



FINAL REPORT
LEGAL SERVICES CORPORATION
Office of Compliance and Enforcement

Community Legal Aid Services, Inc.
Compliance Review
April 15-19, 2013

Recipient No. 436030

LSC Compliance Review Team

Lisa Moore-Melton, LSC Program Counsel
Mark Watts, LSC Fiscal Compliance Specialist
Roscoe Starek, LSC Temporary Employee
Tamara Gustave, LSC Program Counsel
William P. Sulik, LSC Program Counsel (Team Leader)

I. EXECUTIVE SUMMARY

Finding 1: CLAS' 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: CLAS' intake procedures and case management system generally support the program's compliance related requirements.

Finding 3: Sampled cases, interviews, and a review of CLAS' policies evidenced compliance with the documentation required by 45 CFR § 1611.4, CSR Handbook (2008 Ed., as amended 2011), § 5.3, and applicable LSC instructions for clients whose income does not exceed 125% of the Federal Poverty Guidelines ("FPG").

Finding 4: Sampled cases, interviews, and a review of CLAS' policies evidenced compliance with asset eligibility documentation as required by 45 CFR §§ 1611.3(c) and (d) and CSR Handbook (2008 Ed., as amended 2011), § 5.4.

Finding 5: Sampled cases evidenced non-compliance with the documentation requirements set forth in 45 CFR Part 1626 (Restrictions on legal assistance to aliens).

Finding 6: Sampled cases, interviews, and a review of CLAS' policies evidenced substantial compliance with the retainer requirements of 45 CFR § 1611.9 (Retainer agreements).

Finding 7: Sampled cases, interviews, and a review of CLAS' policies evidenced compliance with the requirements of 45 CFR Part 1636 (Client identity and statement of facts).

Finding 8: Sampled cases, interviews, and a review of CLAS' policies evidenced compliance with the requirements of 45 CFR § 1620.4 and § 1620.1 (Priorities in use of resources).

Finding 9: Sampled cases, interviews, and a review of CLAS' policies evidenced substantial compliance with CSR Handbook (2008 Ed., as amended 2011), § 5.6 (Description of legal assistance provided).

Finding 10: Sampled cases, interviews, and a review of CLAS' policies evidenced that CLAS' application of the CSR case closure categories is substantially consistent with Chapters VIII and IX, CSR Handbook (2008 Ed., as amended 2011).

Finding 11: Sampled cases, interviews, and a review of CLAS' policies evidenced compliance with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 3.3 (Timely case closing).

Finding 12: Sampled cases, interviews, and a review of CLAS' policies evidenced compliance with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 3.2 (Duplicate cases).

Finding 13: Review of the recipient's policies and interviews with staff attorneys reveal that CLAS is in compliance with the requirements of 45 CFR Part 1604 (Outside practice of law).

Finding 14: Sampled cases, interviews, and a review of CLAS' policies evidenced compliance with the requirements of 45 CFR Part 1608 (Prohibited political activities).

Finding 15: Sampled cases, interviews, and a review of CLAS' policies evidenced compliance with the requirements of 45 CFR Part 1609 (Fee-generating cases).

Finding 16: A limited review of CLAS' accounting and financial records evidenced that it is in substantial compliance with 45 CFR Part 1610 (Use of non-LSC funds, transfer of LSC funds, program integrity); however, CLAS should make improvements in order to become fully compliant with 45 CFR § 1610.5 (Notification).

Finding 17: CLAS is in substantial compliance with 45 CFR Part 1614 which is designed to ensure that recipients of LSC funds involve private attorneys in the delivery of legal assistance to eligible clients.

Finding 18: CLAS is in compliance with 45 CFR § 1627.4(a) which prohibits programs from utilizing LSC funds to pay membership fees or dues to any private or nonprofit organization and 45 CFR § 1627.2(b)(1) which requires LSC approval of payments made to attorneys in excess of \$25,000.

Finding 19: CLAS is in compliance with 45 CFR Part 1635 (Timekeeping requirements).

Finding 20: Sampled cases, interviews, and a review of CLAS' policies evidenced compliance with the requirements of former 45 CFR Part 1642 (Attorneys' fees).

Finding 21: Sampled cases reviewed and documents reviewed evidenced compliance with the requirements of 45 CFR Part 1612 (Restrictions on lobbying and certain other activities). Policies reviewed evidenced compliance with the requirements of 45 CFR Part 1612.

Finding 22: Sampled cases, interviews, and a review of CLAS' policies evidenced compliance 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 23: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1617 (Class actions).

Finding 24: Sampled cases, interviews, and a review of CLAS' policies evidenced compliance with the requirements of 45 CFR Part 1632 (Redistricting).

Finding 25: Sampled cases, interviews, and a review of CLAS' policies evidenced compliance with the requirements of 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings).

Finding 26: Sampled cases, interviews, and a review of CLAS' policies evidenced compliance with the requirements of 45 CFR Part 1637 (Representation of Prisoners).

Finding 27: Sampled cases, interviews, and a review of CLAS' policies evidenced compliance with the requirements of 45 CFR Part 1638 (Restriction on solicitation).

Finding 28: Sampled cases, interviews, and a review of CLAS' policies evidenced compliance with the requirements of 45 CFR Part 1643 (Restriction on assisted suicide, euthanasia, and mercy killing).

Finding 29: Sampled cases, interviews, and a review of CLAS' policies evidenced 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 30: CLAS is in compliance with the requirements of 45 CFR § 1620.6 (Signed written agreements).

Finding 31: Interviews and a limited review of procedures, practices, and documents related to TIG No. 09173 evidenced partial compliance with certain TIG grant assurances and other applicable LSC regulations, rules, and guidelines.

Finding 32: Interviews and a limited review of procedures, practices, and documents related to TIG No. 10029 evidenced partial compliance with certain TIG grant assurances and other applicable LSC regulations, rules, and guidelines.

Finding 33: Interviews and a limited review of CLAS' TIG-related expenditures and contracts evidence partial compliance with the timekeeping requirements of OMB Circular A-122 and 45 CFR § 1630.3(d); there was a \$91 overcharge to the TIG fund.

Finding 34: From a limited review of CLAS' internal controls over cash disbursements it was determined that CLAS has weaknesses in its internal controls because (1) multiple check numbers were not listed in numerical sequence, (2) checks were missing and/or unaccounted for, (3) voided checks appeared multiple times on the check register, and (4) some check numbers ended with a letter.

Finding 35: A limited review of CLAS' internal controls with respect to cash receipts demonstrated that CLAS has good internal controls. Also, in 2012 CLAS received a *cy pres* award, but failed to disclose this information in the notes to the draft of the 2012 audited financial statements (versions 1 and 2).

Finding 36: From a limited review of CLAS' internal controls over bank reconciliations it was determine that CLAS has weaknesses in its internal controls, because CLAS does not reconcile its bank accounts or resolve outstanding checks that exceed six (6) months in a timely manner.

Finding 37: From a limited review of documents and interviews with staff, it appears that CLAS, has adequate property management systems and procedures.

Finding 38: From a limited review of CLAS' Segregation of Duties Worksheet, it was determined that CLAS appears to have good separation of duties between staff.

II. BACKGROUND OF REVIEW

During the week of April 15-19, 2013, the Office of Compliance and Enforcement (“OCE”) conducted an on-site Compliance Review of Community Legal Aid Services, Inc. (“CLAS”), which provides legal assistance to low-income individuals throughout the state of Ohio in the following cities: Akron, Canton, Warren, and Youngstown. The CLAS administrative office is located in Akron; however, CLAS has staff which perform administrative oversight working in each of the branch offices.

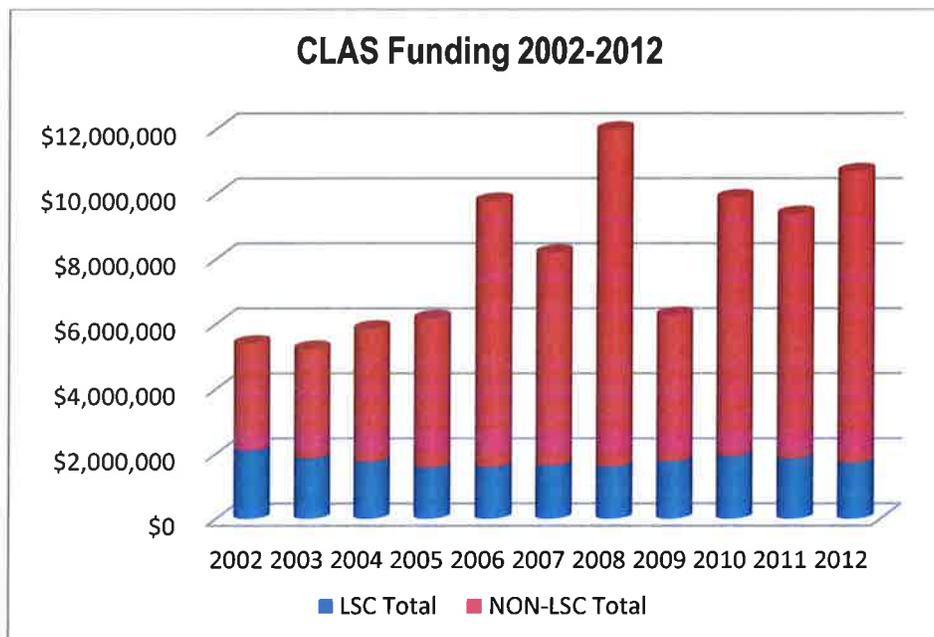
CLAS’ 2013 funding from LSC was \$1,615,444. CLAS’ Basic Field Grant in 2012 was \$1,569,681; in 2011, it was \$1,839,322; and in 2010 it was \$1,918,634.¹ In addition, CLAS has also received two (2) Technology Initiative Grants (“TIGs”); one (1) which started in 2010 and ran through 2011 which was authorized for \$31,180; the other started in 2011 and ran through 2012 in the amount of \$36,010. Both of the TIG projects will be discussed more fully below.

Scope of review

The purpose of the visit was to assess the program’s compliance with the LSC Act, regulations, and other applicable guidance such as Program Letters, the Accounting Guide for LSC Recipients (2010 Edition) (“LSC Accounting Guide”), and the Property Acquisition and Management Manual. The review visit was conducted by a team of four (4) attorneys, and one (1) fiscal compliance specialist.

The on-site review was designed and executed to assess program compliance with basic client eligibility, intake, case management, regulatory and statutory requirements, and to ensure that

¹ See the following chart which contrasts LSC funding with non-LSC funding over the previous 11 years:



CLAS has correctly implemented the 2008 CSR Handbook, as amended 2011. Specifically, the review team assessed CLAS for compliance with the regulatory requirements of: 45 CFR Part 1611 (Financial eligibility); 45 CFR Part 1626 (Restrictions on legal assistance to aliens); 45 CFR §§ 1620.4 and 1620.6 (Priorities in use of resources); 45 CFR § 1611.9 (Retainer agreements); 45 CFR Part 1636 (Client identity and statement of facts); 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 1614 (Private attorney involvement)²; 45 CFR Part 1627 (Subgrants and membership fees or dues); 45 CFR Part 1635 (Timekeeping requirement); 45 CFR former Part 1642 (Attorneys' fees)³; 45 CFR Part 1630 (Cost standards and procedures); 45 CFR 1612 (Restrictions on lobbying and certain other activities); 45 CFR Parts 1613 and 1615 (Restrictions on legal assistance with respect to criminal proceedings and Restrictions on actions collaterally attacking criminal convictions); 45 CFR Part 1617 (Class actions); 45 CFR Part 1632 (Redistricting); 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings); 45 CFR Part 1637 (Representation of prisoners); 45 CFR Part 1638 (Restriction on solicitation); 45 CFR Part 1643 (Restriction on assisted suicide, euthanasia, or mercy killing); and 42 USC 2996f § 1007 (Abortion, school desegregation litigation and military selective service act or desertion); and whether the program's policies and procedures compared favorably to the elements outlined in Chapter 3 - Internal Control/Fundamental Criteria of an Accounting and Financial Reporting System of the Accounting Guide for LSC Recipients (2010 Ed.).

By letter dated February 20, 2013, OCE requested that CLAS provide a list of all cases reported to LSC in its 2011 CSR data submission (closed 2011 cases), a list of all cases closed in 2012 (closed 2012 cases), a list of all cases closed between January 1, 2013 and February 15, 2013 (closed 2013 cases), and a list of all cases which remained open as of February 15, 2013 (open cases). OCE requested that the lists 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 closing category assigned to the case, and the funding code assigned to the case. OCE requested that two (2) sets of lists be compiled – one (1) for cases handled by CLAS staff and the other for cases handled through CLAS' PAI component. CLAS was advised that OCE would seek access to such cases consistent with § 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 5, 2004). CLAS was requested to notify OCE promptly, 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.

² In addition, when reviewing files with pleadings and court decisions, compliance with other regulatory restrictions was reviewed as more fully reported *infra*.

³ On December 16, 2009, the enforcement of this regulation was suspended and the regulation was later revoked during the LSC Board of Directors meeting on January 30, 2010. During the instant visit, LSC's review and enforcement of this regulation was therefore only for the period prior to December 16, 2009. As noted in the scope of review section, while the scope of review begins with files closed in 2011, it includes some files which were opened prior to December 16, 2009.

On March 12, 2013, the Executive Director and Team Leader spoke by teleconference and discussed the use of Unique Client Identifiers (“UCIs”) in lieu of client names. The following protocol was agreed to:

- (i) in lieu of the client's full name on the staff case lists, a UCI composed of an alpha-numeric combination comprised of the first initial of the client's first name, the first three (3) letters of the client's last name, the client's birth date and the client's gender letter (F or M);
- (ii) in lieu of the client's full name on the volunteer lawyer program case lists, a UCI composed of an alpha-numeric combination comprised of the first initial of the client's first name, the first three (3) letters of the client's last name, the client's age and the client's gender letter (F or M);
- (iii) for group clients, in lieu of the client's full name on the case lists, a UCI that contains an alpha-numeric combination: using the case acceptance date in place of the birth date for the number portion of the UCI, and the first three (3) letters of the group client's name used similarly to a human client.

The requested information was received in the form requested.

Thereafter, an effort was made to create a representative sample of cases that the team would review during the on-site visit. The sample was developed proportionately among 2011, 2012, and 2013 closed, and open cases. The sample consisted largely of randomly selected cases, but also included targeted cases selected to test for compliance with the CSR instructions relative to timely closings, proper application of the CSR case closing categories, duplicate reporting, etc.

In its 2012 submission to LSC, CLAS reported that it closed 6,550 cases, 1,339 of which were PAI closures (20.4%). CLAS' 2012 self-inspection certification disclosed a 2.25% error rate in CSR reporting (5 out of 222 cases). In its 2011 submission to LSC, CLAS reported 9,094 closed cases, 1,564 of which were PAI closures (17.2%). CLAS' 2011 self-inspection certification disclosed a 1.9% error rate in CSR reporting (3 out of 159 cases).

During the visit, access to case-related information was provided through staff intermediaries. Pursuant to the OCE and CLAS access agreement, CLAS staff maintained possession of the file and discussed with the team the nature of the client's legal problem and the nature of the legal assistance rendered. In order to maintain confidentiality such discussion, in some instances, was limited to a general discussion of the nature of the problem and the nature of the assistance provided.

The OCE team interviewed members of CLAS' upper and middle management, staff attorneys, and support staff. CLAS' case intake, case acceptance, case management, and case closure practices and policies in all substantive units were assessed. In addition to interviews, case file review was conducted. The sample case review period was from January 1, 2011 through February 15, 2013. Case file review relied upon randomly selected files as well as targeted files identified to test for compliance with LSC requirements, including eligibility, potential

duplication, timely closing, and proper application of case closure categories. In the course of the on-site review, the OCE team reviewed over 340 cases to review on site, of which a little over one-fourth (¼) were targeted files.

