

LEGAL ASSISTANCE OF WESTERN NEW YORK, INC.®

361 South Main Street, Geneva, New York 14456

Tele: (315)781-1465 (Voice/TDD)

1-866-781-5235 (Toll Free-Clients Only)

Fax: (315)781-2565

Website: www.lawny.org

August 9, 2012

Cheryl Nolan
Program Counsel
Legal Services Corporation
Office of Program Performance
3333 K Street, NW 3rd Floor
Washington, D.C. 20007-3522

RE: Response to Draft Report for Program Visit to
Legal Assistance of Western New York, Inc.®
Recipient #233130

Dear Cheryl:

Please accept this letter as the comments from Legal Assistance of Western New York, Inc.® (LawNY®), responding to the July 10, 2012 draft report for the Legal Services Corporation's (LSC) program visit to LawNY® during the week of April 16 – April 20, 2012. In order to ensure your timely receipt of this letter, I am sending it to you at nolanc@lsc.gov on today's date as an attachment to an email. The original signature letter will follow by first class mail.

First, LawNY® would appreciate your extending our appreciation to each member of the team – including both the Office of Program Performance (OPP) program staff members and the temporary employees – for their professionalism during the visit. I received uniformly positive comments from LawNY® staff members in all seven offices regarding your team members' courteous interactions with them, which included your team's consideration of our client relationships. As the team leader, LawNY® asks that you accept our additional appreciation for your well organized and implemented visit.

LawNY® would like to thank you and your team for issuing a draft report which, in sum and substance, corroborates what we at LawNY® all believe: that we have a very talented and creative staff, a decades long history working in the 14 counties in our service area, an extensive, positive community presence, a deep knowledge of the legal issues of concern in our low-income communities and first hand knowledge of how to address our clients' concerns through our legal work in a broad variety of substantive law practice

 LSC

C. Nolan
Page 2
August 9, 2012

areas and procedural venues. We see ourselves as a strong program that leads and innovates. The spirit and tone of the site visit, as well as many of the findings in your draft report, corroborate that view. We intend to use your recommendations as an opportunity to grow even stronger.

With this letter, I will identify minor factual errors and provide some substantive comments regarding some of the recommendations. LawNY[®] hopes that LSC will consider the information provided in this letter before issuing the final report from the site visit. Intending to be helpful, please know that our comments are in the same order as their counterpart in the draft report.

Overview of Program and Service Area:

A minor correction is needed in the last paragraph of this section on page 2. The draft report states that LawNY[®] receives an LSC TIG grant to promote on-line triage. Although we have applied for such a grant in the current TIG funding cycle, we are not presently in receipt of such a grant. We hope to implement this project should our application for funding be approved.

Summary of Findings:

On page 3, in the third full paragraph regarding the website discussion, and later in various parts of the draft report, there are references to the statewide website for clients, www.lawhelp.org/NY, and its LiveHelp chat feature. LawNY[®]'s full involvement with the LawHelp/NY statewide website, however, is never made clear. In one of our leadership roles in the overall statewide delivery system, since 2006, LawNY[®] has served as the upstate staffing partner for the LawHelp Consortium. LawHelp has four areas of information: finding free legal services offices in particular communities; learning about the law and legal rights; getting information about using the court system; and finding other organizations that may be able to help. LawNY[®] has conducted outreach and education regarding LawHelp among groups of low-income people, legal services providers, other human service providers and legislators and their staffs. In addition, LawNY[®] serves as the organizational listing coordinator for all of the counties outside of the five boroughs in New York City. We also regularly contribute to content on the website, including interactive interviews which generate pleadings for users and the development of the veterans and military resources topic area. Finally, from its inception in 2010, the website's LiveHelp program was first developed by and since then has been

coordinated by LawNY[®] Equal Justice Works AmeriCorps fellows who have been physically housed at the LawHelp office located at the City Bar Justice Center in New York City. LiveHelp is the on-line, real time chat feature which provides assistance to persons navigating the site. LiveHelp served 4,900 visitors through 80 volunteers which our EJW AmeriCorps fellows recruited to serve in the 2010 – 2011 academic year and 81 volunteers who served in the 2011 – 2012 academic year.

