



FINAL REPORT
LEGAL SERVICES CORPORATION
Office of Compliance and Enforcement

Statewide Legal Services of Connecticut, Inc.
Case Service Report/Case Management System Review
February 5-8, 2013

Recipient No. 107000

I. EXECUTIVE SUMMARY

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

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

Finding 3: SLSC does not maintain the income eligibility documentation required by 45 CFR Part 1611, CSR Handbook (2008 Ed., as amended 2011), § 5.3, and applicable LSC instructions. Some revisions to its income eligibility policy are warranted to demonstrate compliance with this regulation.

Finding 4: SLSC maintains asset eligibility documentation as required by 45 CFR §§ 1611.3(c) and (d) and CSR Handbook (2008 Ed., as amended 2011), § 5.4; however, some revisions to its asset eligibility policy are warranted to demonstrate compliance with this regulation.

Finding 5: SLSC is in non-compliance with the screening and documentation requirements of 45 CFR Part 1626 (Restrictions on legal assistance to aliens).

Finding 6: SLSC is in compliance with the retainer requirements of 45 CFR § 1611.9 (Retainer agreements).

Finding 7: SLSC is in compliance with the requirements of 45 CFR Part 1636 (Client identity and statement of facts).

Finding 8: SLSC is in substantial compliance with the requirements of 45 CFR § 1620.3(a), 45 CFR § 1620.4, and 45 CFR § 1620.6 (Priorities in the use of resources).

Finding 9: SLSC is in non-compliance with the requirements of the CSR Handbook (2008 Ed., as amended 2011), § 5.6 (Description of legal assistance provided).

Finding 10: SLSC's application of the CSR case closure categories is generally consistent with Chapters VIII and IX of the CSR Handbook (2008 Ed., as amended 2011).

Finding 11: SLSC is in non-compliance regarding the requirements of the CSR Handbook (2008 Ed., as amended 2011), § 3.3 (Timeliness of Cases).

Finding 12: SLSC is in substantial compliance with the requirements of the CSR Handbook (2008 Ed., as amended 2011), § 3.2 regarding duplicate cases.

Finding 13: Review of the timekeeping records and interviews with full-time attorneys who have engaged in the outside practice of law evidenced that SLSC is in compliance with the requirements of 45 CFR Part 1604 (Outside practice of law); however, some revision to its policy is warranted to demonstrate compliance with this regulation.

Finding 14: A limited fiscal and sampled file review, as well as interviews with members of management and staff, evidenced compliance with the requirements of 45 CFR Part 1608 (Prohibited political activities).

Finding 15: Review of the recipient's policies and sampled files, as well as interviews with members of management and staff, evidenced non-compliance with the documentation requirements of 45 CFR Part 1609 (Fee-generating cases).

Finding 16: A limited fiscal review evidenced that SLSC is in non-compliance with 45 CFR §§ 1610.5 and 1610.9.

Finding 17: SLSC is in non-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: SLSC is in substantial compliance with the requirements of 45 CFR Part 1627 which prohibits recipients from using LSC funds to pay membership fees or dues to any private or nonprofit organization.

Finding 19: Review of the recipient's policies, as well as interviews with members of management and staff, evidenced that SLSC is in non-compliance with 45 CFR Part 1635 (Timekeeping requirement).

Finding 20: Review of sampled files, as well as interviews with members of management and staff, evidenced compliance with the requirements of former 45 CFR Part 1642 (Attorneys' fees).

Finding 21: Review of sampled files, as well as interviews with members of management and staff, evidenced compliance with the requirements of 45 CFR Part 1612 (Restrictions on lobbying and certain other activities); however, review of the recipient's policies evidenced that the Board-approved policy does not contain all required provisions.

Finding 22: Review of recipient's policies and sampled files, as well as interviews with members of management and staff, evidenced that SLSC is in 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: Review of the recipient's policies and sampled files, as well as interviews with members of management and staff, evidenced that SLSC is in compliance with the requirements of 45 CFR Part 1617 (Class actions).