On-site observations

CLAS' management and staff cooperated fully in the course of the review process. As discussed more fully below, CLAS was made aware of possible compliance concerns during the on-site visit. This was accomplished by informing intermediaries, as well the Executive Director, of any compliance issues uncovered during case review.

At the conclusion of the visit, on April 19, 2013, OCE conducted an exit conference during which CLAS was provided with OCE's initial findings and was made aware of the areas in which compliance issues were found. OCE noted substantial compliance⁴ in the areas of 45 CFR Part 1611 (Financial eligibility policies); 45 CFR § 1611.9 (Retainer Agreements); CSR Handbook (2008 Ed., as amended 2011), § 5.6 (Description of legal assistance provided); 45 CFR Part 1636 (Client identity and statement of fact); CSR Handbook (2008 Ed., as amended 2011), Chapters VIII and IX (Case closure categories), and CSR Handbook (2008 Ed., as amended 2011), § 3.3 (Timely case closing). Non-compliance was noted in the areas of 45 CFR § 1626.6 (Verification of citizenship). Interviews and case review indicated compliance with all other requirements evaluated under the scope of this review. The financial management of CALS appeared to be sound, however there were some preliminary concerns noted: (1) with respect to Part 1612, CALS does not maintain separate financial recordkeeping tracking all costs associated with the attorney's time spent on legislative and rulemaking activities; (2) CLAS did not have sufficient coverage in its 2011 and 2012 Business Owner Policy for employee dishonesty coverage (but this was discovered and corrected in 2013); (3) CLAS purchased a copier and did not tag it (this was corrected during the on-site review on the same date that CLAS was notified); and (4) CLAS was not performing bank reconciliations on a timely basis. An evaluation of the two (2) TIG awards indicated that the funds were used for the purpose for which they were provided. However, two (2) concerns were noted: (1) Timekeeping reporting on the first TIG project had no unique identifier; the second TIG did have a unique identifier but not for the entire time; and (2) a temporary deficit balance on the second TIG grant was offset by LSC basic field funding.

By letter dated January 14, 2014, OCE issued a Draft Report ("DR") detailing its findings, recommendations, and required corrective actions. CLAS was asked to review the DR and provide written comments within 30 days of its receipt. CLAS requested and received an extension of time to respond. On April 23, 2014, CLAS' comments were received. The comments have been incorporated into this Final Report, and are affixed as an exhibit.

⁴ The term "substantial compliance" is used in this report to indicate that the program's policies and practices are intended to produce compliance with the relevant regulations, nevertheless, during the review of the files there were errors or exceptions noted.

III. FINDINGS

Finding 1: CLAS' 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 automated case management systems ("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 (2008 Ed., as amended 2011), § 3.1.

Since 2008, CLAS has utilized Pika as its ACMS. The Compliance Manager and the IT Director, both of whom are based in Akron, are the database administrators and responsible for maintaining Pika and generating LSC CSR reports. When the CSRs are submitted in final form to LSC with Grant Activity Reports, the database used is copied as a locked back-up to ensure that the data is consistent.⁵ Interviews reveal that staff have been well-trained on data entry, data management, and case oversight features, and that the Systems Analyst is readily accessible to answer staff questions.

The on-site observation of the ACMS during the on-site demonstration did not reveal any defaults in Pika. Accordingly, the system is in compliance with the CSR Handbook, (2008 Ed., as amended 2011) § 3.6 (Limitation of Defaults) in the ACMS.

CLAS designates all casework to Ohio Legal Assistance Foundation ("OLAF") funding throughout the entire calendar year. At the end of the year, it reviews all casework and only then designates certain cases as LSC funded. This way it ensures that all LSC-funded casework is eligible and reportable. During the on-going year, if a case meets other funding criteria, it may be designated for that other non-LSC, non-OLAF funding. CLAS has built a unique function into its Pika system which automatically checks each case for compliance consistency. It is a more sophisticated version of either a handwritten or digital checklist. By using this system, CLAS not only ensures that the cases assigned to LSC funding are LSC eligible, it also ensures that the non-LSC cases which are also eligible for reporting are in compliance with the requirements. This, in part, accounts for the large number of compliant cases reviewed.

Additionally, it should be noted that even the non-reportable cases which were reviewed – those closed in 2013 and those still open – are all cases which are being properly handled. There were no regulatory violations in these cases. The non-reportable cases are for grants which have either higher income ceilings (foreclosure – 250%) or no means testing (Title III). In sum, the review indicated a low rate of compliance errors, possibly due to CLAS' compliance oversight procedures and practices which are discussed under Finding 2.

⁵ There were some small discrepancies in the cases reviewed because the case lists submitted by CLAS were not drawn from these locked databases, but were drawn from the current database. As a result, the number of cases submitted by CLAS in advance of the on-site review differed from the actual, official, CSR numbers. However, two (2) of the cases reviewed which were found to be deficient were, in fact, not included in the official CSR numbers.

Nevertheless, the concern is that until the adjusting entry is done at the end of the year, while there has been significant expenditure of LSC funds, none of it is attributable to any case or case handler. Moreover, if CLAS is asked to run a budget at any point in time during the year, it would not be able to do so.

Based on a comparison of the information elicited from the ACMS to information contained in the files sampled, CLAS' ACMS is sufficient to ensure that information necessary for the effective management of cases is timely and accurately recorded. The on-site review, however, identified a few minor instances of missing or inconsistent information between the ACMS and the case files.⁶

As no patterns of error were noted, no recommendations or corrective actions are required.

In response to the DR, CLAS offered no comments on this Finding.

Finding 2: CLAS' intake procedures and case management system generally support the program's compliance related requirements.

Intake

In order to ascertain CLAS' compliance with LSC's intake-related requirements, primary intake staff, case handlers, and management were interviewed at each branch office. In addition, written and electronic documents used to support the intake process were evaluated. The review revealed that intake procedures performed by intake staff ("screeners") generally support the program's compliance related requirements with respect to performing conflict and duplicate checks during the intake process, screening for income, and considering authorized exceptions and factors when screening an applicant for financial eligibility.⁷ In addition, CLAS has a Compliance Manager, who plays an integral part in ensuring compliance with the LSC regulations.

⁶ See, for example, Open Case No. C-11-247757 (the case was designated as "CSR excluded," however, the client and case information documented in the file satisfied CSR reporting requirements. During the on-site review, this file was changed to "CSR eligible;" as the case was closed in 2013). See also Open Case No. C-13-421869 (the reviewed case file had an incorrect closing date, February 20, 2013, recorded in the ACMS and the correct closing date, March 22, 2013, in the file). See also Closed 2012 Case No. 06E-2095951 (the case closure category in the ACMS was "L-Extensive Services," however, the "B-Limited Actions/Brief Services" case closure category was assigned in the file). See also Closed 2011 Case No. C-11-324578 (the income field was blank in both the file and in Pika; also the open date in ACMS was listed as November 29, 2011, while the file reflected that legal services were provided to the client on November 11, 2011).

⁷ Intake staff reported that duplicates and conflicts are checked at the beginning of the screening process. Duplicates are resolved by merging the duplicative cases into a single file. According to intake staff interviewed in the Akron office, screeners have the authority to remove files flagged as potential conflicts when they are clearly not, e.g., applicants that have the same name but different birthdays. However, potential conflicts are resolved by a team attorney, the Office Manager, or the Helpline Staff Attorney. For actual conflicts, a letter is sent to the applicant explaining why CLAS is unable to provide legal representation.

All applicants for legal assistance are screened by the Legal Helpline, a centralized intake hotline which not only screens for eligibility, but also provides legal advice and pro se assistance.⁸ The hotline intake is also supplemented by the Access to Justice (“A2J”) online intake system established by Legal Aid of Western Ohio to provide assistance and intake screening to applicants. On the CLAS organization chart, the hotline unit also goes by the name of the A2J team (the CLAS staff use “team” and “unit” interchangeably and this report follows that pattern) and is led by a Managing Attorney, and an Associate Director.

The Helpline is open Monday through Thursday from 9:00 am to 4:00 pm, and Friday from 9:00 am to 2:00 pm. As noted above, the toll-free Helpline is CLAS’ primary mechanism for screening applicants; interviews at each office indicated that walk-in applicants are provided telephone access in order to be screened via the Helpline. If the walk-in applicant is unable to access the Helpline, then he/she is screened manually by completing a paper intake application or a screener will directly input the applicant’s responses to screening questions into Pika.

Also, as discussed above, CLAS has opened an interactive online intake system which provides guidance to applicants in submitting online applications. Interviews with staff, including the Executive Director, indicated that applicants find the online system to be helpful and it improves the efficiency of intake screening. With respect to the online application process, interviews and a demonstration indicated that applications submitted via the online system are reviewed by intake staff prior to the provision of legal assistance. While general information may be communicated via the website, it is not case specific and does not result in the application being counted as a “case” for CSR purposes. After intake staff assesses the accuracy and completeness of the information provided, applicants are either notified in writing that they are ineligible for legal assistance or the case is transferred to the appropriate team or the Volunteer Lawyers Service Project. It should be noted that the staff evaluation process may involve more than just an analysis of the information that was provided during the online application – it may require a telephone interview or a follow up letter or email. A brief review of the on-line application process was done and it was found to be user friendly and helpful for applicants; the application process included relevant compliance questions and was set up in a manner that appeared useful to prospective clients.

When an applicant is found to be eligible, the case is transferred to a Helpline staff attorney for advice or to an appropriate team member who uses a predesigned “script.” Scripts are standard language, or guided interviews, used by screeners to facilitate the collection of all necessary legal information and to assist the screener with determining the appropriate next step.

Interviews and an evaluation of CLAS’ ACMS, Pika, revealed that intake screening procedures performed during telephone, in-person, or online intake generally support the program’s compliance related requirements with respect to obtaining written citizenship attestations, performing conflict and duplicate checks at the start of intake screening, and considering all authorized exceptions and factors when screening an applicant for income eligibility.

⁸ The terms Helpline, hotline, and A2J are used interchangeably by CLAS.

Income Screening

As noted above, all applications are screened to ensure that the applicant is income eligible prior to legal assistance being provided. Due to past guidance from LSC, CLAS employs both a “spend down” methodology and also considers and records authorized exceptions in accord with 45 CFR § 1611.5(a)(4). During the review, it was explained to CLAS that LSC has no established preference as to spend-down methodology versus factor analysis; a recipient may do either and need not do both. *See* 70 Fed. Reg. 45,555 (August 8, 2005) (“As in the current regulation, recipients will not be required to apply these factors in a “spend down” fashion. That is, although recipients are permitted to do so, they are not required to determine that, after deducting the allowable expenses, the applicant’s income is below the applicable income ceiling before determining the applicant to be financially eligible.”)

Interviews with the Office Manager and the intake screeners evidenced an understanding that an applicant will be considered eligible for LSC funded legal assistance if the applicant’s income is below 125% of the Federal Poverty Guidelines (“FPG”). For applicants whose income exceeds 125% of FPG, but remains below the 200% FPG threshold, CLAS’ procedures and Pika were reviewed and found to be compliant with LSC regulations. Interviews and the on-site observations utilizing test applicants indicated that a “spend-down” applying permissible deductions is correctly applied by Pika. The permissible deductions, pursuant to 45 CFR § 1611.5(a)(4), include, but are not limited to: rent/mortgage, child care, child support, health insurance, medical expenses, and transportation to and from work. If deductions are applied, the on-site demonstration evidenced that Pika deducts the applicable amounts and calculates the resulting FPG percentage.

The on-site demonstration indicated that the test applicant’s adjusted gross income figures are maintained in a separate field in Pika. At the time of the review, the non-adjusted gross income figure (before calculating the factors), was maintained in a hidden field on a Pika screen, although it did display on the data entry screen. Moreover, reports were able to be generated which displayed both the non-adjusted and the adjusted income. This is in compliance with the CSR Handbook which indicates that “[w]hatever method is used to determine income eligibility, a program must still record the client’s gross income and maintain it as a separate field from the adjusted gross income.” *See* CSR Handbook (2008 Ed, as amended 2011), § 5.3, footnote no. 25.

Generally, if an applicant’s income is over 200% of the FPG, the case is rejected and the applicant is sent an over income letter. The Office Manager indicated that there are two (2) exceptions to this rule where the case is not LSC funded:

- Foreclosure cases: less than 250% of the FPG; and
- Low Income Taxpayer Clinics (“LITC”): less than 250% of the FPG.

Case review did not disclose any instances where a financially ineligible client, accepted according to non-LSC criteria, had that assistance either funded with LSC funds and/or reported to LSC for CSR purposes.

Asset Eligibility Screenings

Those interviewed articulated CLAS' asset ceiling limit and Pika automatically lists the following categories of assets to guide the screener in assessing eligibility:

Checking;
Savings;
Real Property;⁹ and
Personal Property.

If an applicant's assets are determined to exceed CLAS' asset ceiling, the intake screener forwards the application to the managing attorney of the applicable unit to assess the applicant's case and make a determination as to whether requesting a waiver is appropriate. If the managing attorney determines there is a sufficient basis for making such a request, an "Asset Guidelines Exception" form is completed and sent to the Executive Director for review. This process is in compliance with 45 CFR § 1611.3(d)(2).

45 CFR § 1611.7(a)(1) Income Prospects Screening

The on-site observation indicated that CLAS' Helpline screens for income prospects, as it is a separate field in Pika. Intake screeners are required to inquire whether changes to the applicant's income are expected. *See* CLAS Intake Procedures Manual at page 7. At the time of the review, CLAS had a manual intake application which did not include an inquiry into income prospects. However, the intake screener was required to ask the applicant about income prospects when recording the data in Pika. Therefore, CLAS is found to be in compliance with 45 CFR § 1611.7(a)(1).

Citizenship and Eligible Alien Status Screening

CLAS utilizes a "Citizenship Verification" form which can be generated through Pika as part of the intake screening process. Review of the manual "Citizenship Verification" form, as well as the form generated by Pika, evidenced that the forms are in a format which is compliant with the CSR Handbook (2008 Ed., as amended 2011), § 5.5. Those interviewed explained that telephone applicants are asked to verbally confirm United States citizenship and that if staff has in-person contact with an applicant, a signed attestation form is obtained where applicable.

If an applicant indicates that s/he is not a United States citizen, a notation is made in the "case notes" section of Pika and the matter is referred to the Helpline supervisors, which alerts the Office Manager that there is a matter requiring follow-up. Once the matter is referred, the Office Manager indicated that the applicant is contacted and information regarding his/her status in the United States is obtained. An "Alien Eligibility Determination" form is used to verify this status. The form is completed based on the applicant's responses and is later forwarded to the

⁹ All screeners were aware that when the real property is used as a primary residence by applicant, it is excluded from the asset calculations.

Compliance Manager for review. Once reviewed and verified by the Compliance Manager, the completed form is sent to the Executive Director for an alien eligibility determination. If the Executive Director determines that the applicant is an eligible alien, then the case is sent back to the Office Manager for a determination of eligibility and/or case acceptance. Eligible applicants accepted for representation are provided with legal assistance and ineligible applicants are sent a letter explaining why their matter has been rejected.

Case Acceptance, Oversight, and Closing

In addition to the hotline unit, there are three (3) other substantive units which operate throughout the four (4) CLAS offices as follows: the Safety, Stability and Health team; the Maintaining Economic Stability team; and the Preservation of Housing team. The case-handlers in each unit accept cases according to program priorities, as implemented by each unit. Interviews with the managing attorneys for these units, as well as with staff, demonstrated that each unit holds routine meetings and conducts effective case oversight.

