeping requirements), case handlers' time records are not being entered into the Kemps time management system nor do they comprise all of the efforts or time for which case handlers were compensated.

Finding 21: CVLAS is substantially compliant with the requirements of 45 CFR Part 1642 (Attorneys' fees).

Finding 22: CVLAS is substantially compliant with the requirements of 45 CFR Part 1612 (Restrictions on lobbying and certain other activities).

Finding 23: CVLAS is compliant with the requirements of 45 CFR Parts 1613 and 1615 (Restrictions on legal assistance with respect to criminal proceedings, and actions collaterally attacking criminal convictions).

Finding 24: CVLAS is substantially compliant with the requirements of 45 CFR Part 1617 (Class actions).

Finding 25: CVLAS is compliant with the requirements of 45 CFR Part 1632 (Redistricting).

Finding 26: CVLAS is compliant with the requirements of 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings).

Finding 27: CVLAS is substantially compliant with the requirements of 45 CFR Part 1637 (Representation of prisoners).

Finding 28: CVLAS is substantially compliant with the requirements of 45 CFR Part 1638 (Restriction on solicitation).

Finding 29: CVLAS is compliant with the requirements of 45 CFR Part 1639 (Welfare Reform).

Finding 30: CVLAS is substantially compliant with the requirements of 45 CFR Part 1643 (Restriction on assisted suicide, euthanasia, and mercy killing).

Finding 31: The files that were reviewed during the visit demonstrated CVLAS' compliance with the requirements of certain other LSC statutory prohibitions (42 USC 2996f § 1007 (a) (8) (Abortion), 42 USC 2996f § 1007 (a) (9) (School desegregation litigation), and 42 USC 2996f § 1007 (a) (10) (Military selective service act or desertion)).

Finding 32: Review of documents and interviews with staff indicates that, contrary to 45 CFR § 1630.2(g)(3), CVLAS paid late fees, penalties and finance charges using LSC funds.

Finding 33: At the time of this review CVLAS had not recorded all of its entries to determine if it had a surplus or deficit balance in the Basic Field, Migrant, and PAI funds at December 31, 2010 year end.

Finding 34: Review of documents and interviews with staff indicates that, contrary to the Accounting Guide for LSC Recipients (2010 Ed.), CVLAS received derivative income of \$16,350 without allocating a portion to the LSC fund.

Finding 35: A review of CVLAS' internal controls revealed weaknesses in the following areas: (1) bank reconciliations, (2) cash receipts, (3) cash disbursements, (4) outdated financial and policy manuals, and (5) no conflict of interest policy. Also, CVLAS has been using the same auditing firm for the last 22 years.

II. BACKGROUND OF REVIEW

On March 14 thru 18, 2011, the Office of Compliance and Enforcement (“OCE”) conducted a Case Service Report/Case Management System (“CSR/CMS”) on-site review at Central Virginia Legal Aid Society, Inc. (“CVLAS”). The visit was conducted by a team of two (2) OCE program counsel and one (1) OCE program analyst.

CVLAS receives annual grants from LSC for the purpose of providing free civil legal assistance to persons eligible for legal assistance under the LSC Act in LSC service areas VA-18 and MVA, consisting of the cities of Richmond, Petersburg, Hopewell, Colonial Heights, and Charlottesville, the counties of Albemarle, Charles City, Chesterfield, Dinwiddie, Fluvanna, Goochland, Greene, Hanover, Henrico, Louisa, Nelson, New Kent, Powhatan, Prince George, and Surry, and migrant workers throughout the Commonwealth of Virginia. In 2008, CVLAS received an LSC basic field award in the amount of \$974,984.00 and an LSC migrant award in the amount of \$152,687.00. In 2009, it received an LSC basic field award in the amount of \$1,073,021.00 and an LSC migrant award in the amount of \$168,040.00. In 2010, its basic field award was \$1,159,370.00 and its migrant award was \$181,586.00.¹ Upon receipt of its LSC grant, CVLAS agreed, in writing, to comply with the requirements of the LSC Act, applicable appropriations acts and other applicable laws, the regulations promulgated by LSC, and such other rules, policies, guidelines, instructions, and directives issued by LSC.

CVLAS is headquartered in Richmond and maintains offices in Charlottesville and Petersburg. It is staffed by 24 employees, including its Executive Director, the Director of the Virginia Farmworkers Program (migrant unit), the Director of Litigation, a full time Senior Managing Attorney and a part-time Managing Attorney, the Director of Volunteer Services (“PAI”), the Fiscal Manager, a part-time Director of Operations, four (4) staff attorneys, eight (8) intake assistants (including one for older adults, one for domestic violence, and one for no-fault divorces), a part-time Director of Intake, a Virginia Farmworker Program Outreach Assistant, and the Executive Secretary.

According to information provided by CVLAS prior to the visit, its 2010 priorities are family law, housing, public benefits, consumer/finance, and employment. CVLAS’ priorities have remained fairly consistent since 2008. For 2008, CVLAS reported 4,095 closed cases, including 1,498 PAI cases. Family law accounted for approximately 38% of all closed cases; consumer, 24%; housing 20%; income maintenance, 8%; employment, 7%; and miscellaneous, 2%. Education, health, and individual rights combined for less than 1%. Approximately 73% of all closed cases were closed after counsel and advice or limited action; 10% were court decision; 1.4% were agency decisions; and 2.2% were settled. Extensive service and other accounted for approximately 4% of all closed cases. In that same year, CVLAS reported an error rate of 4.6%. Exceptions were noted with respect to CSR Handbook (2008 Ed.), §§ 2.1(f) and 5.5. For 2009, CVLAS reported 3,932 closed cases, including 1,470 PAI cases. Family law accounted for approximately 38% of all closed cases; consumer, 25%; housing, 18%; income maintenance, 11%; employment, 5%; and miscellaneous, 2%. Education, health and individual

¹ CVLAS also received grant and contract support from non-LSC sources. According to LSC’s Recipient Information Network, in 2008, CVLAS received non-LSC grant support totaling \$1,132,544.00 and in 2009, it received \$1,241,927.00 in non-LSC grant support. See www.rin.lsc.gov.

rights combined for less than 1%. Approximately 87% of all closed cases were closed after counsel and advice or limited action; 9% were court decision; 2% were agency decisions; and 2% were settled. Extensive service and other accounted for approximately .5% of all closed cases. In that same year, CVLAS reported an error rate of 0%.

For 2010, CVLAS reported 4,567 closed cases, including 1,395 PAI cases. Family law accounted for approximately 34% of all closed cases; consumer, 25%; housing, 21%; income maintenance, 10%; employment, 6%; and miscellaneous, 2%. Education, health and individual rights combined for less than 1%. Approximately 85% of all closed cases were closed after counsel and advice or limited action; 10% were court decision; 2% were agency decisions; and 3% were settled. Extensive service and other accounted for less than 1% of all closed cases. In that same year, CVLAS reported an error rate of 0%.

The on-site visit was designed and executed to assess CVLAS' compliance with LSC statutory, regulatory and reporting requirements during the period January 1, 2008 through December 31, 2010. The review team assessed CVLAS' compliance with certain regulatory requirements, including 45 CFR Part 1604 (Outside practice of law); 45 CFR Part 1608 (Prohibited political activities); 45 CFR Part 1609 (Fee-generating cases); 45 CFR Part 1610 (Use of non-LSC funds, transfers of LSC funds, program integrity); 45 CFR Part 1611 (Financial eligibility); 45 CFR § 1611.9 (Retainer agreements); 45 CFR Part 1612 (Restrictions on lobbying and certain other activities); 45 CFR Parts 1613 (Restrictions on legal assistance with respect to criminal proceedings); 45 CFR Part 1614 (Private attorney involvement) ("PAI"); 45 CFR Part 1615 (Restrictions on action collaterally attacking criminal convictions); 45 CFR Part 1617 (Class actions); 45 CFR Part 1620 (Priorities in use of resources); 45 CFR Part 1626 (Restrictions on legal assistance to aliens); 45 CFR Part 1627 (Sub-grants and membership fees or dues); 45 CFR Part 1630 (Cost standards and procedures); 45 CFR Part 1632 (Redistricting); 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings); 45 CFR Part 1635 (Timekeeping requirement); 45 CFR Part 1636 (Client identity and statement of facts); 45 CFR Part 1637 (Representation of prisoners); 45 CFR Part 1638 (Restriction on solicitation); 45 CFR Part 1639 (Welfare reform); 45 CFR Part 1642 (Attorneys' fees); 45 CFR Part 1643 (Restriction on assisted suicide, euthanasia, and mercy killing); and Section 1007(b)(8) – (10) of the LSC Act, 42 USC §§ 2996f(b)(8) – (10) (Abortion, school desegregation litigation, Military Selective Service Act or desertion).

In preparation for the visit, OCE requested that CVLAS provide, among other things, a list of all cases reported to LSC in its 2008 CSR data submission ("closed '08 cases"), a list of all cases reported to LSC in its 2009 CSR data submission ("closed '09 cases"), a list of all cases closed between January 1 and December 31, 2010 ("closed '10 cases"), a list of all cases closed between January 1 and January 31, 2011 ("closed '11 cases"), and a list of all cases which remained open as of January 31, 2011 ("open cases"). OCE requested that each list contain the client name, the file identification number, the name of the advocate assigned to the case, the opening and closing dates, the CSR case closure category assigned to the case, the funding code assigned to the case, and an indication of whether the case was handled by staff or by a private attorney pursuant to 45 CFR Part 1614. CVLAS was advised that OCE would seek access to case information consistent with Section 509(h), Pub. L. 104-134, 110 Stat. 1321 (1996), LSC Grant Assurance Nos. 10, 11, and 12 and the LSC *Access to Records* protocol (January 4, 2005).

CVLAS was instructed to promptly notify OCE, in writing, if it believed that providing the requested material, in the specified format, would violate the attorney-client privilege or would be otherwise protected from disclosure.

CVLAS advised OCE that it would afford OCE access through the use of staff intermediaries. Thereafter, CVLAS provided the requested materials. OCE then selected a sample of 285 case files to be reviewed during the visit. An effort was made to create a representative sample of cases which the team would review during the on-site visit. The sample was distributed proportionately among open and closed cases, as well as among CVLAS' office locations. The sample consisted largely of randomly selected cases, but also included cases selected to test for compliance with those CSR instructions relative to timely closings, application of the CSR case closing categories, and duplicate reporting.

During the visit, CVLAS cooperated fully. It provided all requested materials in a timely manner. CVLAS afforded access to information in the case files through the use of intermediaries. CVLAS disclosed financial eligibility information, the problem code, and the general nature of the legal assistance provided to the client. Additionally, CVLAS displayed client signatures as they appeared on citizenship/alien eligibility documentation, retainer agreements and Part 1636 statements. OCE also interviewed members of CVLAS' upper and middle management, fiscal personnel, staff attorneys and support staff. The visit also included an assessment of CVLAS' case intake, case acceptance, case management, and case closure practices and policies.

OCE visited each of CVLAS' office locations. During the visit, OCE interviewed CVLAS' Executive Director, Fiscal Manager, the Director of Operations, the three (3) Senior Managing Attorneys, the Managing Attorney of the Migrant Unit, the Director of Volunteer Services, the Executive Secretary, and several of the staff attorneys and intake assistants. A review of pertinent program files and documentation was also conducted in order to gain an understanding and explanation of program operations, policies and procedures sufficient to assess facts and circumstances regarding the fiscal operation of CVLAS during the period January 1, 2008 through December 31, 2010. OCE also reviewed 270 files, including 69 open files, 60 closed 2011 files, 80 closed 2010 files, 30 closed 2009 files, and 31 closed 2008 files. Of the files that were reviewed during the visit, 109 were targeted; the remainder were randomly selected.

An attempt was made to advise CVLAS of any compliance issues during the course of the visit. This was accomplished by notifying the Executive Director and/or intermediaries of any compliance issues identified during the case reviews. At the conclusion of the visit, OCE held a brief exit conference during which OCE advised CVLAS of its preliminary findings. CVLAS was instructed that such findings were merely preliminary and that OCE might well make further and more detailed findings in this report.

By letter dated May 2, 2011, OCE issued a Draft Report ("DR") detailing its findings, recommendations, and required corrective actions. CVLAS was afforded 30 days to review the DR and submit written comments. On June 6, 2011, CVLAS requested an extension of time within which to submit its comments. OCE granted the extension and by letter dated June 19, 2011, CVLAS submitted its comments to the DR.

CVLAS made corrections to the staffing described in the DR and offered comments relative to its Personnel Manual, which was cited to frequently in the DR. According to CVLAS, it relies on several in-house manuals for case management. These manual are the LSC CSR Handbook, CVLAS' Goals and Priorities Manual for the year, and CVLAS' Intake Procedures Manual. CVLAS' comments acknowledged that it indeed has a Personnel Manual, but it is currently in draft form. CVLAS added that the Personnel Manual only mentions case management policies or priorities in passing, and that the DR referred to the Personnel Manual on numerous occasions citing CVLAS' policy. CVLAS commented that this seems to be in error and that the DR actually appeared to be quoting policies in one of the two other manuals.

OCE has carefully considered CVLAS' comments and has made such revisions as it deems appropriate. CVLAS' comments and corrections are reflected in the Final Report and have been attached as an appendix hereto.

III. FINDINGS

Finding 1: CVLAS' automated case management system ("ACMS") is sufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded.