In the third paragraph on page 4 regarding our diversified funding, there is an update with regard to the \$1 million budget deficit for 2013 which we discussed during the site visit. Since the time of the site visit, we have received extremely encouraging news from various state funders, including: an increase in our funding from the Office of Court Administration in the sum of \$656,000; an award from the NYS Office of the Attorney General in the sum of \$100,000 to provide foreclosure prevention services; and three separate new awards from the NYS Office of Temporary and Disability Assistance totaling \$364,000 for the Solutions to End Homelessness Program (STEHP).

Finding 1:

LawNY[®] agrees that we are responsive to the needs in our communities and that we structure our service delivery system based upon comprehensive assessments of legal needs, the last of which took place in 2010. We will undertake another comprehensive assessment of the legal needs in our service area during 2013.

Finding 2:

LawNY[®] agrees that our case handling reflects program priorities, that we provide services in a broad variety of areas and that we are deliberate in pursuing funding opportunities to help us grow services in the demonstrated areas of need.

Finding 3:

In keeping with our ongoing efforts to operate as a single program, LawNY[®] hopes that the final report will emphasize the progress that we have made in implementation of our strategic plan, particularly LawNY[®]'s identification, formation and implementation of substantive work groups. By pairing less experienced staff with more experienced staff throughout the program and assigning to them the responsibility for convening meetings in the areas of education, elder law, fair housing, family, housing, public benefits and unemployment insurance benefits/employment law matters we have successfully adapted a model used in large private firms to our own needs. In the process, we have identified

and nurtured potential program leaders while improving client services. For those advocates who are unable to attend the meetings, the group leaders prepare detailed notes in each practice area that identify trends, system issues and changes in the law.

The substantive work groups are in addition to the general staff level policy work groups which have been active since prior to the time of the merger in 2004. These include our work groups on advocacy, intake, pro bono, technology and training, leadership development and diversity. In addition, regular meetings of our administrative team and our management team take place. Post merger accomplishments of our staff level policy work groups include the development of our attorney performance standards, our technology plan, our technology use policy and, at the present time, the initiative to establish a leadership development plan.

We believe that the newly formed substantive work groups combined with the staff level policy groups have helped bridge the substantial distances between our offices and helped us realize the advantages to our clients when we operate as a single law office.

Finding 4:

LawNY[®] agrees with the finding that we foster a culture of outcomes measurement and internal evaluations of the effectiveness of our services.

Finding 5:

LawNY[®] agrees with the finding that we are linguistically and culturally competent and treat our clients with dignity and respect. Please note, however, that we have discontinued the use of the Foreign Language Assistance Team (FLAT), a group of volunteer law students that interpreted for clients and translated written materials. We eliminated this component of the Law Students in Action Project after conducting an assessment and concluding that there were too many quality control issues for us to continue to utilize volunteer law students in this manner. Best practices dictate that translation and interpretation services be provided by professionally trained, credentialed and experienced individuals.

In the discussion regarding this finding, it should also be noted that LawNY[®] provides services to a significant number of hearing impaired persons. Being the location of the National Institute for the Deaf at the Rochester Institute of Technology, Monroe County has one of the highest concentrations of hearing impaired people in the United States. We

provide access to our services to clients from this community through the Rochester Institute of Technology sign language services and Berlitz translation services.

Finding 6:

With regard to Finding 6, LawNY® would like to clarify that by our participation in shared reception services with the other providers located at the Telesca Center for Justice, our Rochester office has and uses call management software to improve client access to that high volume call center.

Finding 7:

LawNY® would like to clarify finding 7. Actually, the Rochester office prioritizes emergencies over non-emergencies due to the volume of intake. LawNY® does not triage emergencies.

Although finding 7 accurately describes the intake system in the Rochester office in many respects, it omits one important fact. When a telephone call is not answered (because an intake worker is not available) the call will go into a telephone drop box. The Rochester office responds to all unanswered telephone calls sent to the telephone drop box on the same day that the caller made the call.