Complicating matters, the members of each substantive unit are spread out over the four (4) CLAS offices. Accordingly, management of the different units varies the number of team meetings held (*i.e.*, some are held every other month and others quarterly) and the frequency of individual meetings (these are held as needed, based on caseload). The managing attorneys and senior leadership are also in communication with case-handlers via email and telephone.

Cases are closed by the assigned attorney, including the designation of the CSR closing code. All closed files are reviewed by the respective managing attorneys for compliance issues and for uniformity in the application of the CSR closing codes. Managing attorneys review open cases on a periodic basis; for example, the Managing Attorney of the Managing Economic Stability unit reviews open cases quarterly and the Managing Attorney of the Preservation of Housing unit conducts random spot checks on open cases. Moreover, the Compliance Manager also reviews the closed cases for regulatory compliance and CSR reporting issues.

In summary, there are no recommendations or corrective actions required in this section.

In response to the DR, CLAS offered no comments on this Finding.

Finding 3: Sampled cases, interviews, and a review of CLAS' policies evidenced compliance with the documentation required by 45 CFR § 1611.4, CSR Handbook (2008 Ed., as amended 2011), § 5.3, and applicable LSC instructions for clients whose income does not exceed 125% of the Federal Poverty Guidelines ("FPG").

Recipients may provide legal assistance supported with LSC funds only to individuals whom the recipient has determined to be financially eligible for such assistance. *See* 45 CFR § 1611.4(a). Specifically, recipients must establish financial eligibility policies, including annual income ceilings for individuals and households, and record the number of members in the applicant's household and the total income before taxes received by all members of such household in order

to determine an applicant's eligibility to receive legal assistance.¹⁰ *See* CSR Handbook (2008 Ed., as amended 2011), § 5.3. 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 (2008 Ed., as amended 2011), § 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 relied on to make such a determination. *See* 45 CFR § 1611.5(b), CSR Handbook (2008 Ed., as amended 2011), § 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 (2008 Ed., as amended 2011), § 4.3.

In advance of the review, CLAS provided its "Financial Eligibility Policy," last reviewed and approved by the CLAS Board of Directors on November 30, 2012. A review of the policy was done and it was found to be in compliance with the LSC regulations; nevertheless, as noted in the discussion above, CLAS has employed both the recordation of factors and a spend-down analysis, which is not required by the regulations.

All sampled case files contained income eligibility documentation required by 45 CFR § 1611.4, CSR Handbook (2008 Ed., as amended 2011), § 5.3, and applicable LSC instructions for clients whose income do not exceed 125% of the FPG. Moreover, for those files reviewed in which the clients income was in excess of the 125% FPG threshold, CLAS properly documented its review of the factors and, in accordance with its policy, used the factors to "spend down" the applicant's income below the 125% threshold.

There were no group client cases reviewed.

There are no recommendations or corrective actions required.

In response to the DR, CLAS offered no comments on this Finding.

¹⁰ A numerical amount must be recorded, even if it is zero. *See* CSR Handbook (2008 Ed., as amended 2011), § 5.3.

Finding 4: Sampled cases, interviews, and a review of CLAS’ policies evidenced compliance with asset eligibility documentation as required by 45 CFR §§ 1611.3(c) and (d) and CSR Handbook (2008 Ed., as amended 2011), § 5.4.

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.¹¹ *See* CSR Handbook (2008 Ed., as amended 2011), § 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).

The revisions to 45 CFR Part 1611 changed the language regarding assets from requiring the recipient’s governing body to establish, “specific and reasonable asset ceilings, including both liquid and non-liquid assets,” to “reasonable asset ceilings for individuals and households.” *See* 45 CFR § 1611.6 in prior version of the regulation and 45 CFR § 1611.3(d)(1) of the revised regulation. Both versions allow the policy to provide for authority to waive the asset ceilings in unusual or meritorious circumstances. The older version of the regulation allowed such a waiver only at the discretion of the Executive Director. The revised version allows the Executive Director or his/her designee to waive the ceilings in such circumstances. *See* 45 CFR § 1611.6(e) in prior version of the regulation and 45 CFR § 1611.3(d)(2) in the revised version. Both versions require that such exceptions be documented and included in the client’s files.

Sampled cases, interviews, and a review of CLAS’ policies evidenced compliance with asset eligibility documentation as required by 45 CFR §§ 1611.3(c) and (d) and CSR Handbook (2008 Ed., as amended 2011), § 5.4. As such, CLAS is in compliance with the asset eligibility documentation required by 45 CFR §§ 1611.3(c) and (d) and CSR Handbook (2008 Ed., as amended 2011), § 5.4.

There are no recommendations or corrective actions required.

In response to the DR, CLAS offered no comments on this Finding.

Finding 5: Sampled cases evidenced non-compliance with the documentation requirements set forth in 45 CFR Part 1626 (Restrictions on legal assistance to aliens).

The level of documentation necessary to evidence citizenship or alien eligibility depends 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.

¹¹ A numerical total value must be recorded, even if it is zero or below the recipient’s guidelines. *See* CSR Handbook (2008 Ed., as amended 2011), § 5.4.

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 (2008 Ed., as amended 2011), § 5.5; See 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 (2008 Ed., as amended 2011), § 5.5.

Prior to 2006, recipients were permitted to provide non-LSC funded legal assistance to an alien who had been battered or subjected to extreme cruelty in the United States by a spouse or parent, or by a member of the spouse's or parent's family residing in the same household, or an alien whose child had been battered or subjected to such cruelty.¹² Although non-LSC funded legal assistance was permitted, such cases could not be included in the recipient's CSR data submission. In January 2006, the Kennedy Amendment was expanded and LSC issued Program Letter 06-2, "Violence Against Women Act 2006 Amendment" (February 21, 2006), which instructs recipients that they 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. LSC recipients are now allowed to include these cases in their CSRs.

Sampled cases evidenced non-compliance with the documentation requirements of 45 CFR Part 1626. Three (3) cases lacked executed citizenship attestations where they were required.¹³ In addition, three (3) attestations were not dated, and therefore it could not be determined whether they were executed prior to the commencement of representation.¹⁴ Two (2) attestations were not executed prior to the commencement of representation as required by 45 CFR § 1626.3.¹⁵ One (1) file contained a properly executed attestation for one (1) of the clients in the case; however there were two (2) clients and the attestation for the second client was not completed.¹⁶ Finally, a non-compliant citizenship attestation was identified in a file which had been opened in 2005 and remained active until it was closed in 2012.¹⁷ The intermediary reported, and sampled files evidenced, that this form is no longer in use (nor were there any other case files open from

¹² See Kennedy Amendment at 45 CFR § 1626.4.

¹³ See Closed 2012 Case Nos. C-11-320876, C-08-50524, and C-12-362370.

¹⁴ See Closed 2013 Case No. C-12-407109 (This case was opened December 3, 2012 and closed February 22, 2013 with closing code "B," limited action. The case file contained a citizenship attestation on CLAS' "Limited Service Agreement." The signature block above the attestation is both signed and dated, while the signature block connected to the citizenship attestation is signed, but undated). According to the CSR Handbook (2008 Ed., as amended 2011), § 5.5, a proper citizenship attestation is required to be dated. See also Open Case Nos. C-12-385352 and C-12-338459.

¹⁵ See Closed 2012 Case Nos. 06E-2095951 (the file reflected that legal work was first provided to the client on October 15, 2006 and the attestation was obtained on May 15, 2008) and C-11-274952.

¹⁶ See Closed 2013 Case No. C-11-288277 (This case was opened July 7, 2011 and closed February 27, 2013 with closing code "I(a)," court decision, uncontested. The case file contained one (1) citizenship attestation dated April 20, 2009 for two (2) clients. According to the case notes, citizenship was re-confirmed on July 7, 2011. According to it CSR Handbook (2008 Ed., as amended 2011) § 5.5, a proper citizenship attestation is directed for one (1) applicant: "I am a citizen of the United States: Signature of applicant Date: _____.")

¹⁷ See Closed 2012 Case No. 05E-0011683 (the citizenship attestation form was executed on August 23, 2005 and is non-compliant because there is not a separate signature line tied only to the citizenship attestation).

this time period). As such, there are no recommendations or corrective actions required concerning the non-compliant citizenship attestation form.

Based on review of both the files and the operational procedures, each deficiency appears to have been a simple mistake, not an indication of a pattern of error. Nevertheless, CLAS is in non-compliance with the documentation requirements of 45 CFR Part 1626 and CSR Handbook (2008 Ed., as amended 2011), § 5.5. As a corrective action, CLAS must ensure it obtains the required level of documentation necessary to evidence citizenship or alien eligibility pursuant to 45 CFR Part 1626. CLAS should provide staff with a brief training outlining the required elements of a properly executed citizenship attestation and include documentation evidencing same as an attachment to the Draft Report (i.e. copies of training materials).

In response to the DR, CLAS agreed that it will obtain the required documentation necessary to evidence citizenship or alien eligibility. In addition, it has provided training to all staff on the necessity of this documentation.

No additional action is required with regards to this Finding.

Finding 6: Sampled cases, interviews, and a review of CLAS' policies evidenced substantial compliance with the retainer requirements of 45 CFR § 1611.9 (Retainer agreements).

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.¹⁸ Cases without a retainer, if otherwise eligible and properly documented, should be reported to LSC.

During the on-site review, extended service files were sampled to assess whether CLAS was executing retainer agreements in accordance with 45 CFR § 1611.9. Two (2) of the case files reviewed did not contain retainer agreements, both cases are open and retainers can be obtained, however, the cases have been open since 2008 and 2009, respectively. As such, the retainers would be quite untimely.¹⁹ A sampled case was identified in which the nature of the representation was not fully documented in the retainer agreement.²⁰ The intermediary reported

¹⁸ 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.

¹⁹ *See* Open Case Nos. C-08-40328 and C-09-106680.

²⁰ *See* Closed 2012 Case No. C-12-356056 (CLAS represented the client at an administrative hearing, however, CLAS only agreed to provide the client with brief services in its retainer agreement).

that during 2013, CLAS began to oversee whether staff members executed and updated retainer agreements by use of an ACMS prompt. The prompt requires that staff members note the nature of the case and the scope of representation in the ACMS. Thus, staff members consistently are reminded to supply all of the information that is needed to define the services that CLAS has agreed to provide and to execute additional agreements as necessary. CLAS' proactive development of retainer agreement prompts in its ACMS, designed to ensure that retainer agreements are fully executed, is a best practice indicator.

As CLAS has recently developed additional oversight mechanisms designed to ensure that retainer agreements are fully executed, there are no recommendations or corrective actions required.

In response to the DR, CLAS offered no comments on this Finding.

Finding 7: Sampled cases, interviews, and a review of CLAS' policies evidenced compliance 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 recipient engages in pre-complaint settlement negotiations with a prospective defendant. *See* 45 CFR § 1636.2(a).

Case files reviewed indicated that CLAS is in compliance with the requirements of 45 CFR Part 1636; all files reviewed which required the statements of facts had a timely statement present.

There are no recommendations or corrective actions required.

In response to the DR, CLAS offered no comments on this Finding.

Finding 8: Sampled cases, interviews, and a review of CLAS' policies evidenced compliance with the requirements of 45 CFR § 1620.4 and § 1620.1 (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 § 1620.1 and 45 CFR § 1620.4.

CLAS is in compliance with 45 CFR Part 1620. A review of the CLAS written policy was done and no deficiencies noted. In addition, as noted below, a review of a sample of employee certifications was done and also found to be in compliance. None of the sampled files reviewed revealed cases that were outside of CLAS' priorities.

There are no recommendations or corrective actions required.

In response to the DR, CLAS offered no comments on this Finding.

Finding 9: Sampled cases, interviews, and a review of CLAS' policies evidenced substantial compliance with CSR Handbook (2008 Ed., as amended 2011), § 5.6 (Description of legal assistance provided).

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.

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 (2008 Ed., as amended 2011), § 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 (2008 Ed., as amended 2011), § 5.6.

The on-site review assessed whether legal assistance was documented in the sampled files and whether this documentation satisfied the standards set by LSC regulations and the CSR Handbook (2008 Ed., as amended 2011), § 5.6. While only one (1) sampled file indicated that no legal assistance was provided to the client,²¹ the on-site review identified several PAI files in which the documentation of legal assistance was insufficient to describe the level of service provided.²² The intermediary reported that during 2012, CLAS discovered these errors and

²¹ *See* Closed 2011 Case No. C-11-274521 (the documentation in the file reflected that the applicant failed to attend a clinic).

²² *See* Closed 2011 Case Nos. C-11-324578 (the documentation in the file reflected that the services provided were "collection issues" and advice regarding a "15-day notice"), C-11-329505 (the documentation in the file reflected that the services were advice regarding the father's "rights to his child" in a custody case), C-11-266805 (the documentation in the file reflected that the client had "attended a clinic"), and C-10-233958 (the documentation in the file reflected the client was "advised re the process" during a clinic). As noted in the text, these were all PAI

This footnote is continued on the next page.

committed to enhancing its oversight of PAI files to ensure that they sufficiently document the legal assistance provided to the client. File review of later PAI cases confirmed the effectiveness of this enhanced oversight.

As CLAS has taken appropriate corrective action in 2012 to resolve its limited pattern of error, there are no recommendations or corrective actions required.

In response to the DR, CLAS offered no comments on this Finding.

Finding 10: Sampled cases, interviews, and a review of CLAS' policies evidenced that CLAS' application of the CSR case closure categories is substantially consistent with Chapters VIII and IX, CSR Handbook (2008 Ed., as amended 2011).

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 (2008 Ed., as amended 2011), § 6.1.

The review assessed whether CLAS' application of the CSR case closure categories is consistent with Chapters VIII and IX of the CSR Handbook (2008 Ed., as amended 2011). The sampled files contained numerous examples of correctly used case closure categories, including the correct use of the more complex categories. There were some errors noted, however, these were not found to be systemic or substantial.²³ A limited pattern of error was identified, however, in that a staff member apparently misunderstood the requirements of the "B-Limited Actions/Brief Services" ("B") case closure category. There were two (2) sample sampled files assigned the B case closure category because the staff member, after providing telephone advice, mailed the client blank pro se forms for the client to complete and file with the court.²⁴ The more appropriate action would have been to close the file with "A-Counsel and Advice" ("A") because a B closure category requires that the recipient provide *assistance with preparation of court or other legal documents*. *See* CSR Handbook (2008 Ed., as amended 2011), § 8.2. The intermediary reported that during 2012, CLAS discovered this error and provided appropriate training to this staff member concerning the use of A and B case closure categories.

As CLAS has taken appropriate corrective action in 2012 to resolve its limited pattern of error, there are no recommendations or corrective actions required.

In response to the DR, CLAS offered no comments on this Finding.

This footnote is continued from the prior page.

cases. Moreover, CLAS had already identified this problem and has corrected it as evidenced by the file review of the later closed PAI case files.

²³ Other than the limited pattern of errors noted below, the only other errors found were in two (2) of the case files reviewed. *See* Closed 2012 Case No. 07E-0119119, closed with closing code "F" when "L" would have been more appropriate and Closed 2011 Case No. C-08-44259, closed with closing code "L" when I-B" should have been selected.

²⁴ *See* Closed 2012 Case Nos. C-12-372384 and C-12-331528.

Finding 11: Sampled cases, interviews, and a review of CLAS' policies evidenced compliance with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 3.3 (Timely case closing).

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 or limited action (CSR Categories A and B), should be reported as having been closed in the grant year in which the case was opened. *See* CSR Handbook (2008 Ed., as amended 2011), § 3.3(a).²⁵ There is, however, an exception for limited service cases opened after September 30, and those cases containing a determination to hold the file open because further assistance is likely. *See* CSR Handbook (2008 Ed., as amended 2011), § 3.3(a). All other cases (CSR Categories F through L, 2008 CSR Handbook) should be reported as having been closed in the grant 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 (2008 Ed., as amended 2011), § 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).