Recipients are required to utilize ACMS and procedures which will ensure that information necessary for the effective management of cases is accurately and timely recorded in a case management system. At a minimum, such systems and procedures must ensure that management has timely access to accurate information on cases and the capacity to meet funding source reporting requirements. *See* CSR Handbook (2001 Ed.), ¶ 3.1 and CSR Handbook (2008 Ed.), § 3.1.

Based on a comparison of the information yielded by the ACMS to information contained in the files sampled, CVLAS' ACMS is sufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded. Of the 270 files that were reviewed during the visit, only three (3) contained information in the files that was inconsistent with the information yielded by the ACMS. In each of the three files, the closing code in the file was different from that stated in the case lists. *See* Charlottesville closed 2008 File No. 08E-2006771, Charlottesville closed 2008 File No. 08E-2007519, and Charlottesville closed 2009 File No. 10E-2007298.

CVLAS offered no comments to this Finding in its response to the DR. Accordingly, OCE has made no revisions to this Finding.

Finding 2: CVLAS' intake procedure supports the program's compliance related requirements.

CVLAS' uses a centralized voice over IP telephone system for intake. The system is in operation Monday thru Thursday, 9:00 AM – 11:30 AM and 1:00 PM – 2:30PM. The system is manned by seven (7) intake assistants in Richmond, two (2) in Petersburg and one (1) in Charlottesville. Intake assistants from any of the three (3) CVLAS offices sign into the system, which puts them in the queue for the next caller. There is typically a 15 – 20 minute wait for the next available intake assistant, but callers have the option of leaving a message. For those callers who opt to leave a message, CVLAS places "call-backs". The "call-backs" are distributed among the intake assistants, who place the calls after 2:30 PM, the same day that the message is received.

All callers are screened for the "five points of intake" - income, assets, citizenship/alien eligibility, case type, and service area – and conflicts screening. The information collected includes the caller's name, address, date of birth, Social Security number, race, language, household size, composition of household, income of all household members, source of income, income prospects, the value of all household assets such as real property, personal property, savings accounts, checking accounts, etc., and citizenship or alien status. Thereafter, the intake assistants develop information relevant to the caller's legal issue, including the identity of the

adverse party. Intake assistants conduct a service area wide conflicts check and check for duplication.

All eligible callers receive advice from the intake worker and are evaluated for further assistance. CVLAS has developed scripted counsel and advice applicable to the typical legal issues presented by those requesting legal assistance. The advice is loaded into the ACMS and intake assistants have but to locate the advice within the ACMS suitable to the caller's legal issue. The advice provided is reviewed daily by the senior managing attorneys in the respective offices and more often than not the senior managing attorneys send a somewhat more detailed advice letter. On those occasions where the scripted advice may not be responsive, the call may be routed to an attorney or paralegal for assistance. For instance, CVLAS has created specialty intakes for the elderly, domestic violence, home foreclosures, evictions, and other emergencies. Applicants requiring additional assistance may be scheduled for an appointment, or referred to CVLAS' private attorney involvement ("PAI") component. Requests for legal assistance involving certain non-emergency housing or consumer issues are referred to CVLAS' pro bono hotline system sponsored by the Virginia State Bar.

All information collected, as well as the advice provided, is entered into the ACMS. The ACMS contains drop-down boxes to document CVLAS' consideration of its authorized exceptions. It calculates income and asset eligibility and contains boxes for citizenship/alien eligibility.

CVLAS also accommodates certain walk-in applicants. Generally, walk-in applications for legal assistance are limited to emergency request for assistance - *i.e.*, imminent court dates, lock-outs, utility cut-offs, domestic violence, the physically disabled, the elderly, and those that have traveled a long distance. Intake follows the same routine as those that have telephoned the IP system, except that walk-in applicants are required to execute all necessary documentation.

The Migrant Unit conducts most of its intake through outreach at the various migrant camps throughout the Commonwealth of Virginia. CVLAS maintains copies of the executed Department of Labor approved work contracts. These contracts list the names of the workers at the particular camps and specify their H-2A status and wage rate. As such, CVLAS obtains information on household size and does a conflicts check. Consistent with 45 CFR § 1626.11(b), legal assistance is limited to wages, housing, transportation, and other employment rights as provided in the specific contract under which the H-2A worker was admitted.

Although these intake practices are consistent with LSC regulations, CVLAS should be careful to ensure that it also consistently considers income prospects and seasonal variations in determining financial eligibility, particularly with respect to migrant workers.

In its response to the DR, CVLAS made corrections to the hours of intake and OCE has revised this Final Report accordingly.

Finding 3: CVLAS' financial eligibility policy is substantially compliant with the requirements of 45 CFR Part 1611.

LSC regulations require that the governing body of a recipient adopt policies consistent with 45 CFR Part 1611 for determining the financial eligibility of applicants and groups. At a minimum, each recipient's financial eligibility policy must: (1) specify that only individuals and groups determined to be financially eligible under the recipient's financial eligibility policies and LSC regulations may receive legal assistance supported with LSC funds; (2) establish an annual income ceiling not to exceed 125% of the Federal Poverty Guidelines; (3) establish asset ceilings; and (4) specify that, notwithstanding any other provisions of the regulation or the recipient's financial eligibility policies, in assessing the financial eligibility of an individual known to be a victim of domestic violence, the recipient shall consider only the income and assets of the applicant and shall not consider any assets jointly held with the abuser. *See* 45 CFR §1611.3; *see also*, 70 *Federal Register* 45545, at 45550 (August 8, 2005).

As part of its financial eligibility policy, recipients may adopt authorized exceptions to its annual income ceiling consistent with 45 CFR § 1611.5. *See* 45 CFR § 1611.3(b)(2). The policy may also authorize a waiver of the recipient's asset ceilings for specific applicants under unusual circumstances and when approved by the Executive Director, or his/her designee. However, when the asset ceiling is waived, recipients are required to document the reasons for the waiver and maintain such records as are necessary to inform LSC of the reasons for such waiver. *See* 45 CFR § 1611.3(d)(2). Additionally, the policy may permit financial eligibility to be determined by reference to an applicant's receipt of benefits from a governmental program for low-income individuals or families, provided that the recipient has determined that the income standards of the governmental program are at or below 25% of the Federal Poverty Guideline and that the governmental program has eligibility standards which include an asset test. *See* 45 CFR §§ 1611.3(f) and 1611.4(c); *see also*, 70 *Federal Register* at 45553.

CVLAS' financial eligibility policy is contained in its Intake Procedures Manual (September 2010). Although the Manual does not expressly state that only individuals and groups determined to be financially eligible under the recipient's financial eligibility policies and LSC regulations may receive legal assistance supported with LSC funds, the language of the Manual is sufficient to limit LSC funded legal assistance to persons determined financially eligible in accordance with the policy. Similarly, the Manual contains language sufficient to direct intake assistants that in assessing the financial eligibility of domestic violence victims, assets jointly held with the abuser should be disregarded.

The Manual contains an income ceiling of 125% of the Federal Poverty Guidelines ("FPG"). The Manual clearly states that applicants for legal assistance whose income exceeds 187½% of the applicable FPG are ineligible for LSC funded legal assistance. The Manual further specifies that applicants for legal assistance whose income is between 125% and 187½% of the applicable FPG may be assisted after consideration of certain factors. OCE reviewed the factors and determined that most were consistent with 45 CFR § 1611.5(a)(4), except that one of the factors adopted by CVLAS permits consideration of voluntary child support payments. With respect to this particular factor, CVLAS was cautioned that unless the voluntary support payments are consistent, both in terms of time and amount, such payments are not an appropriate

consideration. On the other hand, an unusual payment might be considered as a 45 CFR § 1611.5(a)(4) “other significant factor” affecting the applicant’s ability to afford legal assistance, *see 70 Federal Register 45545, 45555 (August 8, 2005)*, but only to the extent that CVLAS has adopted “other significant factors” as a consideration in its financial eligibility policy.

The Manual also contains asset ceilings for liquid and non-liquid assets, which may be waived by the Executive Director in cases of exceptional merit. The Manual states that the household residence and one motor vehicle are excluded from consideration. There are no other exclusions. CVLAS is advised that the distinction between liquid and non-liquid assets was abandoned by LSC in favor of language that focuses more on the availability of the asset and the ease of converting the asset to cash. The language of Part 1611 is intended to require that recipients consider all assets upon which an applicant might draw in obtaining private legal counsel. In revising Part 1611, it was determined that “liquid” and “non-liquid” characterizations obscured this understanding. Accordingly, the terms were eliminated, *see 70 Federal Register 45545, 45547 (August 8, 2005)*, and CVLAS is instructed to do likewise.

OCE also notes that according to the Manual, the asset ceiling is automatically waived for all referrals from Legal Information Network for Cancer (“LINC”).² CVLAS is reminded that it may provide legal assistance supported with LSC funds only to persons whom it has determined to be financially eligible. Except as permitted by 45 CFR § 1611.4(c), such determinations include an assessment of the applicant’s income and assets. Otherwise, LSC regulations do not authorize automatic asset waivers. As such, unless such referrals are provided non-LSC funded legal assistance, CVLAS may not automatically waive its asset ceiling. CVLAS is instructed to either clarify that the legal assistance provided to referrals from LINC is non-LSC funded, or remove this language from its Manual.

CVLAS offered no comments to this Finding in its response to the DR. Accordingly, OCE has made no revisions to this Finding.

Finding 4: CVLAS is substantially compliant with LSC’s income documentation requirements.

For each case reported to LSC, recipients shall document that a determination of client eligibility was made in accordance with LSC requirements. *See CSR Handbook (2001 Ed.), ¶ 5.2 and CSR Handbook (2008 Ed.), § 5.2.*

In those instances in which the applicant’s household income before taxes is in excess of 125% but no more than 200% of the applicable FPG and the recipient provides legal assistance based on exceptions authorized under 45 CFR § 1611.5(a)(3) and 45 CFR § 1611.5(a)(4), the recipient shall keep such records as may be necessary to inform LSC of the specific facts and factors

² LINC is a nonprofit, community-based organization dedicated to helping people with the business side of cancer. Serving the Central Virginia community, LINC provides information, education, counseling and referral services for legal and financial assistance to individuals confronted with the issues that arise from the diagnosis and treatment of cancer. *See* <http://cancerlinc.org>.

relied on to make such a determination. *See* 45 CFR § 1611.5(b), CSR Handbook (2001 Ed.), ¶ 5.3, CSR Handbook (2008 Ed.), § 5.3.

For CSR purposes, individuals financially ineligible for assistance under the LSC Act may not be regarded as recipient “clients” and any assistance provided should not be reported to LSC. In addition, recipients should not report cases lacking documentation of an income eligibility determination to LSC. However, recipients should report all cases in which there has been an income eligibility determination showing that the client meets LSC eligibility requirements, regardless of the source(s) of funding supporting the cases, if otherwise eligible and properly documented. *See* CSR Handbook (2001 Ed.), ¶ 4.3(a) and CSR Handbook (2008 Ed.), § 4.3.

With five (5) exceptions, the LSC-funded files that were reviewed during the visit contained the income documentation required by LSC. The exceptions were Petersburg closed 2011 File No. 10E-3009555, Charlottesville closed 2010 File No. 07E-2005958, Migrant closed 2010 File No. 10E-2007297, Richmond closed 2008 File No. 10E-1000200, and Migrant closed 2008 File No. 08E-2005517. None of these files are CSR reportable.

CVLAS offered no comments to this Finding in its response to the DR. Accordingly, OCE has made no revision to this Finding.

Finding 5: CVLAS is compliant with LSC’s asset documentation requirement.

As part of its financial eligibility policies, recipients are required to establish reasonable asset ceilings in order to determine an applicant’s eligibility to receive legal assistance. *See* 45 CFR § 1611.3(d)(1). For each case reported to LSC, recipients must document the total value of assets except for categories of assets excluded from consideration pursuant to its Board-adopted asset eligibility policies.³ *See* CSR Handbook (2001 Ed.), ¶ 5.4 and CSR Handbook (2008), § 5.4.

In the event that a recipient authorizes a waiver of the asset ceiling due to the unusual circumstances of a specific applicant, the recipient shall keep such records as may be necessary to inform LSC of the reasons relied on to authorize the waiver. *See* 45 CFR § 1611.3(d)(2).

Without exception, the LSC-funded files that were reviewed during the visit contained the asset determination required by LSC.

CVLAS offered no comments to this Finding in its response to the DR. Accordingly, OCE has made no revision to this Finding.

³ A numerical total value must be recorded, even if it is zero or below the recipient’s guidelines. *See* CSR Handbook (2001 Ed.), ¶ 5.4 and CSR Handbook (2008 Ed.), § 5.4.

Finding 6: CVLAS is substantially compliant with LSC’s citizenship/alien eligibility documentation requirement. However, CVLAS’ citizenship attestation is non-compliant with CSR Handbook (2008 Ed.), § 5.5.

The level of documentation necessary to evidence citizenship or alien eligibility depends, in part, on the nature of the services provided. With the exception of brief advice or consultation by telephone, which does not involve continuous representation, LSC regulations require that all applicants for legal assistance who claim to be citizens execute a written attestation. *See* 45 CFR § 1626.6. Aliens seeking representation are required to submit documentation verifying their eligibility. *See* 45 CFR § 1626.7. In those instances involving brief advice and consultation by telephone, which does not involve continuous representation, LSC has instructed recipients that the documentation of citizenship/alien eligibility must include a written notation or computer entry that reflects the applicant’s oral response to the recipient’s inquiry regarding citizenship/alien eligibility. *See* CSR Handbook (2001 Ed.), ¶ 5.5 and CSR Handbook (2008 Ed.), § 5.5; *See also*, LSC Program Letter 99-3 (July 14, 1999). In the absence of the foregoing documentation, assistance rendered may not be reported to LSC. *See* CSR Handbook (2001 Ed.), ¶ 5.5 and CSR Handbook (2008 Ed.), § 5.5.