Finding 24: Review of sampled files, as well as interviews with members of management and staff, evidenced that SLSC is in compliance with the requirements of 45 CFR Part 1632 (Redistricting); however, review of the recipient's policies evidenced that the Board-approved policy does not contain all required provisions.

Finding 25: Review of sampled files, as well as interviews with members of management and staff, evidenced that SLSC is in compliance with the requirements of 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings); however, review of the recipient's policies evidenced that the Board-approved policy contains provisions not authorized by the LSC regulation.

Finding 26: Review of the recipient's policies and sampled files, as well as interviews with members of management and staff, evidenced that SLSC is in compliance with the requirements of 45 CFR Part 1637 (Representation of prisoners).

Finding 27: Review of the recipient's policies and sampled files, as well as interviews with members of management and staff, evidenced that SLSC is in compliance with the requirements of 45 CFR Part 1638 (Restriction on solicitation).

Finding 28: Review of the recipient's policies and sampled files, as well as interviews with members of management and staff, evidenced that SLSC is in compliance with the requirements of 45 CFR Part 1643 (Restriction on assisted suicide, euthanasia, and mercy killing).

Finding 29: Review of sampled files and interviews with members of management and staff, evidenced that SLSC is in 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)); however, it is recommended that SLSC adopt written policies governing these LSC statutory prohibitions.

Finding 30: Review of the recipient's policies evidenced compliance with the requirements of 45 CFR Part 1644 (Disclosure of case information).

Finding 31: A limited review of SLSC's internal control policies and procedures evidenced that they compare 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.); however, a few exceptions were noted and further improvement is required.

II. BACKGROUND OF REVIEW

On February 5-8, 2013, the Legal Services Corporation's ("LSC") Office of Compliance and Enforcement ("OCE") conducted a Case Service Report/Case Management System ("CSR/CMS") on-site visit at Statewide Legal Services of Connecticut, Inc. ("SLSC"). The purpose of the visit was to assess the recipient's compliance with the LSC Act, regulations, and other applicable LSC guidance such as Program Letters, the Accounting Guide for LSC Recipients (2010 Ed.), and the Property Acquisition and Management Manual. The visit was conducted by a team of one (1) attorney, two (2) fiscal compliance specialists, and one (1) temporary employee (management specialist). Three (3) members of the team were OCE staff members and one (1) member was a temporary employee.

Background of Program

SLSC is a non-profit legal services organization providing free legal services to low-income and disadvantaged residents throughout the state of Connecticut. SLSC operates a coordinated telephone advice Hotline ("Hotline") and Private Attorney Involvement ("PAI") program which involves private attorneys in the delivery of legal services through attorney-client match and clinics. SLSC provides outreach, intake, and referral services for itself and the non-LSC legal service providers in the State of Connecticut which comprises the Connecticut Legal Services Network; included in the Network are Connecticut Legal Services ("CLS"), Greater Hartford Legal Aid ("GHLA"), New Haven Legal Assistance Association, Inc. ("NHLAA"), and the Legal Assistance Resource Center of Connecticut ("LARCC"). SLSC has a staff of 30, employing nine (9) attorneys, eight (8) paralegals, one (1) bookkeeper, and 12 other staff members.

During 2010, SLSC reported in the CSRs 12,257 closed cases, of which 711 were PAI. During 2011, SLSC reported 11,281 closed cases, of which 756 were PAI. In 2010 and 2011, SLSC's adjusted self-inspection error rate was 1.3%. The errors reported in 2010 related to failure to document asset information and the duplicate reporting of cases. The errors reported in the 2011 self-inspection related to failure to document legal assistance provided and the acceptance of a client whose household income exceed 200% of the Federal Poverty Guidelines ("FPGs"). In 2012, SLSC's adjusted self-inspection error rate was 4.0%. The errors reported in 2012 related to the acceptance of five (5) clients whose household income exceed 125% of the Federal Poverty Guidelines ("FPGs") and the reporting of an untimely closed case.