Finding 8:

We would like to clarify that under the streamlined screening process for the Geneva office's housing intake and for veterans' calls, callers do not, at the outset, necessarily receive counsel and advice. These callers are screened for whether they have meritorious cases that fall within LawNY®'s present priorities. If so, then financial eligibility will be determined, full intakes conducted and counsel and advice or a higher level of service provided. Initially, however, caller information is not entered into our case management system, the caller does not become a LawNY® client and the caller leaves with generalized information, not tailored counsel and advice. LawNY® reports these calls to LSC in our report on other services, not in our case service report.

Performance Area Two, Criterion 1 Recommendations:

LawNY® was stunned by the tier one recommendation that we consider program wide coordination of intake through our program's intake work group above and beyond current practices.

LawNY[®] has uniform standards for intake in our intake manual. Our intake manual allows us to comply with all of LSC's requirements regarding financial and asset eligibility, citizenship and documented status screening and intaking cases within priorities without running afoul of institutional restrictions.

There are no problems with client access to our services, with most clients seen on the same day that they contact LawNY[®]. Given that we have uniform standards that are compliant with what LSC requires and that we see clients virtually immediately, with little or no wait time, further coordination of program wide intake will result in an unnecessary expenditure of limited resources. LawNY[®] specifically requests that LSC eliminate this recommendation in your final report or, alternatively, make it a tier two recommendation.

LawNY[®]'s intake system allows virtually unfettered access to our services by the members of the low-income communities in our large mixed urban/rural service area. LawNY[®] is proud of each office's acumen and ability to tailor its intake system to meet the needs of the particular low-income communities it serves. We take exception to the conclusion that further coordination would enhance current integration and help implement best practices throughout the program.

Since the time of the site visit we have learned that our AmeriCorps paralegal program has received renewal funding for 2013 and that we will be able to staff intake in as robust a manner as we have since 2004. Our management team will discuss alternative intake systems in the absence of AmeriCorps funding in 2014, but, assuming continued funding, LawNY[®] does not see a need to implement changes of the magnitude recommended.

Through our intake work group, which developed our intake manual and our LEP policies, staff discuss best practices and receive training on intake and the dynamics of working with applicants for our services who often find themselves in extremely stressful situations. In sum and substance, we already have the program wide coordination which LSC calls for.

Finally, with regard to finding II.1.7.1, as noted earlier, the LawNY[®] Rochester office does have call management software which allows us to track volume by legal services providers. The call management software also allows us to track the length of time of each call, the amount of time that a caller is asked to wait and the number of unanswered calls.

Finding 10:

LawNY[®] agrees that our office locations, hours and LEP procedures are calculated to achieve the broadest possible access by clients.

Finding 11:

LawNY[®] agrees that we have a cadre of highly competent and experienced legal work management staff and case handlers and that we provide them with all necessary staff development opportunities.

Finding 12:

We agree that we provide ample oversight for legal work with a collaborative approach toward maintaining the high quality of our services.

Finding 13:

We agree that we maintain effective systems for case work supervision and continue to work toward a uniform, written legal work management manual.

Finding 14:

We agree that we provide staff with the means to stay abreast of new developments in the law and that we have ways to meet and discuss the current status of the law.

With regard to the amount allocated for litigation support, we note two things. First, for our fair housing enforcement project, which is funded by HUD and does not contain income guidelines for program services, we routinely ask clients who have means to pay ongoing litigation costs themselves. In addition, our management team is not aware of an instance when the program was asked by an advocate to cover a litigation cost, such as a deposition or an expert witness, and had his/her request denied. We will conduct a staff education effort to ensure that all staff members are clear that when needed, the program can and will allocate reasonable sums for litigation support.

Finding 15:

We were not aware until we reviewed this finding how LawNY[®] compares to other programs regarding closed cases generally, closed extended service cases and closed limited service cases. We are quite pleased to have learned that we significantly exceed

national medians in all three respects. We were also pleased to learn that we are well above the national median in contested cases per 10,000 poor persons in our service area.