Since 2006, in accordance with the “Violence Against Women Act 2006 Amendment”, recipients may use LSC funds to provide legal assistance to ineligible aliens, or their children, who have been battered, subjected to extreme cruelty, is the victims of sexual assault or trafficking, or who qualify for a “U” visa. Recipients are also allowed to include these cases in their CSRs. *See* LSC Program Letter 06-2 (February 21, 2006).

CVLAS has adopted a policy and procedures that reference 45 CFR § 1626.4 and states that staff may not provide legal assistance for or on behalf of an ineligible alien. In addition, staff are required to execute a form indicating their familiarity with, among other things, Part 1626. The form also requests that the person indicate whether they have knowingly violated Part 1626, or whether they are aware of such a violation by another CVLAS employee.

CVLAS’ Intake Procedures Manual contains language that is consistent with 45 CFR § 1626.5, but also states that it can provide services to non-US citizens who have a work visa. CVLAS was advised that a work visa is acceptable as appropriate documentation of alien eligibility only to the extent that on its face it identifies the applicant as a person described in 45 CFR § 1626.5.

With eight (8) exceptions, the files that were reviewed during the visit contained citizenship/alien eligibility documentation as required by LSC regulations. *See* Richmond open File Nos. 07E-1001534, 07E-1004618 and 09E-1002225, Charlottesville open File Nos. 09E-2005788 and 08E-3007395, Petersburg open File Nos. 05E-2006615 and 07E-2007589, and Migrant closed 2010 File No. 10E-2004503. Absent the requisite citizenship/alien eligibility documentation, these files should be excluded from CVLAS’ CSR data submission.

Additionally, OCE noted that the citizenship attestation used by CVLAS does not comply with CSR Handbook (2008 Ed.), § 5.5, which requires that there be a separate signature line tied only to the attestation. CVLAS’ citizenship attestation is contained within its retainer agreement, but lacks a signature line dedicated to the attestation. Accordingly, CVLAS is directed to take

appropriate action to conform its citizenship attestation to the requirements of CSR Handbook (2008 Ed.), § 5.5.

Aside from the general comments CVLAS offered regarding its Personnel Manual, it offered no comments specific to this Finding. OCE has revised this Final Report consistent with the general comments offered by CVLAS.

Finding 7: CVLAS is substantially compliant with LSC’s retainer agreement requirement.

Pursuant to 45 CFR § 1611.9, recipients are required to execute a retainer agreement with each client who receives extended legal services from the recipient. The retainer agreement must be in a form consistent with the applicable rules of professional responsibility and prevailing practices in the recipient’s service area and shall include, at a minimum, a statement identifying the legal problem for which representation is sought, and the nature of the legal service to be provided. *See* 45 CFR § 1611.9(a).

The retainer agreement is to be executed when representation commences or as soon thereafter is practical and a copy is to be retained by the recipient. *See* 45 CFR §§ 1611.9(a) and (c). The lack of a retainer does not preclude CSR reporting eligibility.⁴ Cases without a retainer, if otherwise eligible and properly documented, should be reported to LSC.

Among the files that were reviewed during the visit that required a retainer agreement, one lacked a retainer agreement, *see* Petersburg open File No. 10E-3009542, and four contained retainer agreements that failed to identify the legal problem for which representation was sought. *See* Migrant closed 2009 File No. 08E-2008137 and Migrant open File Nos. 08E-1007181, 08E-2006869 and 10E-2006875.

CVLAS offered no comments to this Finding in its response to the DR. Accordingly, OCE has made no revision to this Finding.

Finding 8: CVLAS is complaint with the requirements of 45 CFR Part 1636 (Client Identity and Statement of Facts).

LSC regulations require that recipients identify by name each plaintiff it represents in any complaint it files, or in a separate notice provided to the defendant, and identify each plaintiff it represents to prospective defendants in pre-litigation settlement negotiations. In addition, the regulations require that recipients prepare a dated, written statement signed by each plaintiff it represents, enumerating the particular facts supporting the complaint. *See* 45 CFR §§ 1636.2(a)(1) and (2).

The statement is not required in every case. It is required only when a recipient files a complaint in a court of law or otherwise initiates or participates in litigation against a defendant, or when a

⁴ However, a retainer is more than a regulatory requirement. It is also a key document clarifying the expectations and obligations of both client and program, thus assisting in a recipient’s risk management.

recipient engages in pre-complaint settlement negotiations with a prospective defendant. *See* 45 CFR § 1636.2(a).

CVLAS has developed a written policy to guide its staff in complying with Part 1636. Additionally, CVLAS has developed a form sufficient to identify the client and the facts supporting the client's complaint, which is then signed and dated by the client. As such, no further action is warranted.

With one (1) exception, the files that were reviewed during the visit that required a Part 1636 statement of facts contained one. The one (1) exception was Migrant closed 2009 File No. 08E-2008137.

CVLAS offered no comments to this Finding in its response to the DR. Accordingly, OCE has made no revision to this Finding.

Finding 9: CVLAS is compliant with the requirements of 45 CFR § 1620.4 and § 1620.6(c) (Priorities in use of resources).

LSC regulations require that recipients adopt a written statement of priorities that determines the cases which may be undertaken by the recipient, regardless of the funding source. *See* 45 CFR § 1620.3(a). Except in an emergency, recipients may not undertake cases outside its priorities. *See* 45 CFR § 1620.6.

Staff are required to execute a form indicating their familiarity with, among other things, Part 1620. The form also request that the person indicate whether they have knowingly violated Part 1620, or whether they are aware of such a violation by another CVLAS employee.

None of the files that were reviewed during the visit revealed cases that were outside of CVLAS' priorities.⁵

CVLAS offered no comments to this Finding in its response to the DR. Accordingly, OCE has made no revision to this Finding.

Finding 10: The files that were reviewed during the visit indicate that CVLAS is substantially compliant with CSR Handbook (2001 Ed.), ¶ 5.1(c), General Requirements, and CSR Handbook (2008 Ed.), § 5.6, Legal Assistance Documentation Requirements.

LSC regulations specifically define "case" as a form of program service in which the recipient provides legal assistance. *See* 45 CFR §§ 1620.2(a) and 1635.2(a). Consequently, whether the assistance that a recipient provides to an applicant is a "case", reportable in the CSR data, depends, to some extent on whether the case is within the recipient's priorities and whether the recipient has provided some level of legal assistance, limited or otherwise.

⁵ *See* page 4 of this Report for a listing of CVLAS' priorities.

If the applicant's legal problem is outside the recipient's priorities, or if the recipient has not provided any type of legal assistance, it should not report the activity in its CSR. For example, recipients may not report the mere referral of an eligible client as a case when the referral is the only form of assistance that the applicant receives from the recipient. *See* CSR Handbook (2001 Ed.), ¶ 7.2 and CSR Handbook (2008 Ed.), § 7.2.

Recipients are instructed to record client *and* case information, either through notations on an intake sheet or other hard-copy document in a case file, or through electronic entries in an ACMS database, or through other appropriate means. For each case reported to LSC such information shall, at a minimum, describe, *inter alia*, the level of service provided. *See* CSR Handbook (2001 Ed.), ¶ 5.1(c) and CSR Handbook (2008 Ed.), § 5.6.

Twenty-one (21) of files that were reviewed during the visit lacked a description of the legal assistance provided to the client. *See* Richmond open File No. 09E-1006058, Migrant open File Nos. 07E-2005553 and 00E-2000127C, Petersburg closed 2011 File Nos. 06E-1008758 and 08E-1003829, Migrant closed 2010 File Nos. 10E-2007298 and 10E-2004503, Charlottesville closed 2010 File No. 09E-1005851, Petersburg closed 2010 File No. 10E-1006435, Richmond closed 2009 File No. 09E-1000091, Petersburg closed 2009 File Nos. 06E-1003758 and 06E-3004762, Richmond closed 2008 File No. 10E-1000200, Migrant closed 2008 File Nos. 08E-2006883 and 08E-2006927, Charlottesville closed 2008 File Nos. 06E-2005015, 06E-2001047, 06E-2001973 and 07E-2000805, and Petersburg closed 2008 File Nos. 06E-1006806 and 06E-1001286. In reviewing these files, CVLAS disclosed that some had been rejected, some involved no more than a referral, two (2) involved pamphlets provided to the applicant, but most involved clients that failed to maintain contact.

Recipients may report the provision of legal assistance as a case only if, among other things, the recipient actually accepts the applicant for service. *See* CSR Handbook (2008 Ed.), § 2.1(c); *see also* "CSR Frequently Asked Questions" (September 2010), Section 2.1. If the applicant for legal assistance is not accepted for service, or rather is rejected, the recipient may not include the file in its CSR data submission. As well, recipients may not report referrals as cases when the referral is the only form of assistance which the applicant receives. *See* CSR Handbook (2008 Ed.), §§ 7.1 and 7.2. Referrals may be reported as "other services", but may not be included in a recipient's CSR data submission.

The CSR Handbook (2008 Ed.), §§ 2.2 and 2.3, distinguishes "legal assistance" and "legal information". "Legal assistance" is defined as the provision of limited or extended service on behalf of a client that meets the criteria of the CSR Closing Categories. It is specific to the client's unique circumstances and involves legal analysis that is tailored to the client's factual situation. It involves the interpretation of particular facts and the application of the relevant law to those facts. "Legal information" is defined as the provision of substantive information not tailored to address a person's specific legal problem. It is rather general in nature and does not involve the application of relevant law to a unique set of facts. As such, simply providing a pamphlet or brochure, or CVLAS' "divorce packet", without more, is, at best, legal information. It is not legal assistance and may not be included in a recipient's CSR data submission. Accordingly, none of the above-cited files are CSR reportable.

In its response to the DR, CVLAS stated that the DR noted that 21 of 270 files reviewed during the visit lacked a description of the legal assistance provided to the client. According to CVLAS, this would mean that 92% of the files reviewed contained such a description, which would appear to be more consistent with “substantially compliant” rather than “non-complaint” as noted in the DR.

OCE has considered CVLAS’ comments and has revised this Final Report accordingly.

Finding 11: With eight (8) exceptions, the files that were reviewed during the visit demonstrated that CVLAS’ application of the CSR case closure categories is consistent with Section VIII: Case Definitions & Closure Categories, CSR Handbook (2001 Ed.), and Chapter VIII: Case Definitions and Closure Categories, CSR Handbook (2008 Ed.).

The CSR Handbook defines the categories of case service and provides guidance to recipients on the use of the closing codes in particular situations. Recipients are instructed to report each case according to the type of case service that best reflects the level of legal assistance provided. *See* CSR Handbook (2001 Ed.), ¶ 6.1, and CSR Handbook (2008 Ed.), § 6.1.

With eight (8) exceptions, the files that were reviewed during the visit demonstrated that CVLAS’ application of the CSR case closure categories is consistent with Chapter VIII, CSR Handbook (2008 Ed.). *See* Migrant open File Nos. 08E-1007181 and 08E-2006869 (both closed as “counsel and advice”, but files indicated a level of assistance more consistent with “extensive service”), Richmond closed 2011 File No. 09E-1007838 (closed as “extensive service”, but file indicated a level of assistance more consistent with “counsel and advice”), Charlottesville closed 2010 File No. 09E-1001847 (closed as “limited action”, but file indicated a level of assistance more consistent with “extensive service”), Charlottesville closed 2010 File No. 09E-1008709 (closed as “counsel and advice”, but file indicated a level of assistance more consistent with “extensive service”), Charlottesville closed 2010 File No. 10E-1001015 (closed as “counsel and advice”, but file indicated a level of assistance more consistent with “uncontested court decision”), Migrant closed 2008 File No. 07E-2006013 (closed as “other”, but file indicated a level of assistance more consistent with “counsel and advice”), and Charlottesville closed 2008 File No. 06E-2006611 (closed as “counsel and advice”, but file indicated a level of assistance more consistent with “extensive service”).

OCE also noted that nine (9) of the files cited in Finding 10 were closed as “other”. *See* Migrant open File Nos. 07E-2005553 and 00E-2000127C, Petersburg closed 2011 File Nos. 06E-1008758 and 08E-1003829, Migrant closed 2010 File Nos. 10E-2007298 and 10E-2004503, Richmond closed 2009 File No. 09E-1000091, Migrant closed 2008 File No. 08E-2006927, and Richmond closed 2008 File No. 10E-1000200. Each of these files had been rejected and no legal assistance was evident in the files.

The CSR Handbook (2008 Ed.), § 3.5, requires that recipients establish a method that will identify files that should be excluded from their CSR data submission. Although LSC does not mandate the use of a specific method, LSC has suggested the use of some type of “exit” code or field that enables staff to identify cases for exclusion from its CSR report. Any system that

accomplishes the goal of easily identifying cases for exclusion from CSR reporting is sufficient. However, recipients may not use case closing category “other”, or “K”, as a means of identifying cases for exclusion from CSR reporting. The example cited in the Handbook suggests that recipients use “X”, or any other letter near the end of the alphabet, as a closing code for cases that may not be reported.