During 2010, 2011, and 2012, SLSC received LSC Basic Field Grants in the amounts of \$2,744,544, \$2,631,089, and \$2,245,378. In 2012 (June 1, 2012 – 3/1/2013), SLSC received subgranted funds from Pine Tree Legal Assistance, Inc. to provide migrant services. SLSC was awarded three (3) Technology Initiative Grants ("TIG") in 2002, 2005, and 2010 in the amounts of \$51,818 (#02001), \$27,900 (#05004), and \$26,100 (#10014) for website, renewal website, and statewide website development technology. At the time of the review, SLSC reported they had recently been awarded a fourth TIG. On February 25, 2013, OCE began assessing TIGs as part of its compliance reviews. As this review commenced before that date, TIGs were not assessed as part of this on-site review.

Overview of CSR/CMS Visit

The on-site review was designed and executed to assess SLSC's compliance with basic client eligibility, intake, case management, regulatory and statutory requirements, and to ensure that SLSC correctly implemented the 2008 CSR Handbook, as amended in 2011. Specifically, the review team assessed SLSC 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);¹ 45 CFR Part 1627 (Subgrants and membership fees or dues); 45 CFR Part 1635 (Timekeeping requirement); former 45 CFR Part 1642 (Attorneys' fees);² 45 CFR Part 1630 (Cost standards and procedures); 45 CFR Part 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.).

In preparation for the visit, on December 12, 2012, OCE requested that SLSC provide certain case lists. Case lists requested included all cases reported in its 2010 CSR data submission ("closed 2010 cases"), all cases reported in its 2011 CSR data submission ("closed 2011 cases"), all cases closed between January 1, 2012 and December 31, 2012 ("closed 2012 cases"), and all cases which remained open as of December 31, 2012 ("open cases"). OCE requested that two (2) sets of lists be compiled - one (1) for cases handled by SLSC staff and the other for cases handled through SLSC's PAI component. OCE requested that each list contain the client name, the file identification number, the name of the case handler assigned to the case, the opening and closing dates, the CSR case closure category assigned to the case, the funding code assigned to the case, and an indication of whether the case was handled by staff or by a private attorney pursuant to 45 CFR Part 1614. SLSC was advised that OCE would seek access to case information consistent with Section 509(h), Pub. L. 104-134, 110 Stat. 1321 (1996), LSC Grant Assurance Nos. 10, 11, and 12, and the LSC *Access to Records* protocol (January 5, 2004). OCE instructed SLSC 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.

¹ In addition, when reviewing files with pleadings and court decisions, compliance with other regulatory restrictions was reviewed as more fully reported *infra*.

² 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.

Thereafter, SLSC provided the materials. OCE made an effort to create a representative sample of cases that the team would review during the visit. OCE distributed the sample proportionately among open and closed cases. The sample consisted largely of randomly selected cases, but also included cases selected to test for compliance with those CSR instructions relative to timely case closings, ACMS data integrity, application of the CSR case closure categories, and duplicate reporting.

CSR/CMS Visit

During the visit, SLSC cooperated fully and provided the requested materials. SLSC afforded access to information in the case files through staff intermediaries. SLSC maintained possession of the files and disclosed financial eligibility information, problem code information, and information concerning the general nature of the legal assistance provided to the client pursuant to the OCE and SLSC agreement of January 14, 2013. OCE reviewed a sample of 150 files; 117 were randomly selected and 33 were targeted.³ OCE also interviewed members of SLSC's upper and middle management, fiscal personnel, staff attorneys, and support staff. OCE assessed SLSC's case intake, case acceptance, case management, and case closure practices and policies for staff and PAI programs. OCE fiscal staff reviewed SLSC's compliance with the LSC grant, conducting a limited review of internal controls, assessed whether SLSC engaged in prohibited political activities, received fees from non-permissible fee-generating cases or non-permissible attorney fee awards, engaged in lobbying activity, as well as reviewing SLSC's use of non-LSC funds, its PAI component allocations, its use of LSC funds to pay membership dues and fees, its timekeeping, cost standards and procedures, and other fiscal activities. A limited sampling of informational pamphlets and brochures was collected and reviewed.