Finding 16:

LawNY[®] agrees and we are grateful that LSC has concluded that we provide quality services to our clients. The LawNY[®] goals expressed in finding 16 are accurate – we hope to increase extended services and advocacy geared to achieve greater impact on the low-income population as a whole.

In the discussion regarding this finding, please note one slight factual correction. On page 19, in the second full paragraph, our staffing expansion for our veterans project allowed us to grow services into three, not two, rural counties served by our Geneva office.

In addition, in the next paragraph, by way of update, we have begun implementing a clinic program for veterans in Bath. This occurred subsequent to the site visit, with the first classroom setting clinic held on 7/20/12, followed by separate one-on-one counsel and advice sessions on 7/26/12. We are presently in discussion with administrators at the Veterans Administration hospital in Canandaigua to implement a similar clinic project there.

Finding 17:

LawNY[®] agrees that we effectively integrate private attorneys in our legal representation and client services and that our PAI subcontractor, VLSP, is a model of best practices in pro bono.

In the discussion regarding this finding, it should be noted that in addition to the close working relationship between LawNY[®] and VLSP's state judicial district pro bono coordinator, who focused on the seven LawNY[®] counties in the 7th Judicial District, we had similar working relationships with the state judicial district pro bono coordinators employed by other providers in the 6th Judicial District and the 8th Judicial District, in which LawNY[®] serves four and three counties, respectively. The pro bono coordinator for the 6th Judicial District had been employed by the Legal Aid Society of Mid-New York, another LSC grantee. The pro bono coordinator for the 8th Judicial District had been employed by the Erie County Volunteer Lawyer Program, a PAI subcontractor of LSC's Buffalo based grantee, Neighborhood Legal Services.

Performance Area Three, Criterion 2 Recommendations:

With regard to the performance area three, criterion 2 recommendations, LawNY[®] has one comment, which is that the pro bono situation in New York will become increasingly more complicated effective January 1, 2013 because of a new requirement that applicants for the New York State Bar provide 50 hours of pro bono service as a condition of admission to the bar. The chief judge of the New York State Court of Appeals estimates that this new requirement will add 500,000 hours of law student pro bono time to help abate the unmet legal needs of low-income people in New York State. At this time, an advisory committee created by the chief judge is in the process of developing recommendations to implement this new program, including the definition of pro bono. We anticipate that the report will also address the need for an infrastructure for the legal services provider community, for the law schools and for the Court itself. LawNY[®] is fully supportive of the chief judge's initiative and we have provided a presentation to the advisory committee on the best practices developed by LawNY[®] through our Law Students in Action Project.

Finding 18:

LawNY[®] agrees that our goals, objectives and strategies allow us to participate in a wide range of services and activities that benefit our client population.

Finding 19:

LawNY[®] agrees that our board demonstrates effective oversight and is actively engaged in decision making.

Finding 20:

With regard to this finding, we start by noting that the discussion regarding LawNY[®]'s "failure to fully integrate" and the concomitant conclusion that this hinders our ability to make day-to-day program wide decisions is completely contradicted by the facts as noted in other parts of the draft report that: since the time of our merger in 2004, LawNY[®] has doubled the size of our staff, allowing us to significantly increase the services that we provide to our clients; we have done so by doubling the amount of our revenue; financially eligible applicants for our services with cases within our priorities have immediate access to our intake staff to have their legal problems evaluated; the services that we provide to our clients are of high quality and responsive to their needs; and we exceed the national median in outcomes such as the provision of extended services.

We do not believe that these accomplishments have occurred despite our structure, but rather, because of it.

We disagree further that the working vision of LawNY[®] is based on achieving the goals set forth in our strategic plan as opposed to a more comprehensive, long-term vision. Our long term vision is as follows: *LawNY[®] is recognized as a leading provider of access to justice, delivering comprehensive civil legal services for vulnerable populations by developing expansive and stable resources and collaborating with community and government organizations, the private bar, the courts and elected officials.* Achievement of this vision, of necessity, requires the integration of our three former merged programs, a process which continues to evolve.