CLAS is in compliance with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 3.3(a), as no untimely closed files were found. In addition, no dormant open case files were found. Interviews also reflected that intake staff members were familiar with the CSR Handbook (2008 Ed., as amended 2011), § 3.3.

There are no recommendations or corrective actions required.

In response to the DR, CLAS offered no comments on this Finding.

Finding 12: Sampled cases, interviews, and a review of CLAS' policies evidenced compliance with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 3.2 (Duplicate cases).

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 (2008 Ed., as amended 2011), § 3.2.

When a recipient provides more than one (1) type of assistance to the same client during the same reporting period, in an effort to resolve essentially the same legal problem, as demonstrated

²⁵ 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., as amended in 2011), § 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).

by the factual circumstances giving rise to the problem, the recipient may report only the highest level of legal assistance provided. *See* CSR Handbook (2008 Ed., as amended 2011), § 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 (2008 Ed., as amended 2011), § 6.3. Recipients are further instructed that related legal problems presented by the same client are to be reported as a single case. *See* CSR Handbook (2008 Ed., as amended 2011), § 6.4.

During the review files were targeted to test for duplicate reporting of cases and no duplicate files were identified.²⁶ Interviews reflected that intake staff members were familiar with the CSR Handbook (2008 Ed., as amended 2011), § 3.2 and that CLAS has implemented procedures to check for duplication when a case is entered into the case management system.

CLAS is in compliance with the requirements of the CSR Handbook (2008 Ed., as amended 2011), § 3.2.

There are no recommendations or corrective actions required.

In response to the DR, CLAS offered no comments on this Finding.

Finding 13: Review of the recipient's policies and interviews with staff attorneys reveal that CLAS is in compliance with the requirements of 45 CFR Part 1604 (Outside practice of law).

This part 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 45 CFR Part 1604, 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.

Based on the review of the recipient's policies, it appears that CLAS is in compliance with the requirements of 45 CFR Part 1604. CLAS has developed a written policy governing the outside practice of law. The policy requires prior approval by the Executive Director of CLAS and appears to be limited to full-time attorneys, consistent with the LSC regulations.

Prior to the visit, CLAS advised OCE that five (5) of the attorneys in the Akron office, two (2) of the attorneys in the Canton office, and four (4) attorneys in the Youngstown office engaged in the uncompensated outside practice of law during the period 2011 through 2013. CLAS reported no instances of compensated outside practice of law. Interviews with all of these attorneys,

²⁶ *See e.g.* Closed 2012 Case Nos. C-12-398776 and C-12-399716 and Closed 2012 Case Nos. C-11-265644 and C-11-265647.

except for one (1) attorney – who was not available, confirmed the details of their outside practice. Each of them confirmed they are full-time attorneys employed by CLAS. As well, each confirmed that they had engaged in the uncompensated outside practice of law during the period 2010 through 2011. All of them indicated that their outside practice had been approved by CLAS' Executive Director. All those interviewed indicated that they did not identify CLAS with the outside practice, nor did they use any CLAS resources for the outside practice. In one (1) instance, there appeared to be an unintentional identification of the outside client with CLAS, however CLAS indicated it would correct this.²⁷

There are no recommendations or corrective actions required.

In response to the DR, CLAS offered no comments on this Finding.

Finding 14: Sampled cases, interviews, and a review of CLAS' policies evidenced compliance 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. *See* 45 CFR Part 1608.

Sampled files reviewed, and interviews with staff indicate, that CLAS is not involved in such activity.

Sampled brochures obtained from the Akron, Canton, Warren, and Youngstown offices also evidenced that CLAS is not involved in such activity. In accordance with the workplan, a comprehensive review of CLAS' pamphlets, brochures, flyers, bulletin boards, and other public space was conducted in these offices, and waiting areas. The assessment revealed that all information was free of any prohibited political message, expression, symbol, image, or allusion, and in compliance with 45 CFR Part 1608.

A brief review of CLAS' vendor list showed no signs of vendor names pertaining to any partisan organizations. An examination of the cash receipts and disbursement journal for the first six (6) months in 2011 and second six (6) months in 2012 revealed no signs of cash received and/or disbursed to or from any partisan organizations. Also, line three (3) of CLAS 990 Tax return for

²⁷ In this specific instance, the program's address was listed as the attorney's address in the court record. However, CLAS provided a copy of a pleading filed to demonstrate that the personal home address of the attorney was used on the pleading. This is in compliance with 45 CFR § 1604.4(b) which requires that the attorney not intentionally identify the case with the recipient. As noted, however, the docket list identifies CLAS' address for the attorney. CLAS spoke with a Court representative who indicated that the Court is unable to have more than one (1) address of record on file for an attorney in its database. Accordingly, when the pleading was filed, although it had the personal address, the attorney's bar number caused the program address to appear on the docket. Based on the pleading reviewed which had the attorney's home address and not CLAS' address, the attorney did not intentionally identify the recipient to this case. *See* 45 CFR § 1604.4(b) (which requires that the identification be intentional).

2011, indicated no direct or indirect involvement in any political party activities on behalf of, or in opposition to, candidates for public office. *See* 45 CFR § 1608.3(b).

There are no recommendations or corrective actions required.

In response to the DR, CLAS offered no comments on this Finding.

Finding 15: Sampled cases, interviews, and a review of CLAS' policies evidenced compliance 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 (2) private attorneys; neither the referral service nor two (2) 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).

In light of recent regulatory changes, LSC has prescribed certain specific requirements for fee-generating cases. *See* Program Letters 09-3 (December 17, 2009) and 10-1 (February 18, 2010). LSC has determined that it will not take enforcement action against any recipient that filed a claim for, or collected or retained attorneys' fees during the period of December 16, 2009 through March 15, 2010. Enforcement activities related to claims for attorneys' fees filed prior to December 16, 2009, or fees collected or retained prior to December 16, 2009, are no longer suspended and any violations which are found to have occurred prior to December 16, 2009 will subject the grantee to compliance and enforcement action. Additionally, the regulatory provisions regarding accounting for and use of attorneys' fees and acceptance of reimbursement from clients remain in force, and violations of those requirements, regardless of when they have occurred, will subject the grantee to compliance and enforcement action.

None of the sampled files reviewed involved legal assistance provided in a fee-generating case. Discussions with the staff also confirmed that CLAS is not involved in any impermissible fee-generating case.

A review of CLAS' general ledger revealed that CLAS received and collected attorneys' fees associated with fee generated Social Security Income ("SSI") cases. Due to the limited number of fiscal staff conducting the Compliance Review, a determination could not be made while on-site to ascertain whether LSC funds were used in whole or part in the representation of clients relating to these SSI cases. CLAS was sent an email inquiring if any portion of LSC funds were used in the legal representation of clients in which CLAS received and collected attorneys' fees. CLAS followed-up with a report showing the attorneys who worked on fee generating cases and the hours charged to the supporting fund. An analysis of the report revealed that no LSC funds were used to pay attorneys' salaries who provided legal representation to clients in fee generating SSI cases, in accordance with 45 CFR § 1609.4.

Also, an examination of CLAS' 2011 audited financial statements and 2012 draft audited financial statements, revealed that CLAS did not have a natural or dedicated line item specifically for attorneys' fees. According to the Chief Financial Officer, attorneys' fees received or collected from these fee generated SSI cases are not considered attorney fees type cases, and therefore are reported and identified on CLAS' audited financial statements under the natural or dedicated line item interest and other revenue. In the DR, LSC recommended that CLAS create a natural or dedicated line item for attorneys' fees on its audited financial statements. In the response to the DR, CLAS indicated that it has discussed this with its auditors and this action will be taken.

There are no corrective actions required.

Finding 16: A limited review of CLAS' accounting and financial records evidenced that it is in substantial compliance with 45 CFR Part 1610 (Use of non-LSC funds, transfer of LSC funds, program integrity); however, CLAS should make improvements in order to become fully compliant with 45 CFR § 1610.5 (Notification).

Part 1610 was adopted to implement Congressional restrictions on the use of non-LSC funds and to assure that no LSC funded entity engage in restricted activities. Essentially, recipients may not themselves engage in restricted activities, transfer LSC funds to organizations that engage in restricted activities, or use its resources to subsidize the restricted activities of another organization.

The regulations contain a list of restricted activities. *See* 45 CFR § 1610.2. They include lobbying, participation in class actions, representation of prisoners, legal assistance to aliens, drug related evictions, and the restrictions on claiming, collecting or retaining attorneys' fees.

Recipients are instructed to maintain objective integrity and independence from any organization that engages in restricted activities. In determining objective integrity and independence, LSC looks to determine whether the other organization receives a transfer of LSC funds, and whether such funds subsidize restricted activities, and whether the recipient is legally, physically, and financially separate from such organization.

Whether sufficient physical and financial separation exists is determined on a case by case basis and is based on the totality of the circumstances. In making the determination, a variety of factors must be considered. The presence or absence of any one (1) or more factors is not determinative. Factors relevant to the determination include:

- i) the existence of separate personnel;
- ii) the existence of separate accounting and timekeeping records;
- iii) the degree of separation from facilities in which restricted activities occur, and the extent of such restricted activities; and
- iv) the extent to which signs and other forms of identification distinguish the recipient from the other organization.

See 45 CFR § 1610.8(a); *see also*, Office of Program Operations (“OPO”) Memo to All LSC Program Directors, Board Chairs (October 30, 1997).

Recipients are further instructed to exercise caution in sharing space, equipment and facilities with organizations that engage in restricted activities. This is particularly true if the recipient and the other organization employ any of the same personnel or use any of the same facilities that are accessible to clients or the public. But, as noted previously, standing alone, being housed in the same building, sharing a library or other common space inaccessible to clients or the public may be permissible as long as there is appropriate signage, separate entrances, and other forms of identification distinguishing the recipient from the other organization, and no LSC funds subsidize restricted activity. Organizational names, building signs, telephone numbers, and other forms of identification should clearly distinguish the recipient from any organization that engages in restricted activities. *See* OPO Memo to All LSC Program Directors, Board Chairs (October 30, 1997).

While there is no *per se* bar against shared personnel, generally speaking, the more shared staff, or the greater their responsibilities, the greater the likelihood that program integrity will be compromised. Recipients are instructed to develop systems to ensure that no staff person engages in restricted activities while on duty for the recipient, or identifies the recipient with any restricted activity. *See* OPO Memo to All LSC Program Directors, Board Chairs (October 30, 1997).

CLAS has one (1) non-LSC funded contractual agreement with Northeast Ohio Legal Services (“NOLS”), to provide a comprehensive integrated, effective, and efficient system for the delivery of a full range of high quality civil legal services to low income residents of central northeast Ohio. Due to the limited scope of the fiscal review, as discussed previously, the Part 1610 findings of this review were limited.

A review of the workspace shows that CLAS shares its floor with NOLS. However, the entrances to the spaces were separate, on opposite sides of the elevator area, with NOLS behind a locked door.

From a limited review of the cash receipts journal, grants, contracts, funding source notification letters, and web-page, it was determined that from January 1, 2011 through December 31, 2012,

CLAS received funding from foundations, law firms, individuals, bar associations, and federal and state agencies. From sampling, it was revealed that CLAS provided written notification, to all funders selected who provided \$250 or more, of the prohibitions and conditions which will apply to the funds as per the requirements of 45 CFR § 1610.5. However, according to the Executive Director, one (1) funder, the Department of Justice - Violence Against Woman Act (“VAWA”), was not included on CLAS’ mail merge. As such, VAWA has not been receiving CLAS’ funding source notification letters. In response to the DR, CLAS noted the omission of the Department of Justice from the annual mailing. It further advised that CLAS mailed the notice to the Department of Justice when this oversight was noted at the time of the review. In the DR, OCE indicated that as a corrective action CLAS must add VAWA to its mailing list to ensure all funding sources receive notification of the prohibitions and conditions which apply to the funds. Unfortunately, CLAS also explained that it no longer has this grant therefore rendering a future notification moot. Also, the DR indicated that CLAS must ensure that any funder, who provides \$250 or more, by any method, receives a notification letter informing them of the prohibitions and conditions which will apply to the funds. CLAS responded that it believes the aforementioned omission of the annual notice to the Department of Justice was a mistake. It believes that the system is compliant and it will remain vigilant to ensure that all funders and donors are properly notified. OCE has considered the CLAS response and concurs that this was an oversight and is not evidence of a systemic problem. Accordingly, there is no additional action required with respect to this finding.

The DR recommended that if there is any question as to whether a notification letter should be sent to a funder, CLAS should send one (1) to the funder. In response to the DR, CLAS agreed this is a prudent course of action and will do so.

Finding 17: CLAS is in substantial compliance with 45 CFR Part 1614 which is designed to ensure that recipients of LSC funds involve private attorneys in the delivery of legal assistance to eligible clients.

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.

Recipients are required to develop a PAI Plan and budget. *See* 45 CFR § 1614.4(a). The annual plan shall take into consideration the legal needs of eligible clients in the geographical area, the delivery mechanisms potentially available to provide the opportunity for private attorneys to meet legal needs, and the results of consultation with significant segments of the client community, private attorneys and bar associations, including minority and women's bar associations. The recipient must document that its proposed annual Plan has been presented to all local bar associations and the Plan shall summarize their response. *See* 45 CFR §§ 1614.4(a) and (b).

Overview of the PAI Program

CLAS' PAI component, known as the Volunteer Lawyers Service Project ("VLSP") was assessed during the on-site review.²⁸ In advance of the review, CLAS provided a copy of its PAI Plan 2011-2012 and, during the on-site visit, provided a copy of its 2013-2014 PAI Plan, which was approved by the Board of Directors on February 27, 2013 (hereinafter these will be referred to collectively as the "Plans"). These Plans set forth the legal needs of eligible clients in the service area, the delivery mechanisms potentially available to provide opportunities for private attorney involvement, and reflected that CLAS consulted with the legal community. Pursuant to these Plans, CLAS maintains a pro bono panel of private attorneys to provide legal assistance to LSC-eligible clients pursuant to 45 CFR Part 1614 and to engage in legal information efforts. Additionally, CLAS engages in non-LSC funded PAI activities, such as its Reduced Fee Program and Private Attorney Contracts program. CLAS also involves paralegals and law students in the delivery of legal services to eligible clients. The on-site review found CLAS' PAI practices consistent with its PAI Plan.

The priorities of the VLSP were reviewed and found to be consistent with CLAS staff priority areas. The primary types of cases handled are family law (divorces, Orders of Protection, adoptions, guardianships, etc.), housing and foreclosure, benefits, estate planning, expungements, bankruptcies, and consumer law.

The staff members involved in the PAI component are the Managing Attorney (who also supervises intake), a staff attorney, three (3) paralegals, and two (2) legal assistants. The Akron, Youngstown, and Canton offices each house PAI staff members who collectively work on PAI activities and cases for the entire program. The on-site review observed that CLAS expertly uses technology in its oversight efforts and to coordinate and track its PAI activities. The focus of the VLSP component is to provide attorney-client matches, legal information and advice clinics, and to support private attorneys by providing training, mentoring, and recognition. The PAI staff members indicated that they allow the private attorneys to advise them as to the types of cases they would like to handle. PAI recruits new attorneys by mail drives and by sponsoring free training events in exchange for acceptance of pro bono cases. CLAS attends local bar and other law-related functions, and provides information about VLSP programs to the community and

²⁸ The terms "PAI Component" and "VLSP" are used interchangeably by CLAS, and in this section.

private attorneys through presentations, material distribution, and through an on-line presence. PAI staff collaborates with various bar associations, community partners, and the judiciary in its efforts. Private attorneys are given special recognition through awards and other events. Accordingly, CLAS has developed an extensive number of contacts and appears to work effectively within the legal community.