During the course of the visit, OCE attempted to advise SLSC of any compliance issues as they arose. OCE notified members of SLSC's upper and middle management and fiscal personnel of compliance issues identified during the review. OCE advised SLSC of its preliminary findings by telephone on Tuesday, February 12, 2013 (OCE was precluded from holding an exit conference while in Connecticut because of the adverse weather conditions created by a winter storm). OCE explained to SLSC that the findings were merely preliminary, that OCE may make further and more detailed findings in the Draft Report ("DR"), and that SLSC would have 30 days to submit comments to the Draft Report. SLSC was advised that a Final Report would be issued that would include SLSC's comments. SLSC was further advised that OCE may request additional documentation or a demonstration that the Required Corrective Action items have been implemented.

During the exit conference, OCE advised SLSC that, with several noted exceptions, its staff members were familiar with the LSC regulations, the CSR Handbook, and the Frequently Asked Questions disseminated by LSC, and that SLSC has in place policies, procedures, and practices designed to facilitate compliance-related activities.

³ The sample included targeted cases selected to test for compliance with those CSR instructions relative to timely closings, ACMS data integrity, application of the CSR case closure categories, and duplicate reporting.

SLSC was further advised that OCE detected frequent patterns of non-compliance concerning certain regulatory and reporting requirements; these included the failure to:

- Avoid inconsistencies in its automated case management system (“ACMS”);
- Obtain attestations of citizenship/document alien eligibility status, when required;
- Sufficiently document the authorized exceptions to income when determining income eligibility;
- Sufficiently document the general nature of the legal assistance provided by its staff and private attorneys and avoid reporting cases in which no legal assistance was provided to clients in its CSRs;
- Close case files in a timely manner and avoid dormant files;
- Obtain sufficient documentation when providing advice in fee-generating cases; and
- Provide effective oversight and compliance case management of its PAI activities, including the development of PAI plans.

Additionally, the sampled files reflected a few instances of or limited patterns of:

- Case closure category errors;
- Duplicate case reporting;
- Failure to screen for income prospects; and
- Policies that are in need of revision to comport with current LSC regulations.

A limited fiscal review identified SLSC’s failure to:

- Provide notification letters of LSC restrictions to all sources of funds in the amount of \$250 or more;
- Maintain separate and distinct accounting for reporting of LSC and non-LSC receipts and disbursements;
- Report its PAI expenditures separately in its 2011 Audited Financial Statements (“AFS”);
- Sufficiently document its PAI expenditures;
- Sufficiently document its PAI cost methodology;
- Pay non-mandatory memberships and dues with non-LSC funds;
- Adequately maintain time records for matters and supporting activities and accurately enter time; and
- Segregate duties and implement strong controls for physical property inventories, bank reconciliations, and financial accountancy.

The on-site review detected three (3) main weaknesses in SLSC’s compliance systems. First, SLSC’s management exhibited a “hands-off” approach to performing compliance-related activities, which may be the result of a lack of training and experience with managing compliance programs or may be because management simply lacks sufficient time and/or resources to devote to managing its compliance program. Second, management failed to fully use technology to assist

with oversight activities which hampers its ability to identify and avoid error. Third, it appears that management has not systematically reviewed (or effectively reviewed) its fiscal and compliance-related systems to determine their efficacy and whether their staff is performing compliance and fiscal-related functions adequately and knowledgeable. The confluence of these weaknesses appears to have led to the high rate of error identified during the review.

The OCE review team recommended that as SLSC has recently retained a new Executive Director that she request to attend OCE's Executive Director Orientation training. This training was conducted via webinar on October 25, 2013. SLSC responded favorably to OCE's assessment and advised they will be identifying and implementing additional oversight methods to increase compliance with the LSC compliance requirements. As many of the compliance deficiencies were the result the failure to engage in compliance-related activities, it is anticipated that with training and improved attention to compliance-related functions, SLSC can avoid many of the compliance errors identified during the on-site review.

By letter dated September 6, 2013, OCE issued the DR detailing its findings, recommendations, and Required Corrective Actions regarding the on-site CSR/CMS Review. SLSC was asked to review the DR and provide written comments within 30 days. SLSC requested and was granted an extension and submitted its comments on November 5, 2013. *See* SLSC OCE-Response to Draft Report (November 5, 2013).