In 2009 we undertook an authentic strategic planning process which included the services of an external facilitator and participation by board members, managers, front line staff and AmeriCorps intake workers from all seven offices. The plan, which continues to be implemented, has brought us closer together and has in fact caused us to continuously look at our structure. We are in a continuum which takes our history into account as we look toward the future. The process has made us stronger and will continue to do so.

Finally, in the discussion regarding finding 20, we are criticized for allocating our funds on a "formulaic, geocentric basis". We would note that we allocate our funding in accordance with the directives that we receive from our funders. For example, LSC allocates its award to us based on each county's pro rata share of the poverty population. It would appear to be inconsistent with Congressional intent and the federal funding formula for us to "flexibly" reallocate LSC funding among our offices in a different manner. Moreover, the vast majority of our grants are directed to one particular office or one particular project: from counties, the City of Rochester, the area United Ways and the offices for the aging. Similarly, our state funding is provided to us based on certain formulas, such as the census of persons with disabilities for our disability advocacy project; specific office allocations by the Legal Services Assistance Fund; and the division of our Office of Court Administration funding among two of the state court judicial departments. Presently, 92% of our funding is directed to a specific office, or a specific staffing pattern to implement a work plan that we have submitted to the funder. Funds which are not provided to us on a formula basis, such as our AmeriCorps paralegal program funding, are in fact allocated by us based upon what is best suited for the program and our clients.

Finding 21:

We are in agreement with and thank LSC for acknowledging that we have been a national leader on several legal aid technology initiatives, including our work on New York's automated forms project, the statewide legal information website and the Google apps platform. We would include in this discussion our work on plain language and readability.

By way of update, our peer-to-peer network is being upgraded in our Elmira office, leaving only one of our seven offices, Ithaca, with a need to undergo this upgrade.

Finding 22:

LawNY[®] agrees that we have capable, trained and effective staff dedicated to financial administration and human resources and that staff evaluations have been occurring timely.

Finding 24:

LawNY[®] acknowledges that we do not presently have a resource development director and that grant writing and other resource development is primarily handled by the executive director and management staff.

Please note that we are not comfortable with LSC utilizing as an example of our collaborative fundraising with other legal services programs the effort to secure cy pres awards for the New York Bar Foundation. Although, as the chair of the New York State Bar Association Committee on Legal Aid, I was peripherally involved in the cy pres effort, I did not play a leadership role in that effort. More important leadership roles have been played by LawNY[®] in connection with the overall effort to secure permanent, adequate state funding for civil legal services programs.

LawNY[®] has also, for years, played a leadership role in the development of the New York State Bar Association Partnership Conference, which, every 18 months, brings together approximately 400 legal services attorneys and paralegals and pro bono attorneys for three days of substantive training. I served as the chair of the conference in 2008 and 2010. As in the past, both I and a LawNY[®] deputy director are on the Steering Committee which is developing the upcoming conference in September 2012. Again, as in the past, LawNY[®] is also strongly represented in the group of trainers for the event, with nine staff members serving on seven panels at the upcoming September conference.

C. Nolan
Page 12
August 9, 2012

Finding 25:

LawNY[®] agrees that our delivery structure is effective and that we are an active participant in the overall delivery system statewide. We also agree that our coherent, comprehensive delivery system effectively coordinates with other providers.

Once again, thank you for the opportunity to provide our comments with regard to the draft report. If you or any other members of your staff have any questions whatsoever with regard to any of LawNY[®]'s comments, please contact me at your convenience. As you know I can be reached at kperri@lawny.org or at 315-781-1465 x1713.

Thank you for considering LawNY[®]'s comments and, also, for your offers throughout the draft report to be available as a resource regarding the subjects addressed in the draft report.

I look forward to hearing from you soon with regard to LSC's final report.

Very truly yours,



C. Kenneth Perri
Executive Director