CLAS provides diverse opportunities for pro bono attorneys to volunteer, through clinics, attorney-client matches, and through the provision of legal information. The Brief Service, Advice, and Referral Clinics are specialty or general advice clinics providing assistance with family law advice and document preparation, estate planning, bankruptcy and consumer protection, tax, expungement, and other general civil issues. VLSP works both alone and with other partners, such as local bar associations, homeless shelters, senior centers, universities, and the judiciary, to organize and promote clinics, which are staffed by private attorneys participating in the VLSP effort. CLAS staff members conduct legal education programs to promote these services and interested persons can apply via CLAS. The volunteer attorneys conduct the clinics and prepare legal documents on site. CLAS may also prepare legal documents for the clinics and may provide follow-up services if required.

The Attorney-Client Match Program is a traditional program that matches a client with an attorney for individual representation. Typically, the match results in extended representation; however, CLAS recently began referring cases to private attorneys for limited services through its telephone advice Pro Bono Helpline, and University programs. The match may be between a client and an individual attorney, or the match may be with a university professor who has agreed, with the assistance of law students assigned to the clinic, to accept cases in a particular practice area, such as expungements. CLAS staff may prepare documents for a private attorney's review and execution.

CLAS has also worked with the courts to establish a paralegal Order of Protection pro se document preparation and court accompaniment program, known as the Victim Assistance Legal Unit ("VALU") at the courthouse in Canton, Ohio. The users of the center are provided with legal information and referral services. These matters are reported to LSC in the Other Services Reports. CLAS advised that no costs, personnel, or otherwise, associated with the VALU Program are charged to LSC.

CLAS operates a large Reduced Fee Program ("RFP") throughout its service area. As part of this program, family law legal assistance is provided by private attorneys whose compensation is paid for by the client. The private attorney is compensated \$250 per divorce action and an additional \$250 for every Qualified Domestic Relations Order prepared. The intake, referral, placement, oversight, and case closure process for a RFP case are the same for other private attorney cases except that, prior to placing the case, the client tenders CLAS a check or money order for the services to be provided by the private attorney. CLAS places these sums in its escrow account and records the escrow number, date, client name, and amount in its ACMS. CLAS refers the RFP case to the private attorney by including the facts of the case in its weekly newsletter, VBLAST. A private attorney interested in accepting the case responds to the VBLAST by contacting the Managing Attorney. After placement, CLAS issues a check to the assigned private attorney, and provides the attorney with a copy of the client's intake file, a

Poverty Affidavit, and the VLSP Attorney Fee and Litigation Expense Policy. The client is provided with a copy of the VLSP Agreement, a receipt for the fees paid, and instructions to contact the private attorney. In the rare circumstance that the private attorney fails to complete the services, CLAS will use non-LSC funds to retain another RFP attorney to serve the client. If the client withdraws before work has begun, the funds will be returned to the client. If the client withdraws after work has begun, CLAS will evaluate whether the client is entitled to a refund and in what amount. CLAS reported that no LSC funds are used in the compensation of private attorneys and RFP cases are not reported in the CSRs. CLAS excludes these cases through its ACMS de-selection codes which ensure they are not supported with LSC funds. CLAS reported that time spent by staff engaged in RFP activities are not allocated to the PAI effort.

CLAS occasionally executes contracts with private attorneys, referred to as “Private Attorney Contracts.” These contracts are generally in the amount of \$250. CLAS negotiates separate contracts for every case accepted pursuant to contract and fees paid to the private attorney under these contracts cannot exceed 50% of the market rate for such representation in the community. Private attorneys executing these contracts certify that they do not receive more than 50% of their income from such representation. These cases are CSR reportable and the funding may be charged to the LSC grant.

According to CLAS’ audited financial statement for fiscal year 2011, and draft audited financial statement for fiscal year 2012 (there were two draft versions, both were reviewed), PAI expenditures were reported separately as required by 45 CFR § 1614.3(e)(2). The “Statement of Revenues and Expenses of Private Attorney Involvement Commitment” evidenced that CLAS expended a total of 11.45% (\$213,647) in 2011, and 17.61% (\$196,210) in 2012 of its Basic Field-General grant award. A review of a spreadsheet outlining PAI common costs, its non-personnel costs, and non-attorney and non-paralegal costs, as well as discussions with the Chief Financial Officer and the Accounting or Human Resources Manager, indicate that CLAS’ cost allocation methodology for these types of costs are allocated based on reasonable operating data as required by 45 CFR § 1614.3(e)(1)(i).

The Intake Process

The intake screening process for a private attorney case is no different from the intake process for a staff case. Intake is conducted by the intake unit and these staff members identify cases for the VLSP based upon the written Case Acceptance Guidelines for each substantive case type and the county of an applicant’s residence. If the case is appropriate for private attorney activity, an applicant will be interviewed, as discussed below, to determine suitability for referral, either to a private attorney or clinic placement. The decision to refer a case to an attorney or clinic will not be made at group case meetings as designated VLSP staff members determine the referral and placement of PAI cases by written Case Acceptance Guidelines.

Clinic Services

The VLSP clinics are either brief advice and referral clinics or specialty pro se document preparation clinics that focus on providing self-help in a particular area of the law, such as divorce, bankruptcy, consumer protection, and wills. Private attorneys provide legal assistance to

clinic participants, as well as legal information and document preparation. The Akron, Youngstown, and Canton offices organize, publicize, and operate these clinics. Except for divorce clinics²⁹, applicants are referred to the PAI component after eligibility is determined. After referral to PAI, PAI staff review the file, and, if appropriate for a clinic, the applicant is mailed a substantive case-type Questionnaire and VLSP service agreement (which includes an attestation) to complete and return. Upon its return, the applicant is contacted, eligibility and factual information reviewed, and, if appropriate, the applicant is scheduled for a clinic while on the telephone, and by follow-up letter, and then is sent a reminder letter a week before the scheduled clinic date.

CLAS operates “staffed” and “unstaffed” clinics. At the “staffed” clinics, PAI staff members attend and facilitate the clinics, by checking in participants, notarizing and copying documents, and providing filing instructions and other legal information. After services are provided, private attorneys complete a Case Disposition Form (“CDF”) or the Attorney’s Notes section of a Clinic Intake Form (“CIF”). The CDF requires the attorney to check a box describing the case outcome and legal services rendered. The CIF requires the private attorney to briefly describe the case and set forth the legal advice or assistance provided. After the clinic, some, but not all, PAI staff members review the CDF/CIF to determine the sufficiency of the legal assistance recorded. It is a best practice to review the CDF/CIF to determine the sufficiency of the legal assistance recorded and it is recommended that all PAI staff engage in this practice.

Case information is then entered into the ACMS by PAI staff members. PAI staff members report that cases are excluded from CSR reporting if no legal assistance was provided. If assistance was provided, they are closed as a staff or PAI cases, depending upon whether staff members or private attorneys provided the highest level of legal assistance. PAI staff members assign case closure categories based on the information supplied in the CDF, the file, or court docket. The “unstaffed clinics” are community partner clinics and are held at senior centers and domestic violence and homeless shelters. CLAS organizes the clinics and recruits the private attorneys; however, the community partner operates the clinic. The community partner identifies potential participants and instructs them to contact CLAS for eligibility screening. Once the participant is determined eligible for the clinic, CLAS schedules the participants and provides its community partner with this information. The community partner will direct the participant to complete the CIF on the day of the clinic and execute an attestation. The private attorney will provide services and record the assistance provided on the CIF. All information obtained during the clinic will be returned to CLAS by the community partner. Case information is entered into the ACMS by PAI staff members. PAI staff members report that cases are excluded from CSR reporting if no assistance was provided. If assistance was provided, they are closed as a staff or PAI cases, depending upon whether staff members or private attorneys provided the highest level

²⁹ The process for serving clients with family law issues is slightly different. Intake staff members do not screen the applicants for eligibility. Intake staff members obtain the applicant’s name and address and forward this information to the PAI staff member in Canton. The Canton PAI staff member then sends these applicants a Divorce Questionnaire and VLSP Agreement, and when it is returned, she performs intake screening in ACMS, and then, she may reject the applicant, or if appropriate, refers the applicant to the staff family law unit, the RFP, or clinic. Also, divorce cases are held open to determine whether the client obtained the relief requested. PAI staff members tickle the file and routinely check the court docket to determine when the case is ready for closure, then assign the case closure category and close the file.

of legal assistance. CLAS staff members assign case closure categories based on the information supplied in the CIF and the file.

Attorney-Client Match

Attorneys and clients are matched in a variety of ways. Placement of cases to the University of Akron School of Law are sent directly to the assigned professor for work up and advice pursuant to an informal understanding. Bankruptcy, foreclosure, and consumer cases are first “worked-up” by law students volunteering their time at CLAS before they are placed with a private attorney (additionally, bankruptcy clients must tender a check or money order to CLAS for the payment of filing fees before CLAS will refer the case). The case is scheduled for a one (1) week status review to ensure the attorney and client has established contact.

If the applicant does not contact private attorney to whom they have been referred, ceases communication with the VLSP, or if the case is resolved by affirmative steps taken by the applicant, and no further assistance is required, the case will be closed. The PAI staff member will review the available information and determine the level of assistance, if any, that was provided. The case will be excluded from the CSRs if no assistance was provided. If assistance was provided, the case will be closed as a staff or PAI case, depending upon which case handler provided the highest level of legal service. If the private attorney fails to remain in contact with the client, every effort will be made to secure another private attorney for the client. A “no contact” closing letter will be mailed to the applicant if a status check later reveals that the applicant has lost contact with the attorney.

Once a case is placed with a private attorney and CLAS has determined that the attorney is working on the matter, it is set for quarterly status review.³⁰ To obtain the status of a case, the PAI staff member reviews the court website and telephones or emails CDF case update requests to private attorneys on the assigned dates by batch mailings. If the private attorney does not respond, the PAI staff member will send another mailing, review the court website, if applicable, contact the attorney by telephone/email, or contact the client to obtain the status of the case. When a PAI staff member is unable to find out the status of a case, that case will be closed based upon information that is available to CLAS. At the conclusion of a case, the private attorneys are encouraged to complete a CDF which documents the nature of the legal assistance provided, and are requested to submit a copy of any court orders. Private attorneys are asked to check any of eight (8) reasons for closing the case, eight (8) of the reasons mirror CSR case closure categories. The private attorney, additionally, indicates if the contact was telephone only or if he failed to have contact with the applicant. Upon closure, a PAI member or Staff Attorney assigns a case closure category based upon information contained in a case file, court website, the CDF, and/or based upon the staff member’s knowledge of the case. When appropriate, a PAI staff member may contact a private attorney in order to obtain further information. CLAS may prepare closing letters and surveys for clients and private attorneys. The PAI Staff Attorney reviews every file upon closure and approves the case closure category selected.

³⁰ Bankruptcy status reviews are set for 90 day status reviews.

Conclusion/Evaluation

The on-site review noted that the case tracking forms, letters, documents, and the oversight process in each office is uniform and consistent. Interviews with management and staff evidenced that the PAI staff operate an extremely coordinated and complex pro bono program utilizing technology, process, and manual review of files in its compliance-related PAI activities. This has resulted in the PAI component developing a consistent approach to refer and place cases and in the development of consistent systems in place to periodically track the private attorneys' progress on cases. CLAS has maintained organizational consistency because each office complies with the detailed A2J Team Employee Manual for the placement and oversight of its PAI cases. Despite the high degree of standardization and oversight, each PAI staff member is given responsibility for clinics in their service area. In these instances, slightly different approaches and forms were developed in order to allow PAI staff members to respond to unique local needs of the private bar in the areas served by the individual offices. Thus, the combination of clear and consistent process, staff coordination, and flexibility, has resulted in a high degree of compliance with LSC regulations and other authorities and effective follow-up and oversight of VLSP cases while still allowing CLAS to be responsive to the needs of its clients and volunteers.

Specifically, interviews and sampled files demonstrated that CLAS' PAI systems ensure that PAI cases are active and that current and accurate information is maintained within these files. As discussed in Finding 9, the on-site review identified limited patterns of error in the sufficiency of the documentation of PAI assistance, and that this pattern of error was self-corrected by CLAS in 2012. As discussed above in Finding 11, all cases allocated to the PAI component yielded evidence that they were timely closed.

As such, CLAS is in compliance with 45 CFR Part 1614 which is designed to ensure that recipients of LSC funds involve private attorneys in the delivery of legal assistance to eligible clients.

However, as the on-site review found some PAI staff were not familiar with all of the intake eligibility requirements, the DR recommended that CLAS provide its PAI staff with further intake training and review its A2J Team Employee Manual to ensure that it is consistent with CLAS policy and contains information concerning the categories of assets CLAS policy exempts from consideration during eligibility determinations. As noted above, in response to Finding 5, CLAS provided training for all staff on intake training. See the CLAS Response and Attachment A.

There are no corrective actions required.

Finding 18: CLAS is in compliance with 45 CFR § 1627.4(a) which prohibits programs from utilizing LSC funds to pay membership fees or dues to any private or nonprofit organization and 45 CFR § 1627.2(b)(1) which requires LSC approval of payments made to attorneys in excess of \$25,000.

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.³¹ Except that the definition does not include transfers related to contracts for services rendered directly to the recipient, *e.g.*, accounting services, general counsel, management consultants, computer services, etc., or contracts with private attorneys and law firms involving \$25,000 or less for the direct provision of legal assistance to eligible clients. *See* 45 CFR §§ 1627.2(b)(1) and (b)(2); *see also*, 48 Federal Register 28485 (June 2, 1983) and 48 Federal Register 54207 (November 30, 1983).

Additionally, 45 CFR § 1627.4(a) states that:

- a) LSC funds may not be used to pay membership fees or dues to any private or nonprofit organization, whether on behalf of a recipient or an individual.
- b) Paragraph (a) of this section does not apply to the payment of membership fees or dues mandated by a government organization to engage in a profession, or to the payment of membership fees or dues from non-LSC funds.

An examination of CLAS' 2011 audited financial statements and 2012 draft audited financial statements (versions 1 and 2) revealed that CLAS did not have any LSC subgrants. However, CLAS did have a non-LSC subgrant arrangement with NOLS (this relationship is discussed in more detail in Finding 16, above).

An examination of CLAS' invoices and general ledger disclosed that CLAS used LSC funds to pay the mandated attorney registration required by the Ohio Office of Attorney Services. According to the LSC regulations, as discussed above, this is a permissible expense. Additionally, a review of CLAS' 2011 audited financial statements and 2012 draft audited financial statements (versions 1 and 2), revealed that CLAS does not report membership fees or dues by natural or dedicated line item expense. The DR recommended that for the 2013 audited financial statements, CLAS create a natural or dedicated line item expense for membership fees or dues. In its response to this

³¹ Programmatic activities includes those that might otherwise be expected to be conducted directly by the recipient, such as representation of eligible clients, or which provides direct support to a recipient's legal assistance activities or such activities as client involvement, training or state support activities. Such activities would not normally include those that are covered by a fee-for-service arrangement, such as those provided by a private law firm or attorney representing a recipient's clients on a contract or *judicare* basis, except that any such arrangement involving more than \$25,000 is included.

recommendation, CLAS indicated that it discussed this recommendation with its auditors and it will do so.

There are no corrective actions required.

Finding 19: CLAS is in compliance with 45 CFR Part 1635 (Timekeeping requirements).

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 one-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, an 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.

As previously noted, CLAS utilizes the Pika timekeeping/case management system. The program maintains a Time and Attendance Records policy which includes detailed procedures outlining employees' responsibilities with respect to timekeeping. This policy requires, in part, that all CLAS employees keep contemporaneous time using the computerized timekeeping program in Legal Files. Each employee submits a timesheet (Pika payroll report) on a bi-weekly schedule, showing actual work hours on a daily basis, as well as any leave time taken.