Based on a description of the actions taken by SLSC in response to the DR, OCE finds that all Required Corrective Action items have not been implemented and that further action is needed. Given the nature and complexity of the corrective actions required, OCE finds it reasonable that additional time is necessary in order to complete these items. SLSC's comments are reflected in this Final Report and have been attached as an appendix hereto.

III. FINDINGS

Finding 1: SLSC's automated case management system ("ACMS") is insufficient 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 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.

Case Management System

SLSC uses Legal Files as its ACMS. To facilitate the referral of extended services cases to SLSC's partners in the Connecticut Network for Legal Aid, SLSC shares its ACMS with its non-LSC funded partners: CLS, GHLA, and NHLAA. For confidentiality purposes, each law firm has its own site on the server and each user on the site is assigned access rights limited to its law firm.

The on-site review determined that the ACMS is free from defaults in fields critical to the determination of eligibility and that SLSC is in compliance with Program Letter 02-06 and the CSR Handbook (2008 Ed., as amended 2011), § 3.6. In accordance with 45 CFR § 1611.3(c)(2), SLSC has adopted authorized exceptions to its annual income ceilings, consistent with 45 CFR § 1611.5. The authorized factors are applied and deducted from gross annual income. Both amounts are, correctly, preserved in the ACMS.

The asset ceiling field in the ACMS is \$5,000 which is not consistent with SLSC's \$10,000 asset ceiling provided in SLSC's eligibility policy. Because SLSC shares its ACMS, the asset ceiling field in its ACMS may be set to correspond to the \$5,000, asset ceilings of CLS, GHLA, and/or NHLAA. During the on-site review, OCE did not identify this as a compliance concern because SLSC can enter the amount of an applicant's assets that are in excess of \$5,000 and intake interviews and sampled cases determined that staff members are familiar with SLSC's asset limitations.

Case Management Reporting and Data Error Messages

In accordance with CSR Handbook (2008 Ed.), §§ 3.2, 3.3 and 3.4, SLSC has developed procedures for ensuring that timely and accurate data is reported in CSRs. SLSC generates a series of reports on a weekly, monthly, and annual basis to identify missing data and avoid untimely case closures, as well as to identify potential duplicate cases. Interviews reveal that while SLSC consistently generates case management reports, these reports are not being used effectively to avoid error. For example, the on-site review identified errors in the following cases: closed 2012 Case Nos. 2012-C010-0143727 lacked income information, 2012-C010-0150580 lacked open date information, and 2012-0152686-C010 lacked case handler information. Additionally, closed 2010 Case Nos. 2010-0117608-C010 and 2010-0127638-C010 lacked client name information (the CMS only contained the letter "c" in the last name field. Interviews revealed that the "c" in the last name

is likely a user error in which the name was deleted and replaced). Also, as discussed in Findings 3, 9 and 12, *supra*, there were numerous files identified as over-income, untimely closed, and as duplicates evidencing that case management reports are not being used effectively to avoid compliance-related errors.

The on-site review revealed that SLSC has not programmed error messages, such as “red flags” into its ACMS. While not required, these messages can serve as warnings when required LSC compliance fields are incomplete or when applicants fail to meet eligibility guidelines. While it is possible that these messages were not programmed into the ACMS because SLSC shares its ACMS with its partners who may have different eligibility requirements, the failure to program these error messages limits SLSC’s ability to comprehensively identify and avoid critical compliance errors. For example, error messages would have alerted SLSC that closed 2011 Case No. 2011-C010-0139590 was over income guidelines (as the ACMS reflected that the applicant’s household income was 574% of the FPG) and that the data contained in closed 2012 Case No. 2012-C010-0150580 was not accurate (as the ACMS indicated the file had been open for 211 years). Error messages would have flagged these issues at which time SLSC could have either corrected the mistake or rejected the applicant. As noted below, OCE recommends that SLSC consider the addition of these warning mechanisms.