For the reasons stated in this Finding, CVLAS should take such action as is necessary to conform its use of the CSR case closure categories to the CSR Handbook (2008 Ed.).

CVLAS offered no comments to this Finding in its response to the DR. Accordingly, OCE has made no revision to this Finding.

Finding 12: The files that were reviewed during the visit indicate that CVLAS is not in compliance with CSR Handbook (2001 Ed.), ¶ 3.3, Timely Closing of Cases, and CSR Handbook (2008 Ed.), § 3.3 Timely Closing of Cases.

To the extent practicable, programs shall report cases as having been closed in the year in which assistance ceased, depending on case type. Cases in which the only assistance provided is counsel and advice, brief service, or a referred after legal assessment (CSR Categories, A, B, and C), should be reported as having been closed in the year in which the counsel and advice, brief service, or referral was provided. *See* CSR Handbook (2001 Ed.), ¶ 3.3(a).⁶ There is, however, an exception for cases opened after September 30, and those cases containing a determination to hold the file open because further assistance is likely. *See* CSR Handbook (2001 Ed.), ¶ 3.3(a) and CSR Handbook (2008 Ed.), § 3.3(a). All other cases (CSR Categories D through K, 2001 CSR Handbook and F through L, 2008 CSR Handbook) should be reported as having been closed in the year in which the recipient determines that further legal assistance is unnecessary, not possible or inadvisable, and a closing memorandum or other case-closing notation is prepared. *See* CSR Handbook (2001 Ed.), ¶ 3.3(b) and CSR Handbook (2008 Ed.), § 3.3(b). Additionally LSC regulations require that systems designed to provide direct services to eligible clients by private attorneys must include, among other things, case oversight to ensure timely disposition of the cases. *See* 45 CFR § 1614.3(d)(3)..

Twenty-eight (28) of the files that were reviewed during the visit were untimely closed or dormant. *See* Charlottesville open File No. 06E-1003839 (no activity noted in file since 2006; file lacks CSR Handbook (2008 Ed.), § 3.3(a)(ii) entry); Richmond open File Nos. 09E-1002284, 07E-2005133, 06E-1002475 and 05E-1006984, Petersburg open File Nos. 07E-2007589 and 07E-2006973, and Migrant open File No. 00E-2000127C (no activity noted in files since 2007; files lack CSR Handbook (2008 Ed.), § 3.3(a)(ii) entry), Charlottesville open File No. 08E-1008532 (no activity noted in file since 2008; file lacks CSR Handbook (2008 Ed.), § 3.3(a)(ii) entry), Charlottesville open File Nos. 09E-1004204, 09E-1005620, 09E-2008136, 09E-1002599,

⁶ The time limitation of the 2001 Handbook that a brief service case should be closed “as a result of an action taken at or within a few days or weeks of intake” has been eliminated. However, cases closed as limited action are subject to the time limitation on case closure found in CSR Handbook (2008 Ed.), § 3.3(a) this category is intended to be used for the preparation of relatively simple or routine documents and relatively brief interactions with other parties. More complex and/or extensive cases that would otherwise be closed in this category should be closed in the new CSR Closure Category L (Extensive Service).

08E-2004199 and 08E-2001496 (no activity noted in files since 2009; files lack CSR Handbook (2008 Ed.), § 3.3(a)(ii) entry), Charlottesville closed 2010 File No. 06E-1005497 (court decision issued in 2008; file lacks CSR Handbook (2008 Ed.), § 3.3(a)(ii) entry), Petersburg closed 2009 File Nos. 06E-1003758 and 06E-3004762 (last activity noted in either file is 2007; files lack CSR Handbook (2008 Ed.), § 3.3(a)(ii) entry), Richmond closed 2008 File Nos. 06E-1006948 and 06E-1005033 (neither file contained a CSR Handbook (2008 Ed.), § 3.3(a)(ii) entry), Charlottesville closed 2008 File Nos. 06E-2005015, 05E-1006631, 06E-2001047, 06E-2001973, 07E-2000805 and 07E-2001363, and Petersburg closed 2008 File Nos. 06E-1005737, and 06E-1001286. None of these files are CSR reportable and several appear to have been reported in error.

Several of these untimely/dormant files were cases that CVLAS referred to private attorneys pursuant to 45 CFR Part 1614. CVLAS explained that it is often difficult to get timely information from its participating attorneys. However, it was also noted that CVLAS does not consistently record its request for progress reports in its ACMS. It was suggested that by annotating the ACMS when a progress reports are requested, CVLAS arguably creates an entry explaining the reason why the case remains open.

CVLAS should review all cases opened prior to 2009 that remained open as of March 1, 2011. All inactive, or dormant, cases should be closed administratively and identified for exclusion from CSR reporting. Additionally, as several of the inactive and untimely closed cases were PAI, CVLAS should consider annotating the ACMS each time a progress report is requested. Not only does such annotation demonstrate CVLAS' compliance with 45 CFR § 1614.3(d)(3), in the appropriate case it might arguably be useful as a CSR Handbook (2008 Ed.), § 3.3(a)(iii) entry.

In its response to the DR, CVLAS stated that the DR noted that 28 of 270 files reviewed during the visit were not timely closed. According to CVLAS, this would mean that 90% of the files reviewed were timely closed, which would appear to be more consistent with "substantially compliant" rather than "non-complaint" as noted in the DR.

OCE has considered CVLAS' comments and has revised this Final Report accordingly.

Finding 13: Two (2) sets of duplicates were identified among the files that that were reviewed during the visit.

Through the use of automated case management systems and procedures, recipients are required to ensure that cases involving the same client and specific legal problem are not recorded and reported to LSC more than once. *See* CSR Handbook (2001 Ed.), ¶ 3.2 and CSR Handbook (2008 Ed.), § 3.2.

When a recipient provides more than one type of assistance to the same client during the same reporting period, in an effort to resolve essentially the same legal problem, as demonstrated by the factual circumstances giving rise to the problem, the recipient may report only the highest

level of legal assistance provided. *See* CSR Handbook (2001 Ed.), ¶ 6.2 and CSR Handbook (2008 Ed.), § 6.2.

When a recipient provides assistance more than once within the same reporting period to the same client who has returned with essentially the same legal problem, as demonstrated by the factual circumstances giving rise to the problem, the recipient is instructed to report the repeated instances of assistance as a single case. *See* CSR Handbook (2001 Ed.), ¶ 6.3 and CSR Handbook (2008 Ed.), § 6.3. Recipients are further instructed to report related legal problems of an eligible client as single case when the recipient attempts to resolve the related legal problems simultaneously through a single legal process. *See* CSR Handbook (2001 Ed.), ¶ 6.4 and CSR Handbook (2008 Ed.), § 6.4.

Two (2) sets of duplicates were identified among the files that were reviewed during the visit. The first set was Migrant closed 2008 File Nos. 08E-2006927 and 08E-2007085. CVLAS identified the files as duplicates during the review, stating they involved the same client and the same legal issue. As such, only one (1) of these files should have been reported in CVLAS' 2008 CSR data submission to LSC.

The second set of duplicates was Petersburg open File Nos. 10E-3004598, 10E-3004601, and 10E-3004603. These files involved the same client with related legal issues. As such only one of these files may be reported to LSC.

CVLAS offered no comments to this Finding in its response to the DR. Accordingly, OCE has made no revision to this Finding.

Finding 14: CVLAS is compliant with the requirements of 45 CFR Part 1604 (Outside practice of law).

Part 1604 is intended to provide guidance to recipients in adopting written policies relating to the outside practice of law by recipients' full-time attorneys. Under the standards set forth in this part, recipients are authorized, but not required, to permit attorneys, to the extent that such activities do not hinder fulfillment of their overriding responsibility to serve those eligible for assistance under the Act, to engage in pro bono legal assistance and comply with the reasonable demands made upon them as members of the Bar and as officers of the Court.

CVLAS has adopted a written policy governing the outside practice of law. The policy is consistent with 45 CFR Part 1604. In addition, staff is required to execute a form indicating their familiarity with, among other things, Part 1604. The form also requests that the person indicate whether they have knowingly violated Part 1604, or whether they are aware of such a violation by another CVLAS employee.

CVLAS advised that none of its full-time attorneys are engaged in the outside practice of law. Aside from the general comments CVLAS offered regarding its Personnel Manual, it offered no comments specific to this Finding. OCE has revised this Final Report to be consistent with the general comments offered by CVLAS.

Finding 15: CVLAS is compliant with the requirements of 45 CFR Part 1608 (Prohibited political activities).

LSC regulations prohibit recipients from expending grants funds or contributing personnel or equipment to any political party or association, the campaign of any candidate for public or party office, and/or for use in advocating or opposing any ballot measure, initiative, or referendum. Nor may recipients employ any political test or qualification in making decisions or performing any function under the LSC Act. *See* 45 CFR § 1608.3. Recipient employees may not intentionally identify LSC or the recipient with any partisan or non-partisan political activity, or with the campaign of any candidate for public or party office. *See* 45 CFR § 1608.4.

The regulation also prohibits staff attorneys from using official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for office, whether partisan or nonpartisan, and may not directly or indirectly coerce, or attempt to coerce, command, or advise any recipient to pay, lend, or contribute anything of value to a political party, committee, organization, agency or person for political purposes. Nor may such attorney be a candidate for partisan elective office. *See* 45 CFR § 1608.5. While engaged in legal assistance activities, staff attorneys may not engage in political activities, any activity to provide voters with transportation to the polls, or to provide similar assistance in connection with an election, or any voter registration activity. *See* 45 CFR § 1608.6.

Although the regulation does not require that recipients adopt written policies and procedures to guide its staff in complying with Part 1608, CVLAS has developed a policy on Part 1608. In addition, staff is required to execute a form indicating their familiarity with, among other things, Part 1608. The form also request that the person indicate whether they have knowingly violated Part 1608, or whether they are aware of such a violation by another CVLAS employee.

From the limited review of accounting records and documentation for the period January 1, 2008 through December 31, 2010, it does not appear that CVLAS has contributed, or made available, any LSC funds, or any personnel or equipment for any activities prohibited by Part 1608.

CVLAS further stated that none of its employees have intentionally identified CVLAS with any partisan or nonpartisan political activity, or with the campaign of any candidate for public or party office. During the visit, there were no indications that, while engaged in legal assistance activities supported under the LSC Act, CVLAS attorneys engaged in any political activity, any activity to provide voters with transportation to the polls, or to provide similar assistance in connection with an election, or voter registration activity.

Aside from the general comments CVLAS offered regarding its Personnel Manual, it offered no comments specific to this Finding in its response to the DR. OCE has revised this Final Report to be consistent with the general comments offered by CVLAS.

Finding 16: CVLAS is substantially compliant with the requirements of 45 CFR Part 1609 (Fee-generating cases).

Except as provided by LSC regulations, recipients may not provide legal assistance in any case which, if undertaken on behalf of an eligible client by an attorney in private practice, reasonably might be expected to result in a fee for legal services from an award to the client, from public funds or from the opposing party. *See* 45 CFR §§ 1609.2(a) and 1609.3.

Recipients may provide legal assistance in such cases where the case has been rejected by the local lawyer referral service, or two private attorneys; neither the referral service nor two private attorneys will consider the case without payment of a consultation fee; the client is seeking, Social Security, or Supplemental Security Income benefits; the recipient, after consultation with the private bar, has determined that the type of case is one that private attorneys in the area ordinarily do not accept, or do not accept without pre-payment of a fee; the Executive Director has determined that referral is not possible either because documented attempts to refer similar cases in the past have been futile, emergency circumstances compel immediate action, or recovery of damages is not the principal object of the client's case and substantial attorneys' fees are not likely. *See* 45 CFR §§ 1609.3(a) and 1609.3(b). LSC has also prescribed certain specific recordkeeping requirements and forms for fee-generating cases. The recordkeeping requirements are mandatory. *See* LSC Memorandum to All Program Directors (December 8, 1997).

CVLAS has adopted a written policy to guide its staff in complying with Part 1609. The policy contains language consistent with 45 CFR § 1609.3(a) and directs the reader to 45 CFR Part 1609 for further discussion and information concerning fee-generating cases. To the extent that CVLAS has adopted the language of Part 1609 as its policy, this section is consistent with 45 CFR § 1609.4. However, to the extent that this section lacks any procedures for ensuring compliance with Part 1609, it is not. Accordingly, CVLAS is required to adopt written procedures to guide its staff in complying with Part 1609.

None of the files that were reviewed during the visit involved legal assistance with respect to a fee-generating case.

Aside from the general comments CVLAS offered regarding its Personnel Manual, it offered no comments specific to this Finding in its response to the DR. OCE has revised this Final Report consistent with the general comments offered by CVLAS.

Finding 17: CVLAS is not in compliance with the requirements of 45 CFR § 1610.5.

Recipients may not accept funds from any source other than LSC, unless the recipient provide to the source of the funds written notification of the prohibitions and conditions which apply to the funds. Recipients are not required to provide such notification for receipt of contribution of less than \$250.00. *See* 45 CFR § 1610.5.

OCE noted that for the period January 1, 2008 through December 31, 2010, CVLAS received funding from corporations, foundations, law firms, and individuals, but failed to provide written notification as required by 45 CFR § 1610.5 for fiscal years 2008 – 2010. CVLAS should provide all funders who make contributions of \$250 or more written notification of the prohibitions and conditions which apply to donor funds.

CVLAS offered no comments to this Finding in its response to the DR. Accordingly, OCE has made no revision to this Finding.