CLAS maintains strong accounting, financial reporting, and timekeeping systems. According to CLAS policy, all staff members are required to account for time spent on cases, matters, and supporting activities. Time records must be created contemporaneously in the computerized database system, and be in increments of six-minute (6) intervals. Accurate timekeeping is an LSC grant requirement and is imperative for billing purposes for other grants. According to the Compliance Manager, staff enters their time in Pika. Case time is automatically entered in the Pika activities (time) table in the cases funds number. Most cases begin in OLAF funding but as

soon as the criteria is met for another funder, such as Community Development Block Grant contracts or County Department of Job and Family Services contracts, the case is placed in the appropriate funding number. All staff members interviewed demonstrated a familiarity with the timekeeping system.

A random sample of timekeeping records for seven (7) advocates selected from two (2) different pay periods for each year under review was performed. The review of the timekeeping records disclosed that the records are computerized and contemporaneously record the time spent on each case, matter, or supporting activity as required by 45 CFR § 1635.3(b). Sample cases were selected and compared to the time reported by the advocates on their timekeeping. Each record of time spent for cases contained a unique client name or case number. The amount of time reported in connection with the specific activity was reasonable.

The CLAS timekeeping system is able to aggregate time record information on both closed and pending cases by legal problem type, consistent with the provisions of 45 CFR § 1635.3(c). Further, CLAS maintains a list of timekeeping codes for cases, matters, supporting activities and funding sources.

Also, according to the Executive Director and Compliance Manger, CLAS does not employ any attorneys who have engaged in restricted activities while working part-time for another organization. This was further evidenced by the review of CLAS' part-time certification forms. *See* 45 CFR § 1635.3(d).

There are no recommendations or corrective actions required.

In response to the DR, CLAS offered no comments on this Finding.

Finding 20: Sampled cases, interviews, and a review of CLAS' policies evidenced compliance with the requirements of former 45 CFR Part 1642 (Attorneys' fees).

Prior to December 16, 2009, except as otherwise provided by LSC regulations, recipients could not claim, or correct and retain attorneys' fees in any case undertaken on behalf of a client of the recipient. *See* former 45 CFR § 1642.3.³² However, with the enactment of LSC's FY 2010 consolidated appropriation, the statutory restriction on claiming, collecting or retaining attorneys' fees was lifted. Therefore, at its January 30, 2010 meeting, the LSC Board of 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.

LSC further determined that it will not take enforcement action against any recipient that filed a claim for, or collected or retained attorneys' fees during the period December 16, 2009 and

³² 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* former 45 CFR § 1642.2(a).

March 15, 2010. Claims for, collection of, or retention of attorneys' fees prior to December 16, 2009 may, however, result in enforcement action. As well, the regulatory provisions regarding 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. *See* LSC Program Letters 09-3 (December 17, 2009) and 10-1 (February 18, 2010).

None of the sampled files reviewed indicated non-compliance with this Part.

There are no recommendations or corrective actions required.

In response to the DR, CLAS offered no comments on this Finding.

Finding 21: Sampled cases reviewed and documents reviewed evidenced compliance with the requirements of 45 CFR Part 1612 (Restrictions on lobbying and certain other activities). Policies reviewed evidenced compliance with the requirements of 45 CFR Part 1612.

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.

CLAS has an established written policy on Part 1612 - Legislative and Administrative Activities, as well as a Part 1612 - Request for Approval of Legislative and Administrative Advocacy Form, both of which were last modified June 22, 2011. These are available on-line to all CLAS employees to ensure they are aware of, and comply with, LSC requirements regarding legislative and administrative activities, including restrictions and prohibitions, as set forth in 45 CFR Part 1612.

A limited review of CLAS' fiscal records provided no indication that the program was involved in restricted activities during the review period. The Executive Director also confirmed that CLAS and its staff were not involved in any restricted public rulemaking or lobbying activities.

Pursuant to 45 CFR Part 1612.10(c), CLAS notifies LSC through its Semi-Annual Legislative and Administrative Activity Report of legislative and rulemaking activities conducted by the program and its staff. A sample of two (2) legislative and rulemaking activities conducted by CLAS staff during the review period disclosed no exceptions. The Executive Director provided a summary report of the timekeeping records for each attorney, and for each year, which indicated that no time or hours were charged to LSC. An additional analysis was conducted on one (1) of the attorneys timekeeping records, and from this analysis, it was determined that CLAS did not use a unique code to identify time associated with legislative and rulemaking

activity, instead time automatically defaults to the OLAF funding source or code. However, according to the Compliance Manager, prior to the end of the year payroll allocation, an examination of the timekeeping hours for all staff is reviewed at year end to verify if time is properly charged to its funding source. According to the Compliance Manager, in assessing time or hours associated with legislative and rulemaking activity, CLAS makes a determination by reviewing or looking at the notes section on the timekeeping records. It is recommended that CLAS improve on their timekeeping system by using a unique code to identify any time or activity associated with rulemaking or legislative activity.

Also, one (1) attorney's set of expense reports were examined to determine if any related costs associated with their participation in legislative and rulemaking activity was charged to the LSC fund. From that examination, it appears from the coding on the expense report or invoice, and discussions with the Bookkeeper, that CLAS charges these related costs to the OLAF fund, and then later allocates these costs or charges to their respective funding source(s) or code(s). CLAS must ensure that all costs associated with legislative and rulemaking activity allowed under 45 CFR Part 1612 are allocated to a non-LSC funding source(s) or code(s). Based on our review of the books and records and also based on interviews with the CLAS management, CLAS is in compliance with this requirement.

None of the sampled files and documents reviewed, including the program's legislative activity reports, evidenced any lobbying or other prohibited activities.

There are no recommendations or corrective actions required.

In response to the list of Required Corrective Action items included in the DR, CLAS noted the conflict between the prior statement and a corrective action item which was included which references this section. The corrective action item was included in the list by mistake and has therefore been withdrawn.

Finding 22: Sampled cases, interviews, and a review of CLAS' policies evidenced compliance 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.

None of the sampled files reviewed, interviews conducted, or CLAS policies reviewed involved legal assistance with respect to a criminal proceeding, or a collateral attack in a criminal conviction.

There are no recommendations or corrective actions required.

In response to the DR, CLAS offered no comments on this Finding.

Finding 23: Sampled cases evidenced compliance 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).³³

None of the sampled files reviewed, interviews conducted, or CLAS policies reviewed involved initiation or participation in a class action.

There are no recommendations or corrective actions required.

In response to the DR, CLAS offered no comments on this Finding.

Finding 24: Sampled cases, interviews, and a review of CLAS’ policies evidenced compliance 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.

None of the sampled files reviewed, interviews conducted, or CLAS policies reviewed revealed participation in litigation related to redistricting.

There are no recommendations or corrective actions required.

In response to the DR, CLAS offered no comments on this Finding.

³³ 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 25: Sampled cases, interviews, and a review of CLAS' policies evidenced compliance 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 of other resident tenants, or employees of the public housing agency. *See* 45 CFR § 1633.3.

None of the sampled files reviewed, interviews conducted, or CLAS policies reviewed involved defense of any such eviction proceeding.

There are no recommendations or corrective actions required.

In response to the DR, CLAS offered no comments on this Finding.

Finding 26: Sampled cases, interviews, and a review of CLAS' policies evidenced compliance 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.

None of the sampled files reviewed, interviews conducted, or CLAS policies reviewed involved participation in civil litigation, or administrative proceedings, on behalf of an incarcerated person.

There are no recommendations or corrective actions required.

In response to the DR, CLAS offered no comments on this Finding.

Finding 27: Sampled cases, interviews, and a review of CLAS' policies evidenced compliance with the requirements of 45 CFR Part 1638 (Restriction on solicitation).

In 1996, Congress passed, and the President signed, the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (the "1996 Appropriations Act"), Pub. L. 104-134, 110 Stat. 1321 (April 26, 1996). The 1996 Appropriations Act contained a new restriction which prohibited LSC recipients and their staff from engaging a client which it solicited.³⁴ This restriction has

³⁴ *See* Section 504(a)(18).

been contained in all subsequent appropriations acts. This restriction is a strict prohibition from being involved in a case in which the program actually solicited the client. As stated clearly and concisely in 45 CFR § 1638.1: “This part is designed to ensure that recipients and their employees do not solicit clients.”

The key provision in the prohibition is in the definition of “unsolicited advice” 45 CFR §1638.2(b) which states:

(b) Unsolicited advice means advice to obtain counsel or take legal action given by a recipient or its employee to an individual who did not seek the advice and with whom the recipient does not have an attorney-client relationship.

As further noted in the regulation, at 45 CFR § 1638.4(a):

(a) This part does not prohibit recipients or their employees from providing information regarding legal rights and responsibilities or providing information regarding the recipient’s services and intake procedures through community legal education activities such as outreach, public service announcements, maintaining an ongoing presence in a courthouse to provide advice at the invitation of the court, disseminating community legal education publications, and giving presentations to groups that request them.

None of the sampled files reviewed, interviews conducted, or CLAS policies reviewed indicated program involvement in such activity.

There are no recommendations or corrective actions required.

In response to the DR, CLAS offered no comments on this Finding.

Finding 28: Sampled cases, interviews, and a review of CLAS’ policies evidenced compliance 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.

None of the sampled files reviewed, interviews conducted, or CLAS policies reviewed involved such activity.

There are no recommendations or corrective actions required.

In response to the DR, CLAS offered no comments on this Finding.

Finding 29: Sampled cases, interviews, and a review of CLAS' policies evidenced 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.

None of the sampled files reviewed, interviews conducted, or CLAS policies reviewed evidenced non-compliance with the above LSC statutory prohibitions.

There are no recommendations or corrective actions required.

In response to the DR, CLAS offered no comments on this Finding.

Finding 30: CLAS is in compliance with the requirements of 45 CFR § 1620.6 (Signed written agreements).

Under 45 CFR § 1620.6, all staff who handle cases or matters, or are authorized to make decisions about case acceptance, must sign a simple agreement developed by the recipient which indicates that the signatory:

- a) Has read and is familiar with the priorities of the recipient;

- b) Has read and is familiar with the definition of an emergency situation and the procedures for dealing with an emergency that have been adopted by the recipient; and
- c) Will not undertake any case or matter for the recipient that is not a priority or an emergency.

During the compliance visit, the review team requested to see a sample of copies of signed written agreements wherein staff acknowledged, among other things, that they have read and are familiar with CLAS' priorities and emergency case acceptance procedures. Pursuant to the request, the Executive Director provided a sample of the statements signed by CLAS staff, which were consistent with the requirements of 45 CFR § 1620.6. Interviews with the Executive Director and Compliance Manager also evidenced that CLAS is in compliance with the requirements of 45 CFR § 1620.6.

There are no recommendations or corrective actions required.

In response to the DR, CLAS offered no comments on this Finding.

Finding 31: Interviews and a limited review of procedures, practices, and documents related to TIG No. 09173 evidenced partial compliance with certain TIG grant assurances and other applicable LSC regulations, rules, and guidelines.

TIG projects and funds are subject to TIG contract terms, the provisions of the LSC Act and regulations and any other laws, including appropriations provisions which apply to LSC funds. During the onsite review of TIGs, OCE staff examines a sampling of TIG-related activities and expenditures to ensure their compliance with applicable law, rules, regulations, policies, guidelines, instructions, and other directives of the Legal Services Corporation, including, but not limited to, the LSC Audit Guide for Recipients and Auditors, the Accounting Guide for LSC Recipients (2010 Edition), certain LSC TIG Assurances, the Property Acquisition and Management Manual, and with any amendments of the foregoing adopted before or during the period of the TIG grant.

TIG No. 09173 was a grant in the amount of \$31,180, for the purpose of establishing a web-based desktop which would allow legal aid employees to customize their desktops to enhance the delivery of services. Specifically, the Proposal submitted to LSC explains:

The Next Generation Legal Services Desktop Project (NGLSD) team will utilize the www.igoogle.com content model to develop a web-based desktop configuration template that will include frequently used links and online tools. It will be customized for legal services users and will be flexible enough for each advocate to adapt to his or her own needs.

This project, hereinafter referred to as "the Desktop Project" was completed and under budget at \$20,098. The excess funds were returned to LSC in October 2012.

There were 13 grant assurances (“GAs”) for the Desktop Project, including, *inter alia*, assurances related to the expenditure of TIG funds (GA5), responsibility for overruns (GA6), cessation of basic field funding (GA9), staff time (GA11), timetable changes (GA12), and an all-purpose clause (GA13). During the on-site Compliance Review, the performance of the TIG was reviewed against these grant assurances and with one (1) omission, discussed below, no exceptions were noted.

An analysis of the 2010-2011 audited financial statements, for the Desktop Project, revealed that LSC’s portion of the final expenditures (salaries, benefits, and contract services) reported by CLAS, are in non-compliance with GA5, because CLAS re-programmed \$18,598 in contract services and there is no indication that CLAS requested or was granted approval from LSC to re-program and spend the TIG funds. Also, the program received donated services from one (1) consultant in the amount of \$4,200 that was not in the TIG budget, resulting in the award amount being reduced by this amount. In addition, LSC paid for one (1) of CLAS’ employees to attend the TIG training conference at a cost of \$1,500. This amount was never accounted for or reported in CLAS’ financial records even though CLAS received the benefit. In total, LSC paid CLAS \$25,480 of the total amount awarded of which \$6,882 was returned.

Also, an analysis of CLAS’ 2010 audited financial statements revealed that CLAS failed to separately report activity related to the Desktop Project in accordance with LSC’s Accounting Guide. According to the Chief Financial Officer, this was CLAS’ first TIG grant and she was unaware that the TIG grant had to be reported separately. However, according to the Chief Financial Officer, in 2011, OCE requested that CLAS provide a schedule that reflected the revenues and expenses related to TIG No. 09173. While on-site, CLAS provided OCE a copy of that schedule, that separately reported the revenues and expenses related to TIG No. 09173 for 2010. In the future any TIGs should be reported separately.

The return, to LSC, of unspent TIG funds of \$6,882, was in accordance with GA5, 45 CFR § 1628.3, and LSC Accounting Guide. However, this was done after the grant term resulting in CLAS being in partial compliance.

This TIG did not implicate, *inter alia*, prohibited political activities, fee-generating cases, use of non-LSC funds, transfer of LSC funds, program integrity, Private Attorney Involvement, membership fees or dues, timekeeping requirement, attorneys’ fees, restrictions on lobbying and certain other activities, restrictions on legal assistance with respect to criminal proceedings, and actions collaterally attacking criminal convictions, class actions, redistricting, restriction on representation in certain eviction proceedings, representation of prisoners, restriction on solicitation, restriction on assisted suicide, euthanasia, and mercy killing, abortion, school desegregation litigation, military selective service act or desertion.

With the exception of that noted in Finding 34, there are no recommendations or corrective actions required.

In response to the DR, CLAS offered no comments on this Finding.

Finding 32: Interviews and a limited review of procedures, practices, and documents related to TIG No. 10029 evidenced partial compliance with certain TIG grant assurances and other applicable LSC regulations, rules, and guidelines.

TIG projects and funds are subject to TIG contract terms, the provisions of the LSC Act and regulations and any other laws, including appropriations provisions which apply to LSC funds. During the onsite review of TIGs, OCE staff examines a sampling of TIG-related activities and expenditures to ensure their compliance with applicable law, rules, regulations, policies, guidelines, instructions, and other directives of the Legal Services Corporation, including, but not limited to, the LSC Audit Guide for Recipients and Auditors, the Accounting Guide for LSC Recipients (2010 Edition), certain LSC TIG Assurances, the Property Acquisition and Management Manual, and with any amendments of the foregoing adopted before or during the period of the TIG grant.