Data Accuracy between ACMS and Case File

The on-site review identified numerous errors relating to the consistency and accuracy of the information maintained in the ACMS when compared to the paper file as follows: open Case No. 2012-0152145-C010 was described as open in the ACMS, but the file reflected that it was closed in 2012 and should have been reported to LSC in the 2012 CSRs, closed 2012 Case No. 2012-C010-0152479 was described as closed in 2012 in the ACMS, but the file reflected it had been closed in 2009 and have been reported in the 2009 CSRs not the 2012 data. Further closed 2012 Case Nos. 2012-0142428-C010 and 2012-0142726-C010, and closed 2011 Case No. 2011-0133078-C010 were described as being “99-Miscellaneous” problem codes when the files reflected that two (2) clients were provided with pardon assistance and one (1) client was provided with health care assistance; thus, the more accurate problem code descriptions would be “89-Other Individual Rights,” and “59-Other Health.” Moreover, open Case Nos. 2012-0152145-C010, 2012-C015-0001903, and 2012-C010-0147887, closed 2012 Case Nos. 2008-0093243-C010, 2011-0137188-C010, and 2012-0148158-C010, closed 2011 Case Nos. 2007-0073305-C010, 2011-0132449-C010, 2011-0132912-C010, 2011-0136601-C010, 2010-0124809-C010, and 2010-0116999-C010, and closed 2010 Case No. 2010-0009553-C01 were designated as PAI when the only legal assistance provided was by SLSC staff members, either because the clients failed to attend a clinic or appointment with the private attorneys or the only legal assistance documented in file was provided by program staff prior to PAI referral. As instructed in CSR Handbook (2008 Ed., as amended in 2011) § 10.1(b)(iv), cases in which PAI referrals are not successful and the file contains evidence of legal assistance provided by staff are to be closed as staff cases. A careful review of the PAI files upon closure would have alerted SLSC to the need to report these files as staff cases in the CSRs.

Analysis and Corrective Action

As discussed in Finding 2, SLSC did not review every staff file upon closure. As also discussed in Finding 17, management did not review any PAI files upon acceptance or closure. It is likely that the ACMS errors noted during the on-site review could have been identified and avoided had SLSC consistently and adequately compared the paper file or case notes to the ACMS, reviewed the ACMS to ensure the file contained accurate, complete, and consistent information, effectively reviewed the generated automated case management reports, and programmed error messages into its ACMS.

Based on a comparison of the information elicited from the ACMS to information contained in the files sampled, SLSC's use of its ACMS was insufficient to ensure that information necessary for the effective management of cases is timely and accurately recorded. Accordingly, and as a Required Corrective Action, SLSC was required to ensure that information necessary for the effective management of cases is accurately and timely recorded. OCE further recommended that SLSC program error messages into its ACMS and implement additional oversight mechanisms to better ensure the accuracy of its data and its ability to meet funding source reporting requirements.

In response to the DR and this Required Corrective Action, SLSC indicated that it now prepares automated case management reports so as to identify all files with incomplete or missing information. These "Missing and Incomplete Information" reports are reviewed weekly to resolve compliance errors. On-going and persistent errors are noted and efforts are made to implement systemic changes to resolve any patterns of error identified. SLSC is in the process of reviewing whether to incorporate a data entry alert system, such as a "red flags," into its ACMS.

Based on the comments provided, OCE finds that it lacks sufficient documentation of the actions taken by SLSC to satisfy Required Corrective Action item 1. OCE requests that SLSC submit within 90 days of the issuance of this Final Report ("FR"), a description of the automated case management search query it uses for its "Missing and Incomplete Information" reports, together with a copy of its automated case management "Missing and Incomplete Information" report from August 1 through October 31, 2013 (the applicant's name and other identifying information should be redacted to preserve client confidentiality). Moreover, at the same time, SLSC should provide a description of the actions it has taken to ensure that cases are properly designated as PAI or staff. OCE strongly encourages the implementation of a data entry alert system as it is a proven method of preventing common data entry error types.

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

SLSC's intake process was assessed by interviews with, and observation of, primary intake, case handler, and management staff, as well as by evaluation of the written and electronic documents, including the Intake Manual SLSC uses to support the intake process. The on-site review revealed that intake procedures performed by the intake staff generally support SLSC's compliance-related requirements with respect to performing conflict and duplicate checks, as well as screening for income. Weaknesses were identified in the screening practices related to: screening of assets,

reasonable inquiry into an applicant's income prospects, obtaining citizenship and eligible alienage information and documentation, and reviewing of the files for compliance-related activities.