Finding 18: The activities undertaken by CVLAS to meet the requirements of 45 CFR Part 1614 are consistent with LSC regulations.

LSC regulations require LSC recipients to devote an amount of LSC and/or non-LSC funds equal to 12.5% of its LSC annualized basic field award for the involvement of private attorneys in the delivery of legal assistance to eligible clients. This requirement is referred to as the "PAI" or private attorney involvement requirement.

Activities undertaken by the recipient to involve private attorneys in the delivery of legal assistance to eligible clients must include the direct delivery of legal assistance to eligible clients. The regulation contemplates a range of activities, and recipients are encouraged to assure that the market value of PAI activities substantially exceed the direct and indirect costs allocated to the PAI requirement. The precise activities undertaken by the recipient to ensure private attorney involvement are, however, to be determined by the recipient, taking into account certain factors. *See* 45 CFR §§ 1614.3(a), (b), (c), and (e)(3). The regulations, at 45 CFR § 1614.3(e)(2), require that the support and expenses relating to the PAI effort must be reported separately in the recipient's year-end audit. The term "private attorney" is defined as an attorney who is not a staff attorney. *See* 45 CFR § 1614.1(d). Further, 45 CFR § 1614.3(d)(3) requires programs to implement case oversight and follow-up procedures to ensure the timely disposition of cases to achieve, if possible, the results desired by the client and the efficient and economical utilization of resources.

The regulation requires that recipients utilize financial systems and procedures and maintain supporting documentation to identify and account separately for cost related to the recipients PAI effort. Such systems and records must meet the requirements of LSC's Audit Guide for Recipients and Auditors (November 1996) and LSC's Accounting Guide for Recipients (2010 Ed.) and must accurately identify and account for the recipient's administrative, overhead, staff, and support costs related to PAI activities; payments to private attorneys for support or direct client services rendered; contractual payments to individuals or organizations that undertake administrative, support, and/or direct services to eligible clients on behalf of the recipients; and other actual costs as may be incurred by the recipient. *See* 45 CFR § 1614.3(e).

Recipients are required to develop a plan and budget to meet the requirements of the LSC regulation. In developing a plan, recipients are required to consult with significant segments of its client community, and must consider the legal needs of eligible clients in the area served by

the recipient and the delivery mechanisms potentially available to provide opportunity for participation by private attorneys. *See* 45 CFR § 1614.4.

CVLAS has developed a plan to meet the requirements of Part 1614. According to its 2010 PAI Plan, CVLAS has partnered with private bar associations to provide pro bono legal assistance to financially eligible clients. Some of the specific activities undertaken by CVLAS include referrals to Hunton and Williams and Troutman Sanders, an agreement with the creditors bar to collect judgments obtained by CVLAS, a homeless workshop in Richmond, and a PAI Hotline in which private attorneys make the “call backs”.

From discussions with CVLAS’ Executive Director and its Director of Volunteer Services, clients that are referred to CVLAS’ various PAI components are screened for eligibility and case type in the same manner as any other client. Participating attorneys indicate the types of cases they will accept and referrals are made according to attorneys stated interest, skills, and expertise. Although the majority of the files cited in Finding 12 are PAI files, CVLAS routinely requests progress reports every four (4) to six (6) months. More often than not, however, there is no response to the request.

In conversations with the Director of Volunteer Services, it appeared that CVLAS does not consistently annotate its ACMS when a progress report is requested. Consequently, in many instances, there was no record of the request in the file. It was suggested that CVLAS annotate the ACMS each time a progress report is requested. Not only does such annotation demonstrate CVLAS’ compliance with 45 CFR § 1614.3(d)(3), in the appropriate case it might arguably be useful as a CSR Handbook (2008 Ed.), § 3.3(a)(iii) entry.

Additionally, in several of the PAI files that were reviewed during the visit, the only legal assistance provided to the client was provided by CVLAS staff. *See* Richmond closed 2011 File Nos. 10E-3009595 and 10E-3007168, Petersburg closed 2011 File Nos. 10E-3009467 and 09E-1006026, Richmond closed 2010 File Nos. 10E-3007233, 10E-1005549 and 10E-1002752, and Charlottesville closed 2010 File Nos. 09E-1000720 and 09E-1001700. In cases in which a PAI referral is unsuccessful and program staff provides legal assistance to the client, the case must be closed and reported as a staff case - not a PAI case – and the time associated with such legal assistance should be charged to staff and not to the program’s 12½% requirement. *See* CSR Handbook (2008 Ed.), § 10.1(b)(i).

A review of CVLAS’ audited financial statements for 2008 – 2009 indicates that it met its 12.5% PAI requirement for these years. However, at the time of the visit, CVLAS had not allocated its indirect cost associated with the 12.5% PAI requirement for 2010. CVLAS needs to calculate its indirect cost for 2010 before a determination can be made as to whether or not the 12.5% PAI requirement has been met for that year.

OCE also noted that CVLAS does not have written policies and procedures regarding its PAI Methodology. CVLAS’ method of allocating common costs should be clearly documented as required by 45 CFR 1614.3(e)(1)(i), and included in its accounting manual. CVLAS was able to articulate their PAI allocation method and provided documentation showing how costs had been

allocated. The explanation provided by CVLAS appears to be reasonable, but CVLAS should develop written policies and procedures regarding their PAI methodology.

CVLAS offered no comments to this Finding in its response to the DR. Accordingly, OCE has made no revision to this Finding.

Finding 19: Based on information currently available, CVLAS may not be in compliance with the requirements of 45 CFR § 1627.4 (Membership fees and dues).

LSC has developed rules governing the transfer of LSC funds by recipients to other organizations. *See* 45 CFR § 1627.1. These rules govern subgrants, which are defined as any transfer of LSC funds from a recipient to an entity under a grant, contract, or agreement to conduct certain activities specified by or supported by the recipient related to the recipient's programmatic activities. Part 1627 also states that LSC funds may not be used to pay membership fees or dues to any private or nonprofit organization, except that payment of membership fees or dues mandated by a governmental organization to engage in a profession is permitted. *See* 45 CFR § 1627.4.

CVLAS does not transfer LSC funds to any entities under a grant, contract, or agreement to conduct certain activities specified by or supported by the recipient related to the recipient's programmatic activities. However, a limited review of CVLAS' chart of accounts, and trial balance for January 1, 2008 through December 31, 2010, disclosed that non-mandatory fees and dues, along with several costs that were not readily identifiable, were charged to its LSC fund.

Specifically, a review of the 2010 – 2011 annual bar dues statement indicates that CVLAS paid voluntary section dues totaling \$150.00. A trial balance for the period January 1, 2008 through December 31, 2010 indicated voluntary section dues payments totaling \$845.02 were charged to CVLAS' LSC fund. During that same period, OCE also noted that CVLAS used a total of \$5,998.44 of LSC funds to pay non-mandatory fees, and charged a \$912.00 payment to NLADA to its LSC fund.

As noted above, LSC funds may not be used to pay membership fees or dues to any private or nonprofit organization, except that payment of membership fees or dues mandated by a governmental organization to engage in a profession is permitted. In response to this Draft Report, CVLAS is instructed to address each of these charges to its LSC fund.

CVLAS offered no comments to this Finding in its response to the DR. Accordingly, OCE has made no revision to this Finding.

Finding 20: Review of documents and interviews with staff indicate that, contrary to the requirements of 45 CFR Part 1635 (Timekeeping requirements), case handlers time records are not being entered into the Kemps time management system nor do they comprise all of the efforts or time for which they were compensated.

The timekeeping requirement, 45 CFR Part 1635, is intended to improve accountability for the use of all funds of a recipient by assuring that allocations of expenditures of LSC funds pursuant to 45 CFR Part 1630 are supported by accurate and contemporaneous records of the cases, matters, and supporting activities for which the funds have been expended; enhancing the ability of the recipient to determine the cost of specific functions; and increasing the information available to LSC for assuring recipient compliance with Federal law and LSC rules and regulations. *See* 45 CFR § 1635.1.

Specifically, 45 CFR § 1635.3(a) requires that all expenditures of funds for recipient actions are, by definition, for cases, matters, or supporting activities. The allocation of all expenditures must satisfy the requirements of 45 CFR Part 1630. Time spent by attorneys and paralegals must be documented by time records which record the amount of time spent on each case, matter, or supporting activity. Time records must be created contemporaneously and account for time by date and in increments not greater than on-quarter of an hour which comprise all of the efforts of the attorneys and paralegals for which compensation is paid by the recipient. Each record of time spent must contain: for a case, a unique client name or case number; for matters or supporting activities, and identification of the category of action on which the time was spent. The timekeeping system must be able to aggregate time record information on both closed and pending cases by legal problem type. Recipients shall require any attorney or paralegal who works part-time for the recipient and part-time for an organization that engages in restricted activities to certify in writing that the attorney or paralegal has not engaged in restricted activity during any time for which the attorney or paralegal was compensated by the recipient or has not used recipient resources for restricted activities.

CVLAS utilizes Kemps Caseworks for contemporaneous case and time management. For the period January 1, 2008 through December 31, 2010, time spent by case handlers was documented by daily time records that were manually maintained in a written format (on paper and/or on a case handlers calendar) which recorded the amount of time spent on each case, matter, or supporting activity, and maintained in the case file. Prior to the recipient's bi-weekly payroll processing period, the case handlers entered their manual time records electronically into the Kemps system.

The Kemps system has the capability of describing the activity performed by case handlers. For cases, each record of time spent contains a unique client name or case number and for matters and supporting activities, an identification of the category of action on which the time was spent is recorded. The Kemp's system is capable of aggregating time record information on both closed and pending cases by legal problem type.

A sampling of CVLAS' time records revealed that one case handler does not always enter their time into Kemps. CVLAS should ensure that time reported by case handlers is entered into Kemps and comprise all of the efforts or time for which they are compensated.

An examination of time and attendance records revealed time reported by one (1) case handler on specific days did not agree with time records reported and entered into Kemps for those same days. The information entered into the payroll system is based on information from the time and attendance records. The review of selected advocates timekeeping records disclosed that one advocate was paid on days where no time was reported in Kemps. Further discussions with staff revealed that certain advocates do not enter their time into Kemps on a consistent basis. On page 30 of CVLAS' 2009 Audited Financial Statement ("AFS"), their Independent Public Accountant ("IPA") recommended that timekeeping records need to be reviewed by a senior members of management each pay period. CVLAS' corrective action plan called for staff training on timekeeping and case management within 60 days and regular review of staff timekeeping records by the Executive Director. CVLAS implemented this recommendation in 2010 by having staff training on timekeeping and case management. From OCE's review, it was determined that senior management does not review time records on a consistent basis. CVLAS should ensure that senior management review time records on a consistent basis.

CVLAS should implement the necessary controls, and procedures to verify that the time reported on time and attendance records agrees to the time records reported by advocates showing that they worked. CVLAS may want to consider utilizing the Kemps time keeping system to capture all time reported and worked (actual hours worked, and leave time) for all employees.

CVLAS' staff listing indicated that it had no part-time case handlers. However, it was later determined that CVLAS had one (1) part-time case handler in its Charlottesville office. According to management this case handler is not employed by any other organization that engages in restricted activity. Therefore, the quarterly certifications for part-time attorneys and paralegals do not apply. The program should consider updating their staff listing to properly report employees' employment status.

CVLAS is currently working on establishing written policies and procedures pertaining to the requirements of 45 CFR Part 1635.

CVLAS offered no comments to this Finding in its response to the DR. Accordingly, OCE has made no revision to this Finding.

Finding 21: CVLAS is substantially complaint with the requirements of 45 CFR Part 1642 (Attorneys' fees).

Prior to December 16, 2009, recipients could not claim, or collect and retain attorneys' fees in any case undertaken on behalf of a client of the recipient, except as otherwise provided by LSC regulations. *See* 45 CFR § 1642.3.⁷ However, with the enactment of LSC's FY 2010 consolidated appropriation, the statutory restriction on claiming, collecting or retaining attorneys' fees was lifted. Thereafter, at its January 23, 2010 meeting, the LSC Board of

⁷ The regulations defined "attorneys' fees" as an award to compensate an attorney of the prevailing party made pursuant to common law or Federal or State law permitting or requiring the award of such fees or a payment to an attorney from a client's retroactive statutory benefits. *See* 45 CFR § 1642.2(a).

Directors took action to repeal the regulatory restriction on claiming, collecting or retaining attorneys' fees. Accordingly, effective March 15, 2010 recipients may claim, collect and retain attorneys' fees for work performed, regardless of when such work was performed. Enforcement action will not be taken against any recipient that filed a claim for, or collected or retained attorneys' fees during the period December 16, 2009 and March 15, 2010. Claims for, collection of, or retention of attorneys' fees prior to December 16, 2009 may, however, result in enforcement action. *See* LSC Program Letter 10-1 (February 18, 2010); *see also*, 75 *Federal Register* 21506 (April 26, 2010).⁸

CVLAS has adopted a written policy and procedure to guide its staff in complying with Part 1642. In addition, staff is required to execute a form indicating their familiarity with, among other things, Part 1642. The form also requests that the person indicate whether they have knowingly violated Part 1642, or whether they are aware of such a violation by another CVLAS employee.

The policy is consistent with the pre-December 2009 restriction on attorneys' fees. CVLAS should consider amending the Personnel Manual consistent with LSC Program Letter 10-1 (February 18, 2010).