TIG No. 10029 was done in conjunction with two (2) other LSC recipients, Legal Aid of Western Ohio and The Legal Aid Society of Cleveland. The purpose of this grant was to improve data entry and processing of the timekeeping and payroll systems by integrating the paperless, digital timekeeping systems with the case management and payroll processing systems. This project, hereinafter referred to as “the Payroll Project” was funded at \$36,010. This TIG was completed in July 2012, and the final report was issued on September 25, 2012. The Payroll Project started on January 1, 2011, with a payment of \$13,664. There were three (3) subsequent milestones set for June 30, 2011, December 31, 2011, and March 31, 2012.

There were 18 grant assurances for the Payroll Project, including, *inter alia*, assurances related to expenditure of TIG funds (GA5), budgeting (GAs6 and 7), responsibility for overruns (GA8), transfers of funds (GA), staff time (GA17), and an all-purpose clause (GA18). During the on-site Compliance Review, the performance of the TIG was reviewed against these grant assurances and with one (1) omission, discussed below in Finding 33, no exceptions were noted.

An analysis of the 2011 audited financial statements, and 2012 draft audited financial statements for TIG No.10029, revealed that LSC’s portion of the final expenditures (salaries, benefits, and contract services) reported by CLAS, are in compliance with GA5.

This TIG did not implicate, *inter alia*, prohibited political activities, fee-generating cases, use of non-LSC funds, transfer of LSC funds, program integrity, Private Attorney Involvement, membership fees or dues, timekeeping requirement, attorneys’ fees, restrictions on lobbying and certain other activities, restrictions on legal assistance with respect to criminal proceedings, and actions collaterally attacking criminal convictions, class actions, redistricting, restriction on representation in certain eviction proceedings, representation of prisoners, restriction on solicitation, restriction on assisted suicide, euthanasia, and mercy killing, abortion, school desegregation litigation, military selective service act or desertion.

With the exception of that noted in Finding 33, there are no recommendations or corrective actions required.

In response to the DR, CLAS offered no comments on this Finding.

Finding 33: Interviews and a limited review of CLAS' TIG-related expenditures and contracts evidence partial compliance with the timekeeping requirements of OMB Circular A-122 and 45 CFR § 1630.3(d); there was a \$91 overcharge to the TIG fund.

Under OMB Circular A-122, a nonprofit is required to maintain records of an employee's time, account for a full day's work, and be able to identify the portion of time devoted to grant projects. This is also a requirement of 45 CFR § 1630.3(d). According to the Associate Director and Chief Financial Officer, as well as from the review of related timekeeping records for both TIG grants, CLAS is in partial compliance with timekeeping requirements, because CLAS requires all personnel to maintain their time utilizing CLAS' timekeeping system. Although, TIG No. 09173 did not have a unique identifier or case number, time reported by TIG staff could be readily identifiable to TIG No. 09173. As for TIG No. 10029, CLAS used a place holder case number in its timekeeping system to identify and track time reported or associated with this grant. While there were several records in 2012 that did not have this identifying place holder case number, the time was identified and attributed to TIG No. 10029.

Also, the time charged to TIG salaries was overstated for one (1) grant, because CLAS, in addition to charging direct time for time spent working on the TIG projects, charged indirect time for two (2) employees, using as a basis the same hours worked that had already been charged directly to the TIG projects. From the financial records reviewed, it was determined that CLAS overcharged the TIG grant No. 10029 by \$91. In its comments to the DR, CLAS was asked to demonstrate that certain indirect or administrative charges were justified. In response to the DR, CLAS indicated partial agreement and partial disagreement with the preliminary findings. CLAS agreed with the LSC preliminary finding that that the amount of \$91 should be refunded. As CLAS explains,

This money was "overcharged" because we inadvertently included time spent by an employee in writing the final report to LSC on the TIG 10029. This report was prepared after the official end time of the grant because it was the final report and needed to be prepared after the work was completed.

CLAS disagreed with a separate preliminary finding related to TIG No. 09173. It provided information and documentation in support of its assertion. Having evaluated this information, LSC agrees with CLAS and the prior preliminary finding has been removed; there was no overcharge to TIG No. 09173.

Finding 34: From a limited review of CLAS' internal controls over cash disbursements it was determine that CLAS has weaknesses in its internal controls because (1) multiple check numbers were not listed in numerical sequence, (2) checks were missing and/or unaccounted for, (3) voided checks appeared multiple times on the check register, and (4) some checks numbers ended with a letter.

Pursuant to the LSC Accounting Guide, § 3-5.4(c), *Cash Disbursements*, LSC recipients should have an effective method established to record and categorize disbursements, and summarize

them for recording in the general ledger. Checks should be listed in numerical sequence including voided checks.

An examination of CLAS' cash disbursements (check register) covering the time period from January 1, 2011 thru December 31, 2012, revealed the following: (1) multiple check numbers were not listed in sequential order, (2) checks were missing and unaccounted for, (3) voided checks appeared multiple times, and (4) check numbers used had a letter or suffix at the end.

According to the Chief Financial Officer, most of the check errors are a direct result of CLAS converting over there accounting system from Peachtree to Sage 50. CLAS, going forward, must ensure that all checks are accounted for and listed in sequential order. Also, in addition to marking checks void, CLAS must ensure that all checks are recorded in the accounting system (general ledger). See LSC Accounting Guide §§ 3-5.4(b) and (c).

In response to this finding and the two Required Corrective Action items, CLAS acknowledged an error which caused data to be printed out of order. As noted above, this occurred during the switch of accounting systems and OCE believes this to be a unique event. CLAS further indicated that its practice is to keep physical checks which are defaced in the printing process and will continue to do so. In the situation described above, there was a printing error which defaced checks prior to the final printing. As a result, these checks were not recorded in the accounting system. In the event of a similar problem in the future CLAS will manual record the erroneous checks in the system.

No additional action is required.

Finding 35: A limited review of CLAS' internal controls with respect to cash receipts demonstrated that CLAS has good internal controls. Also, in 2012 CLAS received a *cy pres* award, but failed to disclose this information in the notes to the draft of the 2012 audited financial statements (versions 1 and 2).

Pursuant to the LSC Accounting Guide, Appendix VII, §§ H8, H12, & H14, *Accounting Procedures and Internal Controls*, LSC recipients should have procedures to ensure that cash received in the office is properly handled, ensure procedures are in place so that cash receipts are not commingled, and ensure that cash receipts are reconciled to the cash receipts log on a timely basis.

From a limited review of CLAS cash receipts logs, monthly deposits, cash receipts journal, bank statements, and interviews with staff, it was determined that the program properly records it's cash receipts to the cash receipts log. Sampling of cash deposits/receipts for the month of February 2013 revealed that cash receipts are deposited in a timely manner to CLAS' commercial bank account, and cash receipts are reconciled to the cash receipts log and cash receipts journal monthly.

Also, a brief review of the cash receipts log for the review period revealed that CLAS received and collected a *cy pres* award. *Cy pres* awards are proceeds from litigation that are awarded by

the court to non-profit organizations with missions in line with the purpose of the litigation. According to the Compliance Manager, and Chief Financial Officer, two (2) awards were received, one (1) in July 2012 for \$179,148 and one (1) in November for \$1,325. Both were distributed by the OLAF. They originated with *Cooper v. Lifequotes*, a class action suit filed in the State of Washington. A review of the 2012 draft audited financial statements (versions 1 and 2) revealed that CLAS has not disclosed this award amount in the notes to the financial statements. According to LSC's LSC Accounting Guide, Appendix 1A, recipients should note and disclose any material item of support or expense which would not normally be expected to recur in the foreseeable future. The DR advised that CLAS should consult with its auditors to assure the unique nature of any future *cy pres* awards is included in the notes to the audited financial statements. In its response to the DR, CLAS indicated that it has discussed this recommendation with its auditors and will do so in future instances when it has a *cy pres* award.

Finding 36: From a limited review of CLAS' internal controls over bank reconciliations it was determine that CLAS has weaknesses in its internal controls, because CLAS does not reconcile its bank accounts or resolve outstanding checks that exceed six (6) months in a timely manner.

Pursuant to the LSC Accounting Guide, § 3-5.2, Annual Financial Statements and Audit Reports, LSC recipients should require bank reconciliations to be reviewed and approved by a responsible individual. Such review shall be appropriately documented by signature and date. Also, bank statements shall be reconciled monthly to the general ledger in a timely manner.

While on-site, a request to review CLAS' March 2013 bank statement reconciliations was made. According to CLAS, the bank statement reconciliations were not completed. Based on this information, a request to see February 28, 2013 bank statement reconciliations for all CLAS' bank accounts was made. An examination of the bank statement reconciliation for the commercial account revealed that CLAS had 19 checks outstanding totaling \$1,931 (rounded up) for more than six (6) months. According to CLAS policy, all bank statement reconciliations are to be performed no later than 15 working days after receipt.

CLAS must ensure that all bank statement reconciliations are performed in a timely manner and that all outstanding checks that exceed six (6) months are researched, investigated, and voided (if applicable) in accordance with its policy.

In response to the DR, CLAS acknowledged it was late in complying with its internal policy, which requires reconciliations be performed no later than 15 days after receipt, in one instance and advised it will comply in the future. CLAS further noted there were extenuating circumstances and that it may consider implementing a policy change. While no additional action is required at this time, if CLAS does make a change in the policy, it is directed to notify the Director of OCE within 30 days of the change in policy.

The DR recommended that CLAS consider defacing its voided checks by cutting out the signature line of the voided checks. In response to this recommendation, CLAS advised that its auditors do not have other clients who engage in the practice. Nevertheless, the CLAS management will bring

this recommendation to the attention of its Finance Committee. It will abide by the decision of the committee.

Finding 37: From a limited review of documents and interviews with staff, it appears that CLAS, has adequate property management systems and procedures.

A Recipient's property management system and procedures should be designed to provide reasonable assurance that assets are not vulnerable to loss, theft, and unauthorized use. Therefore, all equipment costs should be appropriately recorded in the Recipient's financial management system and subsequently reported on its financial statements. A Recipient's property management process should be administered in a manner that maintains the integrity of its financial management system and that every asset acquired is properly received and accepted. A weakness in this area may result in the inability to fully account for fixed asset³⁵ purchases, and to support depreciation amounts and property asset balances. *See* LSC Accounting Guide, § 3.5.4(c) (explaining the key elements and criteria for property records).

The LSC Accounting Guide requires that certain information be maintained for fixed assets purchased in excess of \$5,000. *See* Id., App VII, § C-1 (outlining the internal control checklist for property control). The records should contain the following information for each asset:

- a. The date the asset was acquired or donated;
- b. A description of the property item, including model and serial number;
- c. Cost and salvage value, if any, of asset and check number of disbursement;
- d. Identification of funds used to purchase asset;
- e. Depreciation lives assigned to asset; and
- f. Identification number and location of asset.

See Id.

Additionally, property control procedures also require that fixed assets be tagged for easy identification to the fixed asset records, that physical inventories be conducted at least once every two (2) years in order to determine the accuracy of the fixed asset records, and that any adjustments to the fixed asset records and the general ledger control accounts be reviewed and approved by employees who do not have responsibility for maintaining fixed-asset records. *See* Id.

According to CLAS' policy, property acquisitions of non-expendable items with a value in excess of \$1,000 each, a useful life of more than one (1) year, and an acquisition date prior to October 15, 2001, will be capitalized and depreciated. After October 15, 2001, the threshold for property acquisitions was raised to items with a value in excess of \$5,000, with a useful life of more than one (1) year.

³⁵ A fixed asset is property that is not easily convertible to cash; *i.e.* computer, desk.

CLAS' policy also requires that property inventories be taken at least every two (2) years and more often when warranted for example, when theft is suspected, or an office is moved. Results of the inventory will be reconciled to the property records and financial statements.

The CLAS policy indicates that property donations each valued in excess of the dollar threshold \$1,000/\$5,000 and with a useful life of more than one (1) year are reported as unrestricted revenues, unless donor restrictions apply. If the donation is initially reported as temporarily restricted, the restriction is deemed to expire ratably over the useful life of the item, *i.e.*, in proportion to the depreciation for a comparable depreciable asset. As property value in excess of \$1,000/\$5,000 is purchased, the item is tagged with a CLAS equipment inventory control tag and is added to depreciation records, including manufacturer, model number, serial number, cost, location and useful life. It is assumed unless otherwise indicated that all equipment items are purchased with OLAF funds.

Finally, the CLAS policy notes that property purchases in an amount of \$10,000 for a single item acquired with LSC funds will require prior LSC approval pursuant to 45 CFR § 1630.5. Such decision will be documented in the Board Minutes. The Executive Director or his/her designee will request the prior approval.

An examination of CLAS' 2012 depreciation schedule revealed that CLAS made a purchase in the amount of \$9,998 for one (1) copier which is located in its Akron office. From a general observation and inspection of the copier, it was determined that CLAS failed to label and tag this asset in accordance with its policy. This was pointed out to the staff and CLAS then, that same day, properly labeled and tagged in accordance with its policy. *See* LSC Accounting Guide, App VII, § C-4 (requiring that fixed assets are tagged for easy identification). CLAS' prompt action to cure this deficiency precludes the need for additional corrective action.

In response to the DR, CLAS offered no comments on this Finding.

Finding 38: From a limited review of CLAS' Segregation of Duties Worksheet, it was determined that CLAS appears to have good separation of duties between staff.

Limited review of CLAS' Segregation of Duties worksheet revealed that CLAS financial staff appear to have adequate separation of duties in the handling of cash, disbursement of payments, petty cash, procurements, property, payroll, client trust account, general journal and general responsibilities.

In response to the DR, CLAS offered no comments on this Finding.

IV. RECOMMENDATIONS³⁶

Consistent with the findings of this report, it is recommended that CLAS:

1. Create a natural or dedicated line item for attorney fees on its audited financial statements. (Finding 15);

In its response to the DR, CLAS indicated that it has directed its auditors to take this action.

2. If there is any question as to whether a notification letter should be sent to a funder, CLAS should send one (1) to the funder. 45 CFR § 1610.5 (Notification) (Finding 16);

In its response to the DR, CLAS agreed this is the prudent course of action and will do so.

3. Create a natural or dedicated line item expense on its audited financial statements for membership fees or dues. (Finding 18);

In its response to the DR, CLAS indicated it has discussed this with its auditors and will do so.

4. CLAS should consult with its auditors to assure the unique nature of any future *cy pres* awards in the notes to the audited financial statements. (Finding 35); and

In its response to the DR, CLAS indicated that it has discussed this recommendation with its auditors and will do so in future instances when it has a *cy pres* award.

5. Consider defacing its voided checks by cutting out the signature line of the voided checks. (Finding 36).

In its response to the DR, CLAS advised it has consulted with its auditors on this issue and the auditors are not aware of other clients which do this. CLAS further indicated that it will bring this recommendation to the Finance Committee and will follow the decision of the Committee.

6. While the DR also recommended that CLAS provide its PAI staff with further intake training and review its A2J Team Employee Manual to ensure that it is consistent with

³⁶ 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.

CLAS policy and contains information concerning the categories of assets CLAS policy exempts from consideration during eligibility determinations. It was not included in the list of recommendation in the DR. Nevertheless, as noted above, in response to the DR, CLAS provided all staff – not just PAI staff – with training on intake, including the asset policy. Accordingly, CLAS responded to the recommendation in the text of the DR and we note that response here in the final report.

V. REQUIRED CORRECTIVE ACTIONS

Consistent with the findings of this report, CLAS is required to take the following corrective actions:

1. Ensure it obtains the required level of documentation necessary to evidence citizenship or alien eligibility pursuant to 45 CFR Part 1626. (Finding 5);
2. CLAS should provide staff with a brief training outlining the required elements of a properly executed citizenship attestation and include documentation evidencing same as an attachment to the Draft Report; i.e. copies of training materials. (Finding 5);

In response to the Required Corrective Action Items 1 and 2 set forth in the DR, CLAS agreed that it will obtain the required documentation necessary to evidence citizenship or alien eligibility. In addition, it has provided training to all staff on the necessity of this documentation.