Description of Model

Hotline

Since its creation in 1996, SLSC has operated a centralized statewide intake Hotline. SLSC estimates that approximately 91 percent of its intake is conducted over the telephone by its Hotline, eight (8) percent through online intake, and one (1) percent through walk-in applications. SLSC's Managing Attorney is responsible for supervising all methods of intake.

Applicants are screened and, if eligible, speak to a case handler during the same telephone call. The toll-free intake line is open Monday, Tuesday, Thursday, and Friday from 9:00-3:00 pm and Wednesday from 1:00-3:00 pm. During hours that the Hotline is closed, applicants are advised to call the next day during Hotline hours. Intake staff members are assigned on a daily basis to monitor the line to ensure that emergency calls are answered during lunch and from 3:00-4:45 pm when SLSC closes. SLSC attempts to accommodate persons with emergencies from 9:00-4:45 pm.

Calls are routed in the order received to intake staff members who conduct eligibility screenings guided by the ACMS screens to elicit basic information regarding the applicant's legal problem. Interview information is entered contemporaneously into the ACMS. Intake staff members conduct conflict checks after obtaining and confirming the full names of applicants and adverse parties. To reduce the potential for duplicates, one (1) of the first questions asked by the intake staff members is whether applicants have previously contacted SLSC by telephone or online. This question will identify anyone who completed an online application but has not yet been called back by an intake staff member. Applicants who are clearly ineligible due to prohibited legal issues, conflicts, alien eligibility status, or income or assets are so advised, and provided the website address for the Connecticut Network for Legal Aid's self-help materials (<http://.ctlawhelp.org>) or referred to another agency as appropriate. Ineligible applicants are not directly referred to another program within the Connecticut Network for Legal Aid. Staff members reported that they review the applicant's contact and eligibility information for repeat callers inquiring about a new legal problem or about a new development in a closed advice case.

Interviews revealed that the source of an applicant's income appears to be thoroughly screened. Interviewees could not recall requesting an exception to the asset ceiling. Notwithstanding the 45 CFR § 1611.4(c) government benefits exemption, intake staff members reported screening every applicant for assets.

If an applicant appears to be eligible, based upon the information collected, the call is placed into the benefits, consumer, family, or housing queues to speak to a case handler. During interviews, case handlers stated that they review name, contact information, income, assets, and citizenship or eligible alien status information with every applicant and change incorrect or incomplete information in the ACMS. Case handlers also reported conducting a full screening on the legal problem and then providing assistance, as described below.

Once determined eligible, the majority of callers are provided with advice and their files are opened and closed during the case handler's telephone conversation (the case handler may also prepare an advice letter using form letters that are tailored to the specific caller and may attach printed brochures, pamphlets, and other self-help materials). If further information is required, an intake may be coded as "pending" and left open for at least 48 hours pending receipt of such information. Case handlers are responsible for monitoring such intakes and will close the file if information is not received. On rare occasions, case handlers may identify intakes that they wish to accept for extended representation. Management encourages case handlers to handle cases periodically for professional development. Prior to accepting these cases, managerial approval must be obtained.

In addition to providing the client with advice, if the client would benefit from additional extended services and his/her problem is within the partner's priorities, case handlers may refer the case to an appropriate partner in the Connecticut Network for Legal Aid. The partner is sent basic information to conduct a conflict check and if the partner determines there is no conflict, SLSC electronically transfers the client's intake information. If its partner identifies a conflict, the file is transferred to SLSC's PAI component.

At all times, SLSC staff members also have the option to refer cases to SLSC's PAI program. If referred to PAI, the file will be printed and provided to the Pro Bono ("PB") Coordinator for attorney-client match, or assigned and/or scheduled to attend a clinic via an on-line calendar by a SLSC staff member. The client is informed that he/she is scheduled to attend a clinic while on the telephone with the PB Coordinator and is informed of the attorney-client match by the PB Coordinator by telephone call after the match is confirmed with the private attorney.