Neither the files nor the financial records that were reviewed during the visit indicate any activity inconsistent with Part 1642.

Aside from the general comments CVLAS offered regarding its Personnel Manual, it offered no comments specific to this Finding in its response to the DR. OCE has revised this Final Report consistent with the general comments offered by CVLAS.

Finding 22: CVLAS is substantially complaint with the requirements of 45 CFR Part 1612 (Restrictions on lobbying and certain other activities).

The purpose of this part is to ensure that LSC recipients and their employees do not engage in certain prohibited activities, including representation before legislative bodies or other direct lobbying activity, grassroots lobbying, participation in rulemaking, public demonstrations, advocacy training, and certain organizing activities. This part also provides guidance on when recipients may participate in public rulemaking or in efforts to encourage State or local governments to make funds available to support recipient activities, and when they may respond to requests of legislative and administrative officials.

CVLAS has adopted written policies and procedures to guide its staff in complying with Part 1612. The policy contains a reference to 45 CFR §§ 1612.5 and 1612.6 and is partially consistent with 45 CFR § 1612.3, but does not address the prohibitions stated at 45 CFR §§ 1612.4, 1612.7, 1612.8 or 1612.9. However, staff is required to execute a form indicating their familiarity with, among other things, Part 1612. The form also requests that the person indicate

⁸ Recipients are reminded that the regulatory provisions regarding fee-generating cases, accounting for and use of attorneys' fees, and acceptance of reimbursement remain in force and violation of these requirements, regardless of when they occur, may subject the recipient to compliance and enforcement action.

whether they have knowingly violated Part 1612, or whether they are aware of such a violation by another CVLAS employee. CVLAS is, nonetheless, required to take corrective action amend the language of this section to address all of the prohibitions stated in Part 1612 and to adopt procedures to guide its staff in complying with Part 1612.

During the visit, CVLAS provided copies of their semi-annual reports for the review period of January 1, 2008 through December 31, 2010. These semi-annual reports disclosed that CVLAS did not engage in any legislative and rulemaking activities during that period. As well, neither the files nor the financial records that were reviewed during the visit indicate any activity inconsistent with Part 1612.

Aside from the general comments CVLAS offered regarding its Personnel Manual, it offered no comments specific to this Finding. OCE has revised this Final Report consistent with the general comments offered by CVLAS.

Finding 23: CVLAS is compliant with the requirements of 45 CFR Parts 1613 and 1615 (Restrictions on legal assistance with respect to criminal proceedings, and actions collaterally attacking criminal convictions).

Recipients are prohibited from using LSC funds to provide legal assistance with respect to a criminal proceeding. *See* 45 CFR § 1613.3. Nor may recipients provide legal assistance in an action in the nature of a habeas corpus seeking to collaterally attack a criminal conviction. *See* 45 CFR § 1615.1.

Although the regulation does not require that recipients adopt written policies and procedures to guide its staff in complying with Parts 1613 and 1615, CVLAS has developed a written policy to guide its staff in complying with both of these Parts. In addition, staff is required to execute a form indicating their familiarity with, among other things, Parts 1613 and 1615. The form also requests that the person indicate whether they have knowingly violated Part 1608, or whether they are aware of such a violation by another CVLAS employee. The language of the Personnel Manual is consistent with LSC regulations.

None of the files that were reviewed during the visit involved legal assistance with respect to a criminal proceeding, or a collateral attack in a criminal conviction. Aside from the general comments CVLAS offered regarding its Personnel Manual, it offered no comments specific to this Finding. OCE has revised this Final Report consistent with the general comments offered by CVLAS.

Finding 24: CVLAS is substantially compliant with the requirements of 45 CFR Part 1617 (Class actions).

Recipients are prohibited from initiating or participating in any class action. *See* 45 CFR § 1617.3. The regulations define “class action” as a lawsuit filed as, or otherwise declared by a court of competent jurisdiction, as a class action pursuant Federal Rules of Civil Procedure, Rule

23, or comparable state statute or rule. *See* 45 CFR § 1617.2(a). The regulations also define “initiating or participating in any class action” as any involvement, including acting as co-counsel, amicus curiae, or otherwise providing representation relative to the class action, at any stage of a class action prior to or after an order granting relief. *See* 45 CFR § 1617.2(b)(1).⁹

CVLAS has adopted a written policy to guide its staff in complying with Part 1617. In addition, staff is required to execute a form indicating their familiarity with, among other things, Part 1617. The form also requests that the person indicate whether they have knowingly violated Part 1617, or whether they are aware of such a violation by another CVLAS employee. The policy contains language consistent with 45 CFR § 1617.3, but lacks policy language or procedures to guide staff with respect to individual clients seeking to withdraw or opt out of class action, or those seeking to obtain the benefit of relief ordered in a class action, or the other exceptions stated at 45 CFR § 1617.2(b). Accordingly, CVLAS is required to take appropriate corrective action.

None of the files that were reviewed during the visit involved CVLAS’ initiation of, or participation in, a class action.

Aside from the general comments CVLAS offered regarding its Personnel Manual, it offered no comments specific to this Finding. OCE has revised the DR consistent with the general comments offered by CVLAS.

Finding 25: CVLAS is compliant with the requirements of 45 CFR Part 1632 (Redistricting).

Recipients may not make available any funds, personnel, or equipment for use in advocating or opposing any plan or proposal, or representing any party, or participating in any other way in litigation, related to redistricting. *See* 45 CFR § 1632.3.

CVLAS has adopted a written policy and procedure to guide its staff in complying with Part 1632. In addition, staff are required to execute a form indicating their familiarity with, among other things, Part 1632. The form also request that the person indicate whether they have knowingly violated Part 1632, or whether they are aware of such a violation by another CVLAS employee. The policy contains language consistent with 45 CFR § 1632.3.

Neither the files nor the financial records that were reviewed during the visit indicate CVLAS’ involvement in such activity.

Aside from the general comments CVLAS offered regarding its Personnel Manual, it offered no comments specific to this Finding. OCE has revised this Final Report consistent with the general comments offered by CVLAS.

⁹ It does not, however, include representation of an individual seeking to withdraw or opt out of the class or obtain the benefit of relief ordered by the court, or non-adversarial activities, including efforts to remain informed about, or to explain, clarify, educate, or advise others about the terms of an order granting relief. *See* 45 CFR § 1617.2(b)(2).

Finding 26: CVLAS is compliant with the requirements of 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings).

Recipients are prohibited from defending any person in a proceeding to evict the person from a public housing project if the person has been charged with, or has been convicted of, the illegal sale, distribution, manufacture, or possession with intent to distribute a controlled substance, and the eviction is brought by a public housing agency on the basis that the illegal activity threatens the health or safety or other resident tenants, or employees of the public housing agency. *See* 45 CFR § 1633.3.

CVLAS has adopted a written policy and procedure to guide its staff in complying with Part 1633. The policy contains language consistent with 45 CFR § 1633.3.

None of the files that were reviewed during the visit involved defense of any such eviction proceeding.

Aside from the general comments CVLAS offered regarding its Personnel Manual, it offered no comments specific to this Finding. OCE has revised this Final Report consistent with the general comments offered by CVLAS.

Finding 27: CVLAS is substantially compliant with the requirements of 45 CFR Part 1637 (Representation of prisoners).

Recipients may not participate in any civil litigation on behalf of a person incarcerated in a federal, state, or local prison, whether as plaintiff or defendant; nor may a recipient participate on behalf of such incarcerated person in any administrative proceeding challenging the condition of the incarceration. *See* 45 CFR § 1637.3.

CVLAS has adopted a written policy to guide its staff in complying with Part 1637. In addition, staff is required to execute a form indicating their familiarity with, among other things, Part 1637. The form also requests that the person indicate whether they have knowingly violated Part 1637, or whether they are aware of such a violation by another CVLAS employee.

The policy contains language consistent with 45 CFR § 1637.3, but lacks a procedure for clients who become incarcerated after litigation has commenced. Accordingly, CVLAS is required to take appropriate corrective action.

None of the files that were reviewed during the visit involved participation in civil litigation, or administrative proceedings, on behalf of an incarcerated person.

Aside from the general comments CVLAS offered regarding its Personnel Manual, it offered no comments specific to this Finding. OCE has revised this Final Report consistent with the general comments offered by CVLAS.

Finding 28: CVLAS is substantially compliant with the requirements of 45 CFR Part 1638 (Restriction on solicitation).

Recipients and their employees are prohibited from representing, or referring to other recipients, individuals as a result of a face-to-face encounter, or personal encounter via other means of communication such as a personal letter or telephone call, in which the recipient or its employee advised the individual to obtain counsel or take legal action, where the individual did not seek the advice and with whom the recipient has no attorney-client relationship. *See* 45 CFR §§ 1638.2 and 1638.3.

CVLAS has adopted a written policy and procedure to guide its staff in complying with Part 1638. In addition, staff is required to execute a form indicating their familiarity with, among other things, Part 1638. The form also requests that the person indicate whether they have knowingly violated Part 1638, or whether they are aware of such a violation by another CVLAS employee.

The policy contains language consistent with 45 CFR §§ 1638.3(a) and (b), but does not address the permissible activities outlined at 45 CFR § 1638.4. CVLAS should consider amending the language of this section accordingly.

None of the files that were reviewed during the visit indicate CVLAS' involvement in such activity.

Aside from the general comments CVLAS offered regarding its Personnel Manual, it offered no comments specific to this Finding. OCE has revised this Final Report consistent with the general comments offered by CVLAS.

Finding 29: CVLAS is compliant with the requirements of 45 CFR Part 1639 (Welfare Reform).

Except as otherwise provided, recipients may not initiate legal representation, or participate in any other way in litigation, lobbying or rulemaking, involving an effort to reform a Federal or State welfare system. *See* 45 CFR § 1639.3.

CVLAS has adopted a written policy and procedure to guide its staff in complying with Part 1639. In addition, staff is required to execute a form indicating their familiarity with, among other things, Part 1639. The form also request that the person indicate whether they have knowingly violated Part 1639, or whether they are aware of such a violation by another CVLAS employee. The policy contains language consistent with 45 CFR § 1639.2.

None of the files that were reviewed during the visit indicate CVLAS' involvement in such activity.

Aside from the general comments CVLAS offered regarding its Personnel Manual, it offered no comments specific to this Finding. OCE has revised this Final Report consistent with the general comments offered by CVLAS.

Finding 30: CVLAS is substantially compliant with the requirements of 45 CFR Part 1643 (Restriction on assisted suicide, euthanasia, and mercy killing).

No LSC funds may be used to compel any person, institution or governmental entity to provide or fund any item, benefit, program, or service for the purpose of causing the suicide, euthanasia, or mercy killing of any individual. No may LSC funds be used to bring suit to assert, or advocate, a legal right to suicide, euthanasia, or mercy killing, or advocate, or any other form of legal assistance for such purpose. *See* 45 CFR § 1643.3.

CVLAS has adopted a written policy and procedure to guide its staff in complying with Part 1643. In addition, staff is required to execute a form indicating their familiarity with, among other things, Part 1643. The form also requests that the person indicate whether they have knowingly violated Part 1643, or whether they are aware of such a violation by another CVLAS employee.

The policy contains language consistent with 45 CFR §§ 1643.2(a), but does not address the prohibitions contained at 45 CFR § 1643.2(b) or (c). Accordingly, CVLAS is required to take appropriate corrective action.

Neither the files nor the financial records that were reviewed during the visit indicate CVLAS' involvement in such activity.

Aside from the general comments CVLAS offered regarding its Personnel Manual, it offered no comments specific to this Finding. OCE has revised this Final Report consistent with the general comments offered by CVLAS.

Finding 31: The files that were reviewed during the visit demonstrated CVLAS' compliance with the requirements of certain other LSC statutory prohibitions (42 USC 2996f § 1007 (a) (8) (Abortion), 42 USC 2996f § 1007 (a) (9) (School desegregation litigation), and 42 USC 2996f § 1007 (a) (10) (Military selective service act or desertion)).

Section 1007(b) (8) of the LSC Act prohibits the use of LSC funds to provide legal assistance with respect to any proceeding or litigation which seeks to procure a non-therapeutic abortion or to compel any individual or institution to perform an abortion, or assist in the performance of an abortion, or provide facilities for the performance of an abortion, contrary to the religious beliefs or moral convictions of such individual or institution. Additionally, Public Law 104-134, Section 504 provides that none of the funds appropriated to LSC may be used to provide financial assistance to any person or entity that participates in any litigation with respect to abortion.

Section 1007(b) (9) of the LSC Act prohibits the use of LSC funds to provide legal assistance with respect to any proceeding or litigation relating to the desegregation of any elementary or secondary school or school system, except that nothing in this paragraph shall prohibit the provision of legal advice to an eligible client with respect to such client's legal rights and responsibilities.

Section 1007(b) (10) of the LSC Act prohibits the use of LSC funds to provide legal assistance with respect to any proceeding or litigation arising out of a violation of the Military Selective Service Act or of desertion from the Armed Forces of the United States, except that legal assistance may be provided to an eligible client in a civil action in which such client alleges that he was improperly classified prior to July 1, 1973, under the Military Selective Service Act or prior law.

All of the sampled files that were reviewed during the visit demonstrated CVLAS' compliance with the above LSC statutory prohibitions.

CVLAS offered no comments to this Finding in its response to the DR. Accordingly, OCE has made no revision to this Finding.