No additional action is required with respect to this finding.

3. CLAS must add VAWA to its mailing list to ensure all funding sources receive notification of the prohibitions and conditions which apply to the funds, as per 45 CFR § 1610.5. (Finding 16);
4. CLAS must ensure that any funder, who contributes \$250 or more, either by mail-ins or using CLAS' on-line donate menu section on their web-page, receive a notification letter informing them of the prohibitions and conditions which apply to the funds. (Finding 16);

In response to the Required Corrective Action Items 3 and 4 set forth in the DR, CLAS explained that it provided notice to the Department of Justice with respect to the VAWA grant at the conclusion of the on-site review. However, since the VAWA grant has expired, this notice will not be required in the future. In addition, CLAS noted that its system is compliant and that this was a one-time error. Based on the response of CLAS and past performance, OCE concurs and believes that no further action is required with respect to this finding.

5. The Required Corrective Action associated with this number has been withdrawn as being included in the DR in error;
6. CLAS must return to LSC a total of \$91 for overcharging the TIG fund for employee salaries. (Finding 33);

In response to this Required Corrective Action Item, as noted above, CLAS provided information demonstrating that some of the original preliminary findings by LSC were incorrect and this has been changed. CLAS has acknowledged an inadvertent overcharge of \$91 to the TIG account.

7. CLAS, going forward, must ensure that all checks are accounted for and listed in sequential order. (Finding 34);
8. CLAS must ensure that all checks are recorded in the accounting system (e.g., general ledger). (Finding 34); and

In response to the Required Corrective Action Items 7 and 8 set forth in the DR, CLAS acknowledged an error which caused data to be printed out of order. CLAS further indicated that its practice is to keep physical checks which are defaced in the printing process and will continue to do so. In the situation described in the report, the printing error defaced checks prior to the final printing and were therefore not recorded. As a result, these checks were not recorded in the accounting system. In the event of a similar problem in the future, CLAS will manual record the erroneous checks in the system.

No additional action is required with respect to Required Corrective Action items 7 and 8.

9. CLAS must ensure that all bank statement reconciliations are performed in a timely manner and that all outstanding checks that exceed six (6) months are researched, investigated, and voided (if applicable) in accordance with its policy. (Finding 36).

In response to the DR, CLAS acknowledged it was late in complying with its internal policy in one instance and it advises it will comply in the future. CLAS also noted there were extenuating circumstances and that it may consider implementing a policy change. While no additional action is required at this time, if CLAS does make a change in the policy it is directed to notify the Director of OCE within 30 days of the change in policy.

Community

LEGAL AID

Seeking justice, changing lives.

Akron Centre Plaza
50 South Main Street, Suite 800
Akron, Ohio 44308-1828

330-535-4191
Toll Free 866-584-2350
Fax 330-535-0728

Legal Aid Helpline: 800-998-9454
www.CommunityLegalAid.org

Executive Director
Sara E. Strattan
Attorney at Law

April 22, 2014

Associate Directors
Christine Blair Legow
Steven J. McGarrity
Attorneys at Law

Mr. William Sulik
Office of Compliance and Enforcement
Legal Services Corporation
3333 K Street, NW
Washington, D.C. 20007

Advocacy Director
Gary A. Benjamin
Attorney at Law

Managing Attorneys
Maria B. Curry
Laureen M. Moore
John M. Petit
Jennifer J. van Dulmen

Re: Recipient No. 436030
Draft Report Compliance Review Visit April 15-19, 2013

Dear Mr. Sulik:

Thank you for the opportunity to comment on the Recommendations and Required Corrective Actions in the draft report referenced above.

Attorneys

Carla N. Boyle
Lynn Baumel
Patricia J. Dougan
Susan M. Fitch
Michelle A. Wrona Fox
Dana A. Goldstein
Elsa Reale Gottfried
Koula E. Gleros-King
Timothy E. Kozlowski, Jr.
Jeffrey A. Lilly
Rachal E. Nader
Jaime-Lyn Poh
Gregory R. Sain
Wayne W. Sarna
Erin L. Spencer
Dawn Spriggs
Meredith Lobritz Watts
Richard K. Whitney
Paul E. Zindle

We have the following comments to the draft Recommendations:

1. **Create a natural or dedicated line item for attorney fees on its audited financial statements. (Finding 15).** We have discussed this with our auditors, and they will do so.
2. **If there is any question as to whether a notification letter should be sent to a funder, CLAS should send one (1) to the funder. 45 C.F.R. Section 1610.5 (Notification)(Finding 16).** We believe this to be the prudent course of action and will do so.
3. **Create a natural or dedicated line item expense on its audited financial statements for membership fees or dues. (Finding 18).** We have discussed this with our auditors, and we will do so.
4. **CLAS should consult with its auditors to assure the unique nature of any future cy pres awards in the notes to the audited financial statements. (Finding 36).** We have consulted with our auditors on this matter and will do so in the future when we have cy pres awards.
5. **Consider defacing its voided checks by cutting out the signature line of the voided checks. (Finding 37).** We have consulted with our auditors and they have advised us that they do not know of other clients who do this. We will take this information back to our Finance Committee along with this recommendation and will be guided by their decision.

Equal Justice Works
AmeriCorps Legal Fellow
Kenneth A. Mirkin

We have the following comments to the draft Required Corrective Actions:

1. **Ensure that it obtains the required level of documentation necessary to evidence citizenship or alien eligibility pursuant to 45 C.F.R. Part 1626. (Finding 5).** We will do so.
2. **CLAS should provide staff with a brief training outlining the required elements of a properly executed citizenship attestation, and include documentation evidencing same as an attachment to the Draft Report; i.e., copies of training materials. (Finding 5).** This training was conducted in early December, 2013. A copy of the power point slides that were used



Columbiana · Mahoning · Medina · Portage
Stark · Summit · Trumbull · Wayne



is attached. The staff members were trained in three groups. Support staff members were trained on Friday, December 5 – one group in the morning and the other group in the afternoon. Attorneys were trained at their weekly case management meeting.

3. **CLAS must add VAWA to its mailing list to ensure all funding sources receive notification of the prohibitions and conditions which apply to the funds, as per 45 C.F.R. Section 1610.5 (Finding 16).** CLAS regrets the omission of the Department of Justice from the annual mailing of this notification to all funders. We mailed the notification to the Department of Justice for the VAWA grant at the time of the visit. Sadly, we no longer have this grant and so the notification to this particular funder is unnecessary.
4. **CLAS must ensure that any funder, who contributes \$250 or more, either by mail-ins or using CLAS' on-line donate menu section on their web-page, receive a notification letter informing them of the prohibitions and conditions which apply to the funds. (Finding 16).** We have corrected the problem created by the inadvertent omission of the Department of Justice from our mail merge for the annual notices sent to funders. We believe our system to be compliant and will remain vigilant to ensure that all funders and donors are properly notified. Note that we have moved the notification language that is in the donation section of our web site to a more prominent location.
5. **CLAS must ensure they maintain separate recordkeeping and accounting for activities funding with non-LSC funds for legislative and rulemaking activities as per 45 C.F.R. Part 1612. (Finding 21).** We found this Required Corrective Action to be confusing. A reading of Finding 21 shows that it concludes with the statement: "There are no recommendations or corrective actions required." However, earlier in the finding it states that, "[i]t is recommended that CLAS improve on their timekeeping system by using a unique code to identify any time or activity associated with rulemaking or legislative activity." In fact, we do have such a timekeeping code ("MN"), but we do not believe that it had been reliably used in connection with 1612 activity. Therefore we did a training on this subject in late 2013. A copy of the power point slides used in that training are attached as reference above.
6. **CLAS must return to LSC a total of \$2,606 for overcharging the TIG fund for employee salaries. (Finding 34).** We disagree with this Required Corrective Action in part and agree with it in part.

We agree with the finding and believe that the amount of \$91.00 should be refunded. This money was "overcharged" because we inadvertently included time spent by an employee in writing the final report to LSC on the TIG 10029. This report was prepared after the official end time of the grant because it was the final report and needed to be prepared after the work was completed.

We disagree with Finding 34 concerning the overcharge of \$2,515 for TIG 09173 in that Finding 34 incorrectly states that indirect time was charged "**using as a basis the same hours worked that had already been charged directly to the TIG projects.**" The indirect time was not charged on any time that was billed for direct services to the TIG. Only after all direct costs for those employees was correctly allocated to various funders was the matter of indirect cost charged to the unallocated dollars. Attachments B and C show the actual calculations. Attachment D illustrates the theory behind the indirect / overhead allocation.

7. **CLAS, going forward, must ensure that all checks are accounted for and listed in sequential order. (Finding 35).** Please note that this comment appears to relate to Finding 34 rather than Finding 35.

When reading this Required Corrective Action in conjunction with the Required Corrective Action below we believe that the first part of this comment relates to keeping of the physical checks that were defaced in the printing process. We have always kept our defaced checks and will continue to do so.

With regard to the second part of the required corrective action, we agree that there was a glitch which caused the data to be printed out of order. Data from the accounting software is entered

sequentially by date but it can be sorted through into different formats to suit a variety of purposes. Therefore when data is requested from us we will print it in a format which is user-friendly and appropriate to the purpose for which it is requested.

8. **CLAS must ensure that all checks are recorded in the accounting system (e.g. general ledger). (Finding 35)** Please note that this Required Corrective Action appears to relate to Finding 34 rather than Finding 35.

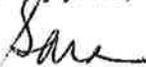
As we understand the situation the checks which were not recorded are ones that were defaced prior to final printing and were therefore not able to be recorded in the system. We understand that we will be required to manually record those checks in the event of such future problems, and we will do so.

9. **CLAS must ensure that all bank statement reconciliations are performed in a timely manner and that all outstanding checks that exceed six (6) months are researched, investigated and voided (if applicable) in accordance with its policy. Finding 37).** We understand that we must comply with our policies and will do so in the future.

In the situation referred to in Finding 37, during one month we were four days late in completing a bank reconciliation when one of the four finance positions was vacant and another finance employee was on a long term medical leave. We have consulted with our auditors about this matter and were advised that our requirement to complete bank reconciliations within 15 days of receipt is aggressive, and, as you found, resulted in our inability to comply with it during one difficult month. We will be reviewing this requirement with our Finance Committee to see if a more lenient policy might be appropriate in consideration of those unusual situations such as gave rise to your finding.

Again, thank you for the opportunity to review and comment upon the draft report.

Very truly yours,



Sara E. Strattan
Attorney at Law

SES:sb

Enclosures: Attachment A -- power point slides
Attachment B -- personnel costs 2010 TIG 09173
Attachment C -- personnel costs 2011 TIG 09713
Attachment D -- administrative overhead charged to funders

LSC regulations training
November 2013

LSC reg 1612.6
restrictions on lobbying & certain other activities

Immediately let Sara & your Managing Attorney know if . . .

- . . . you are asked to give information which may include an analysis or comment on existing or proposed rules, regulations or legislation
- . . . you are asked to testify orally or in writing

And remember you need to use time code
MN-1612.6 Activity

Manual Intake Form = NO

Manual Application Form = YES

LSC reg 1611 – financial eligibility

1611.5 - exceptions to annual income ceiling

1611.7(a) - reasonable income prospects

1611.3(d)(1) - asset exemptions

LSC regulation 1608

prohibited political activities

Immediately let Sara & your Managing Attorney know if . .

. . .you are asked to speak to a group whose title sounds political even if your presentation is not political

**LSC reg 1626 –
restrictions on legal assistance to
aliens**

Either a scanned citizenship attestation

OR

An approved Alien Eligibility Determination

must be scanned to the client's Pika file

**Properly executed citizenship
attestation:**

Required for all extended closings & whenever
ANY staff sees the client:

"I am a citizen of the United States:
signature of applicant Date: _____"

Scanning Etiquette

Personnel Costs, 2010
TIG Project 09173

Attachment B

Direct Cost	Cost Per Hour, Salary	Cost Per Hour, Taxes & Benefits	Total Cost Per Hour	2010 Hours Clocked To TIG	LSC Admin Cost	Admin Cost Allocated To TIG
McGarrity, Steven	\$43.27	\$13.39	\$56.66	132.75	\$7,521.97	\$1,537.27
Kaput, Jeffrey	\$31.73	\$7.24	\$38.97	6.75	\$263.04	\$69.25
					<u>\$7,785.01</u>	<u>\$1,606.52</u>

Total Personnel Cost:

\$9,391.53

Personnel Costs, 2011
TIG Project 09173

Attachment C

Direct Cost	Cost Per Hour,		Total Cost Per		2010 Hours	
	Salary	Taxes & Benefits	Hour	Clocked To TIG		
McGarrity, Steven	\$46.15	\$14.18	\$60.33	21.50	\$1,297.10	
Kaput, Jeffrey	\$32.99	\$7.56	\$40.55	11.25	\$456.19	
					<u>\$1,753.28</u>	

Indirect Cost	Case/Matter/Support Time	TIG Time	% TIG Time to Total Time	2010 FTE Equivalent	LSC Admin Cost	Admin Cost Allocated To TIG
McGarrity, Steven	1618	21.5	0.01328801	1.00	\$50,989.80	\$677.55
Kaput, Jeffrey	1820	11.25	0.006181319	0.67	\$37,995.62	\$234.86
					<u>\$912.42</u>	

Total Personnel Cost: \$2,665.70

Administrative Overhead is charged to funders



NOTE: Many administrative staff personnel provide direct services to funders. When performing these services they clock their hours to the specific funder. Because their positions are administrative in nature much of their time is spent not on specific funder work but corporate support work. Below is an example of how Community Legal Aid charges funders for Administrative work. In the case of LSC TIG's, a specific funder code was set up and employees clocked their hours on the project to that code.

EXAMPLE: ADMINISTRATIVE EMPLOYEE WAGES FOR THE YEAR ARE 100,000 AND THEIR RECORDED TIME IN PIKA SYSTEM IS AS FOLLOWS:

		WAGES ALLOCATED
TITLE III	250.00	\$13,736.26
VAWA	200.00	\$10,989.01
TIG	150.00	\$8,241.76
NO SPECIFIC FUNDER (DEFAULT)	1,220.00	\$67,032.97
TOTAL HOURS:	1,820.00	\$100,000.00

TOTAL COMMUNITY LEGAL AID HOURS (NET OF VLSP/PAI HOURS)

		PERCENTAGE OF BUSINESS BY FUNDER	ALLOCATION OF ADMINISTRATIVE EMPLOYEE ABOVE FOR ADMINISTRATIVE CHARGE
TITLE III	5,000.00	8.52%	\$5,712.23
VAWA	10,000.00	17.04%	\$11,424.45
LITC	2,000.00	3.41%	\$2,284.89
TIG	150.00	0.26%	\$171.37
CDBG	525.00	0.89%	\$599.78
UNITED WAY	1,000.00	1.70%	\$1,142.45
DEFAULT	40,000.00	68.17%	\$45,697.81
TOTAL HOURS:	58,675.00	100.00%	\$67,032.97

AS YOU CAN SEE FROM THIS EXAMPLE, THERE IS NO OVERCHARGING FOR AN ADMINISTRATIVE STAFF MEMBER. ONE CHARGE IS FOR THE DIRECT SERVICES, THOSE CHARGES ARE REMOVED FROM THE PERSONS TOTAL COST, AND THE REMAINDER IS ALLOCATED AS AN ADMINISTRATIVE CHARGE TO THE FUNDER. ALL OF THIS WAS EXPLAINED AND WORKSHEETS GIVEN TO THE AUDITOR WHEN LSC WAS HERE EARLIER THIS YEAR.