Finding 32: Review of documents and interviews with staff indicates that, contrary to 45 CFR § 1630.2(g)(3), CVLAS paid late fees, penalties and finance charges using LSC funds.

Among other things 45 CFR Part 1630 is intended to provide uniform standards for the allowability of costs. *See* 45 CFR § 1630.1. Expenditures by a recipient are allowable under the recipient's LSC grant to the extent that the recipient can demonstrate that the cost satisfies the criteria stated at 45 CFR § 1630.3. Costs may be disallowed upon a finding by LSC that:

1. There may have been a violation of a provision of a law, regulation, contract, grant, or other agreement or document governing the use of LSC funds;
2. The cost is not supported by adequate documentation; or
3. The cost incurred appears unnecessary or unreasonable and does not reflect the actions a prudent person would take in the circumstances.

See 45 CFR § 1630.2(g).

From a limited review of the financial records, and interviews with staff from January 1, 2008 through December 31, 2010, revealed that CVLAS has paid late fees, penalties, and finance charges using LSC funds. A selection of invoices indicated that several of these type charges were charged against the LSC fund balances (Basic Field, Migrant, & PAI). CVLAS' policy is to charge late fees, penalties, and finance charges to whatever account the invoice falls under, (i.e. supplies, litigation, dues and fees, etc.). At the time of the visit, the 2010 charges had not been allocated to the LSC accounts listed on the Trial Balance. In response to this Draft Report, CVLAS is instructed to identify the amount(s) of finance charges, late fees, and/or penalties charged against its LSC fund balance in 2010.

To the extent that these costs appear unreasonable or unnecessary, CVLAS should calculate the amount charged to its LSC funds from 2008 – 2010 and remit that amount to LSC or do an interfund transfer.

CVLAS offered no comments to this Finding in its response to the DR. Accordingly, OCE has made no revision to this Finding.

Finding 33: At the time of this review CVLAS had not recorded all of its entries to determine if it had a surplus or deficit balance in the Basic Field, Migrant, and PAI funds at December 31, 2010 year end.

Part 1628 of the LSC regulations governs fund balances. Recipients may retain from one fiscal year to next and LSC fund balance of up to 10% of their LSC support. Recipients may request a waiver to retain a fund balance up to a maximum of 25% of their LSC support for special circumstances. Recipients may request a waiver to retain a fund balance in excess of 25% of the recipient’s LSC support only in certain extraordinary and compelling circumstances. *See* 45 CFR §§ 1628.3(a), (b), and (c).

Fund balance deficits are addressed at 45 CFR § 1628.5. That section instructs that sound financial management practices such as those set out in Chapter 3 of the LSC Accounting Guide for LSC Recipients (2010 Ed.) should preclude deficit spending. Use of current year LSC grant funds to liquidate deficit balances in the LSC fund from a preceding period requires prior written approval from LSC.

Chapter 3 of the LSC Accounting Guide for LSC Recipients (2010 Ed.) requires that recipients, under the direction of its governing body, establish and maintain adequate accounting records and internal control procedures sufficient to provide reasonable assurance that transactions are properly recorded and accounted for, that transactions are consistent with applicable laws and regulations, and that funds are safeguarded against loss from unauthorized use of disposition.

CVLAS should record all entries monthly and close out their books and adhere to their closing schedule each month. This practice will allow management to track costs and make comparisons of actual results from operations versus budget. This practice will also allow management to see how effective and efficient the program is operating.

CVLAS offered no comments to this Finding in its response to the DR. Accordingly, OCE has made no revision to this Finding.

Finding 34: Review of documents and interviews with staff indicates that, contrary to the Accounting Guide for LSC Recipients (2010 Ed.), CVLAS received derivative income of \$16,350 without allocating a portion to the LSC fund.

An examination of CVLAS’ audited financial statement for the review period revealed that the program did not allocate any of its derivative income to the LSC fund. The LSC Accounting

Guide for Recipients (2010 Ed.) requires recipients to allocate a portion of their derivative income to the LSC fund. CVLAS received rental income of \$10,800 from 2008-2010, and \$5,550 from 2006-2007. CVLAS should transfer a portion of the rental income to LSC using the Interfund Transfer based on their cost allocation method. In response to the Draft Report, CVLAS was instructed to identify the amount, if any, credited to its LSC fund.

In response to the DR, CVLAS stated that it will reallocate a portion of the rental income from the Petersburg office to LSC using an interfund transfer. This will be done as soon as possible retroactively through 2008.

Finding 35: A review of CVLAS' internal controls revealed weaknesses in the following areas: (1) bank reconciliations, (2) cash receipts, (3) cash disbursements, (4) out dated financial and policy manuals, and (5) no conflict of interest policy. Also, CVLAS has been using the same Auditing firm for the last 22 years.

Bank reconciliations are not certified and/or approved by the Executive Director (or someone who has authority). The program has been cited in a previous audit for not having the bank reconciliations certified by someone who has authority. The program should ensure that the Executive Director and/or someone who has authority sign and date the bank reconciliations.

CVLAS does not deposit its cash receipts in a timely manner. Deposits should be made within at least two (2) business days. The program has been cited in several audits for not depositing cash receipts in a timely manner. CVLAS should ensure that bank deposits are made on a timely basis. CVLAS prepares their Cash Receipts Log at the end of the month. CVLAS should ensure that the cash receipts are posted daily to their Cash Receipts Log rather than at the end of the month. CVLAS should also consider adding an accounts receivable module to its accounting software package. CVLAS does not have any notification in their offices informing clients to request a receipt for all check or cash transactions. CVLAS should have signage posted in the lobby area in each of its offices informing clients about its cash policy.

In reviewing the program's travel expense policy along with a sample of expense reports for the review period, it was determined that authorized check signers approve/sign their own reimbursement checks. The program should implement a policy whereby check signers are not allowed to sign their own checks. This practice of internal controls is one safeguard to help eliminate collusion between employees and one measure in identifying fraudulent activity amongst employees.

CVLAS utilizes financial accounting and policy manuals that are dated going back to 1991. The program should consider updating their financial accounting and policies manuals. Also, they should incorporate any changes, modifications and/or revisions made to their current version.

CVLAS should also establish a conflict of interest policy for their Board of Directors. Its IPA also cited the program in its previous 2009 audit for not having a conflict of interest policy.

CVLAS has used the same auditing firm for the last 22 years. A good practice is to put this assignment out for competitive bidding every three to five years. CVLAS should consider changing auditing firms for 2012.

CVLAS should share these findings with their IPA.

CVLAS offered no comments to this Finding in its response to the DR. Accordingly, OCE has made no revision to this Finding.

IV. RECOMMENDATIONS¹⁰

In view of the foregoing, OCE makes the following recommendations:

1. CVLAS should adopt “other significant factors” as an authorized exception to its annual income ceiling.
2. CVLAS should undertake a review of all cases opened prior to 2009 that remained open as of March 1, 2011. All inactive, or dormant, cases should be closed administratively and identified for exclusion from CSR reporting.
3. CVLAS should annotate its ACMS each time a PAI progress report is requested.
4. CVLAS should take such action as is necessary to conform its use of the CSR case closure categories to the CSR Handbook (2008 Ed.).
5. To the extent that CVLAS chooses to advise its staff of the prohibitions stated in Part 1608, OCE recommends that it address all of the prohibitions.
6. CVLAS should amend that section of its Personnel Manual on attorneys’ fees consistent with LSC Program Letter 10-1 (February 18, 2010).
7. CVLAS should consider amending the section of its Personnel Manual on solicitation to address the permissible activities under 45 CFR Part 1638.
8. CVLAS should amend the section of its Personnel Manual on solicitation to address the permissible activities outlined at 45 CFR § 1638.4.
9. CVLAS should consider updating their financial accounting and policies manuals.
10. CVLAS should consider adding an accounts receivable module to its accounting software package.

In response to the DR, CVLAS stated that it accepts and appreciates the Recommendations and will consider adopting all of them in new policies throughout 2011. In particular, CVLAS will begin a review of cases opened prior to 2009 and administratively close all inactive or dormant cases.

CVLAS stated that it held a program-wide training in September 2010 on CSR case closing codes and the proper entry of data in its ACMS. Another training will be held in the fall of 2011 on these same topics. CVLAS stated that it is also engaged in re-drafting its operations and financial manuals.

¹⁰ Items appearing in the “Recommendations” section are not enforced by LSC and therefore the program is not required to take any of the actions or suggestions listed in this section. Recommendations are offered when useful suggestions or actions are identified that, in OCE’s experience, could help the program with topics addressed in the report. Often recommendations address potential issues and may assist a program to avoid future compliance errors. By contrast, the items listed in “Required Corrective Actions” must be addressed by the program, and will be enforced by LSC.

V. REQUIRED CORRECTIVE ACTIONS

Consistent with the Findings of this report, CVLAS is required to take the following corrective actions:

1. Revise its financial eligibility policy to ensure that it also considers income prospects and seasonal variations in determining financial eligibility, particularly with respect to migrant workers

CVLAS offered no response specific to this Required Corrective Action.

2. Revise its financial eligibility policy to ensure that consideration of voluntary support payments is limited to those payments that are fixed both in terms of time and amount.

CVLAS offered no response specific to this Required Corrective Action.

3. Revise its financial eligibility policy to eliminate the distinction between liquid and non-liquid assets.

In response to the DR, CVLAS stated that it has revised its eligibility policy, eliminating the distinction between liquid and non-liquid assets. The distinction remains in form, but is unused in its ACMS, which will be changed when CVLAS completes all proposed changes to its ACMS.

4. Revise its financial eligibility policy to clarify that the legal assistance provided to referrals from LINC is non-LSC funded, or remove this language from its Manual

CVLAS offered no response specific to this Required Corrective Action.

5. Ensure compliance with CSR Handbook (2008 Ed.), § 3.2.

In response to the DR, CVLAS stated that at the time of the visit, there were policies in place, although there may have been incidents where the policy was not followed as consistently as CVLAS would prefer. CVLAS expressed its appreciation for the opportunity to focus on these particular policies and stated that it will hold a full staff meeting to address each of these policies individually.

6. Ensure compliance with CSR Handbook (2008 Ed.), § 3.3.

In response to the DR, CVLAS stated that at the time of the visit, there were policies in place, although there may have been incidents where the policy was not followed as consistently as CVLAS would prefer. CVLAS expressed its appreciation for the opportunity to focus on these particular policies and stated that it will hold a full staff meeting to address each of these policies individually.

7. Ensure compliance with CSR Handbook (2008 Ed.), § 5.3.

In response to the DR, CVLAS stated that at the time of the visit, there were policies in place, although there may have been incidents where the policy was not followed as consistently as CVLAS would prefer. CVLAS expressed its appreciation for the opportunity to focus on these particular policies and stated that it will hold a full staff meeting to address each of these policies individually.

8. Ensure that each case reported to LSC contains the documentation of citizenship/alien eligibility required by CSR Handbook (2008 Ed.), § 5.5.

In response to the DR, CVLAS stated that at the time of the visit, there were policies in place, although there may have been incidents where the policy was not followed as consistently as CVLAS would prefer. CVLAS expressed its appreciation for the opportunity to focus on these particular policies and stated that it will hold a full staff meeting to address each of these policies individually.

9. Conform its citizenship attestation to the requirements of CSR Handbook (2008 Ed.), § 5.5.

In response to the DR, CVLAS stated that it has revised its citizenship attestation signature line so that it is separate and tied only to the citizenship attestation.

10. Ensure that each case reported to LSC contains a description of the legal assistance provided to the client as required by CSR Handbook (2008 Ed.), § 5.6.

In response to the DR, CVLAS stated that at the time of the visit, there were policies in place, although there may have been incidents where the policy was not followed as consistently as CVLAS would prefer. CVLAS expressed its appreciation for the opportunity to focus on these particular policies and stated that it will hold a full staff meeting to address each of these policies individually.

11. Ensure compliance with 45 CFR § 1611.9.

In response to the DR, CVLAS stated that at the time of the visit, there were policies in place, although there may have been incidents where the policy was not followed as consistently as CVLAS would prefer. CVLAS expressed its appreciation for the opportunity to focus on these particular policies and stated that it will hold a full staff meeting to address each of these policies individually.

12. Adopt written procedures to guide its staff in complying with Part 1609.

In response to the DR, CVLAS stated that it has adopted written policies regarding fee generating cases in compliance with 45 CFR Part 1609 and has included them in its Goals and Priorities Manual.

13. Ensure compliance with 45 CFR § 1610.5.

In response to the DR, CVLAS stated that at the time of the visit, there were policies in place, although there may have been incidents where the policy was not followed as consistently as CVLAS would prefer. CVLAS expressed its appreciation for the opportunity to focus on these particular policies and stated that it will hold a full staff meeting to address each of these policies individually.

14. Ensure that case handlers' time records are documented and accounted for in Kemps for time worked towards PAI activities.

In response to the DR, CVLAS stated that at the time of the visit, there were policies in place, although there may have been incidents where the policy was not followed as consistently as CVLAS would prefer. CVLAS expressed its appreciation for the opportunity to focus on these particular policies and stated that it will hold a full staff meeting to address each of these policies individually.

15. Ensure that case handlers' time charged to PAI is based on actual hours worked and not leave.

In response to the DR, CVLAS stated that at the time of the visit, there were policies in place, although there may have been incidents where the policy was not followed as consistently as CVLAS would prefer. CVLAS expressed its appreciation for the opportunity to focus on these particular policies and stated that it will hold a full staff meeting to address each of these policies individually.

16. Ensure that the 2010 PAI cost allocation for litigation and travel costs are specific to identifiable PAI activities.

In response to the DR, CVLAS stated that at the time of the visit, there were policies in place, although there may have been incidents where the policy was not followed as consistently as CVLAS would prefer. CVLAS expressed its appreciation for the opportunity to focus on these particular policies and stated that it will hold a full staff meeting to address each of these policies individually.

17. Document its method of allocating common costs to PAI.

In response to the DR, CVLAS stated that retroactively through 2010, it will allocate only direct costs to its PAI program. CVLAS stated that it will no longer allocate common costs to PAI. In the next few months, all staff will receive training on entering time into a computer timekeeping program. This will help ensure that direct PAI work will be assigned to PAI funding. All common time will be assigned to LSC or another appropriate funding source.

OCE urges CVLAS to reconsider its decision and OCE is available to assist CVLAS in developing a method of allocating common costs. Such a decision by CVLAS

could very well hinder its ability to request a partial waiver under 45 CFR § 1614.6(c)(3).

18. Address the charges referenced in Finding 19 and record all non-mandatory membership fees and dues to a non-LSC fund.

In response to the DR, CVLAS stated that it has retroactively re-assigned all membership fees and dues to a non-LSC source for FY 2010. No membership fees or dues will be assessed to its LSC fund in the future.

19. Ensure that time reported by case handlers is entered into Kemps and comprise all of the efforts or time for which they are compensated.

In response to the DR, CVLAS stated that at the time of the visit, there were policies in place, although there may have been incidents where the policy was not followed as consistently as CVLAS would prefer. CVLAS expressed its appreciation for the opportunity to focus on these particular policies and stated that it will hold a full staff meeting to address each of these policies individually.

20. Ensure that senior management reviews time records on a consistent basis.

In response to the DR, CVLAS stated that at the time of the visit, there were policies in place, although there may have been incidents where the policy was not followed as consistently as CVLAS would prefer. CVLAS expressed its appreciation for the opportunity to focus on these particular policies and stated that it will hold a full staff meeting to address each of these policies individually.

21. Amend the section of its policy on lobbying to address all of the prohibitions stated in Part 1612 and to adopt procedures to guide its staff in complying with Part 1612.

CVLAS offered no response specific to this Required Corrective Action.

22. Adopt procedures to guide its staff with respect to individual clients seeking to withdraw or opt out of class action, or those seeking to obtain the benefit of relief ordered in a class action, or the other exceptions stated at 45 CFR § 1617.2(b).

CVLAS offered no response specific to this Required Corrective Action.

23. Adopt procedures to guide its staff with respect to clients who become incarcerated after litigation has commenced.

CVLAS offered no response specific to this Required Corrective Action.

24. Amend the section of its Personnel Manual on suicide, euthanasia, and mercy killing to address the prohibition contained at 45 CFR §§ 1643.2(b) and (c).

CVLAS offered no response specific to this Required Corrective Action.

25. Calculate the amount charged to its LSC funds from 2008 through 2010 for late fees, penalties, and finance charges and remit that amount to LSC or do an interfund transfer

In response to the DR, CVLAS stated that it will re-calculate the amounts charged to LSC for late fees, finance charges, and penalties and transfer these costs to another fund. This will be done as soon as possible, retroactive through 2008.

26. Transfer a portion of its rental income to LSC using an interfund transfer based on its cost allocation method.

In response to the DR, CVLAS stated that it will reallocate a portion of its rental income from the Petersburg office to LSC via interfund transfer. This will be done as soon as possible, retroactive through 2008.

27. Ensure that the Executive Director and/or someone who has signature authority sign and date the bank reconciliations.

In response to the DR, CVLAS stated that at the time of the visit, there were policies in place, although there may have been incidents where the policy was not followed as consistently as CVLAS would prefer. CVLAS expressed its appreciation for the opportunity to focus on these particular policies and stated that it will hold a full staff meeting to address each of these policies individually.

28. Ensure that bank deposits are made on a timely basis.

In response to the DR, CVLAS stated that at the time of the visit, there were policies in place, although there may have been incidents where the policy was not followed as consistently as CVLAS would prefer. CVLAS expressed its appreciation for the opportunity to focus on these particular policies and stated that it will hold a full staff meeting to address each of these policies individually.

29. Ensure that the cash receipts are posted daily to their Cash Receipts Log rather than at the end of the month.

In response to the DR, CVLAS stated that at the time of the visit, there were policies in place, although there may have been incidents where the policy was not followed as consistently as CVLAS would prefer. CVLAS expressed its appreciation for the opportunity to focus on these particular policies and stated that it will hold a full staff meeting to address each of these policies individually.

30. Place signage in the lobby area in each of its offices informing clients about its cash policy.

In response to the DR, CVLAS stated that it has adopted a policy of not accepting cash from clients in any of its offices. Signs advising clients of this policy have been posted in each office.

31. Implement a policy whereby check signers are not allowed to sign checks to themselves.

In response to the DR, CVLAS stated that at the time of the visit, there were policies in place, although there may have been incidents where the policy was not followed as consistently as CVLAS would prefer. CVLAS expressed its appreciation for the opportunity to focus on these particular policies and stated that it will hold a full staff meeting to address each of these policies individually.

32. Establish a conflict of interest policy for their Board of Directors.

In response to the DR, CVLAS stated that at the time of the visit, there were policies in place, although there may have been incidents where the policy was not followed as consistently as CVLAS would prefer. CVLAS expressed its appreciation for the opportunity to focus on these particular policies and stated that it will hold a full staff meeting to address each of these policies individually.

33. Establish policies and procedures as required by 45 CFR § 1627.8.

In response to the DR, CVLAS stated that at the time of the visit, there were policies in place, although there may have been incidents where the policy was not followed as consistently as CVLAS would prefer. CVLAS expressed its appreciation for the opportunity to focus on these particular policies and stated that it will hold a full staff meeting to address each of these policies individually.

LAW OFFICES
CENTRAL VIRGINIA LEGAL AID SOCIETY, INC.

RICHMOND OFFICE

101 WEST BROAD STREET, SUITE 101 • P.O. BOX 12206 • RICHMOND, VA 23241

(804) 648-1012
FAX: (804) 649-8794

Direct Dial (804) 200-6049

June 19, 2011

Danilo A. Cardona, Director
Office of Compliance and Enforcement
Legal Service Corporation
3333 K Street, NW 3rd Floor
Washington, DC 20007-3522

Re: CSR/CMS Visit, Recipient No. 447030

Mr. Cardona:

Please accept this letter as Central Virginia Legal Aid Society's (CVLAS) response to the Draft Report for the on site Case Service/Case Management System review of our program which took place on March 14-18, 2011.

Thank you very much for allowing us the opportunity to respond and for your offer to continue to act as a resource regarding the subjects addressed in your report. On behalf of our entire program I would also like to extend my thanks to your team for their consideration during the visit and their openness and willingness to help our staff.

CVLAS is in period of transition. I became Executive Director on April 1, 2010, replacing Henry McLaughlin who had served in that position for 32 years. A large part of last year was spent in reviewing all of CVLAS' systems and policies and we have begun a process of redeveloping these processes with a hope to find more effective and efficient means of doing them. At the time of your review we had only completed a few of the changes contemplated. The results of OCE's review will certainly benefit us in this endeavor and we look forward to sharing our results in the near future.

I circulated your draft report to CVLAS' leadership team and Calvin Ramirez, CVLAS' auditor. The combined comments of these folks are below.

I. EXECUTIVE SUMMARY

Pages 1-3: We note that out of the 35 findings made by OCE, CVLAS was compliant or substantially compliant in 27 and we have some differences in several of the areas where CVLAS was found to be not in compliance.



Serving: Richmond Henrico Powhatan Hanover Goochland New Kent Chesterfield

II. BACKGROUND OF REVIEW

Page 4: The CSR/CMS report describes CVLAS' staff slightly different than our actual staff makeup. CVLAS' staff at the time of the CSR/CMS review consisted of 24 employees, including its Executive Director, the Director of the Virginia Farmworkers Program (migrant unit), the Director of Litigation, a full time Senior Managing Attorneys, and a part time Managing Attorney, the Director of Volunteer Services (PAI), the Fiscal Manager, a part time Director of Operations, four staff attorneys, eight intake assistants (including one for older adults, one for Domestic Violence, and one for No-fault Divorces), a part time intake assistant, a part time Director of Intake, a Virginia Farmworker Program Outreach Assistant, and the Executive Secretary.

III. FINDINGS

In general, CVLAS relies on several in house manuals for Case Management. These manuals are the LSC CSR Manual, CVLAS' Goals and Priorities Manual for the year, and CVLAS' Intake Procedures Manual. CVLAS also has a Personnel Manual, which is currently in draft form. The Personnel Manual only mentions case management policies or priorities in passing. The OCE monitoring team's report refers to the CVLAS Personnel Manual on numerous occasions citing CVLAS policy. This seems to be in error and the team actually appears to be quoting policies in one of the two other manuals.

Page 7: Finding 2: The hours CVLAS is open for intake is from 9:00 a.m. to 11:30 a.m. and 1:00 p.m. to 2:30 p.m. (Not 9:00 a.m. to 11:00 a.m. and 1:00 p.m. to 3:30 p.m.). CVLAS intake assistants make call backs after 2:30 p.m. (not after 3:30 p.m.).

Page 14: Finding 10: The report states that 21 files out of 270 reviewed lacked a description of the legal assistance provided the client. This would mean that 249, or 92%, contained such a description. This seems to be a result that equals substantial compliance rather than, "not in compliance" as the Finding states.

Page 16: Finding 12: The report states that 28 files out of 270 reviewed were not timely closed. This would mean that 242, or 90%, were timely closed, which seems like substantial compliance rather than "not in compliance" as the Finding states.

III. RECOMMENDATIONS

Page 34: CVLAS accepts and appreciates the recommendations made in this section and we will consider adopting all of them in new policies throughout 2011. In particular, we will begin a review of all cases opened prior to 2009 and administratively close all inactive or dormant cases. In September 2010 we held a program wide training on CSR case closing codes and the proper entry of data in our ACMS. We will hold training in the fall of 2011 on these same topics. We are also engaged in a redrafting of our operations and financial manuals, neither which has been updated in several years.

IV. REQUIRED CORRECTIVE ACTIONS

Page 35-36: Of the thirty four listed required corrective actions, several were the result of a lack of proper CVLAS policy or procedure. These deficiencies will be corrected in the next few months or are already being implemented. These include the actions described in paragraphs 3, 5, 10, 13, 18, 19, 26, 27, and 31. Note: Corrective Actions 3 and 5 are duplicates of each other.

Specifically, CVLAS has completed or will complete the following:

- A. Revised its eligibility policy, eliminating the distinction between liquid and non-liquid assets. The distinction remains in form but unused in our ACMS. This will be changed when we complete all proposed changes to the ACMS.
- B. Revised its citizen attestation signature line so that it is separate and tied only to the citizen attestation.
- C. Adopted written policies regarding fee generating cases in compliance with 45 CFR 1609 and included them in its Goals and Priorities Manual.
- D. Retroactively through 2010 allocated only direct costs to the PAI program. CVLAS will in the future no longer allocate common costs to this program. In the next few months all staff will receive training on entering time into a computer time keeping program. This will help ensure that direct work in the PAI program will be assigned to PAI funding. All common time will be assigned to LSC or another appropriate funding source.
- E. Retroactively re-assigned all membership fees and dues to a non LSC source for FY 2010. No membership fees or dues will be assessed to LSC funding in the future.
- F. Re-calculate the amount charged to LSC for late fees, finance charges, and penalties and transfer these costs to another fund. This will be done as soon as possible retroactively through 2008.
- G. Reallocate a portion of our rental income from the Petersburg office to LSC Using an interfund transfer. This will be done as soon as possible retroactively through 2008.
- H. Adopted a policy of not accepting cash from clients in any of its offices and posting signs in each office advising clients of this policy.

The majority of the others, including actions mentioned in paragraphs 6, 7, 8, 9, 11, 12, 14, 15, 16, 17, 20, 21, 28, 29, 30, 32, 33, and 34 were in place at the time of the monitoring visit, although there may have been incidents where the policy was not followed as consistently as we would prefer. CVLAS appreciates the opportunity to focus on these particular policies to ensure compliance. We will hold a full staff meeting as soon as practicable to address each of these policies individually.

June 19, 2011

Page 4

Additionally there are a few required actions which concern policies which were in place at CVLAS but because of my relative newness as Executive Director and the occasionally chaotic nature of the transitional period we are in, they were not correctly shown to the monitoring team. Proper policy in these cases existed and CVLAS staff was clearly in compliance with the policy as there was no evidence of violations. Unfortunately due to my misunderstanding and because I had not yet completed my first year at the time of the visit, these were not given to the monitors or were inadvertently stated as incorrect. These include the actions described in paragraphs 22, 23, 24, and 25.

Lastly, there are a few required actions to which we question the requirement and ask for further clarification. These include paragraphs 1, 2 and 4. In these corrective actions, CVLAS was reminded or cautioned that the policy we have in place could result in a violation if it were applied in a particular way. There was no evidence that CVLAS had violated LSC regulations with the policy and therefore does not believe that the actions stated are required.

Thank you again for the opportunity to respond to this report. Please do not hesitate to contact me if you have any questions regarding this letter. CVLAS is happy to provide documentation of the changes described herein as needed or required.

Very truly yours,

Stephen E. Dickinson