Two (2) attorney case handlers serve as "Reviewers of the Day" on a rotating basis. They are responsible for reviewing that day's intakes for compliance with LSC regulations, legal advice (if provided), and appropriateness of disposition regardless of whether the case was rejected, referred, accepted or is pending. Pending cases or cases in which there is a question are returned either to the case handler or to intake staff, who are then responsible for completing the disposition action, closing the file, and the files may be reviewed further for compliance with LSC regulations (for example, if the application is pending because of a citizenship or conflicts question).

Online Intake System

SLSC operates an online intake system based upon the Access to Justice ("A2J") system developed by Legal Aid of Western Ohio. Applicants can access the system through links on the SLSC, GHLA, NHLAA, LARCC, and CTLawHelp websites.

Before starting any application, applicants are advised to call the Hotline if they have an emergency. They are further advised that the application will take about 30 minutes to complete and their request for assistance will be submitted to SLSC. Lastly, they are advised that they will receive a call or letter from SLSC within five (5) days.

The online application is a guided interview with questions and "Learn More" links which provide additional information about the question selected. Screen shots of the online intake system were

obtained in advance of the review and revealed that many of the questions are based on branch logic as they depend upon previously provided answers.

The online application collects the same information as does the Legal Files ACMS and the online system does not determine eligibility or reject applicants. Applicants are automatically exited from the system if the information they have provided indicates they have previously contacted SLSC regarding the same legal issue or if they indicate they are not a citizen of the United States or that they are not sure of their status. These applicants are instructed to contact SLSC by telephone for additional screening in these instances.

The online intake information is electronically transferred to a site in the Legal Files ACMS. The information gathered during the automated interviews is directed to the correct fields. The Managing Attorney reviews every application to identify conflicts. The application is transferred into the main Legal Files site and returned to intake staff when no conflict is identified. Intake staff makes three (3) attempts to contact the online applicant by telephone. If the applicant fails to call back, the file is closed as a "T- Matter - Client Did Not Pursue" case closure category. If the applicant is reached, intake staff reviews every element of the online application with the applicant. Ineligible applicants receive referrals in the same manner as if they contacted the Hotline. If intake staff determines the online applicant is eligible, the applicant is placed into a substantive queue or referred to a PAI Call4Law Project, administered by a PB Coordinator (*See Finding 17 for a further discussion of the Call4law Program*).

According to statistics provided by SLSC, 2,064 applications were received via online intake during calendar year 2012. Of those, 882, or 43% were opened as cases. The majority of the applications that were not opened were determined to exceed SLSC's income eligibility guidelines. Approximately 7% of the applications that were not opened were closed with a "T- Matter" case closure category because the applicants could not be contacted by telephone or mail.

Outreach and Walk-In Applicants

SLSC does not conduct outreach intake - apart from a very small number of applications taken pursuant to the subgrant with Pine Tree Legal Assistance to provide migrant services. Also, only a very small number of applicants apply for services in person at SLSC's office. Applicants appearing in-person are asked to complete a paper intake form which generally collects the same information as the Legal Files ACMS. Applicants are not provided a telephone to access the Hotline.

Though extremely rare, interviews revealed that staff do not obtain citizenship attestations or verify eligible alien status for those applicants appearing in-person for services. Outreach applicants, however, execute SLSC's written citizenship attestation form. Review revealed that this form does not comply with the language required by the CSR Handbook (2008 Ed., as amended 2011), § 5.5; however, as discussed in Finding 5, during the on-site review SLSC modified its form to comply with LSC requirements.

Compliance Concerns

The on-site review identified some weaknesses with regard to financial eligibility screening and oversight activities as follows:

Reasonable Income Prospects Screening

Recipients are required to make reasonable inquiry into every applicant's income prospects, pursuant to the requirements of 45 CFR § 1611.7(a). Intake observation revealed that intake staff members consistently make appropriate inquiry, but on occasion, skip this question if the applicant's sole source of income is a form of government benefit. SLSC is reminded that staff must make such inquiry when screening every applicant.

Asset Screening

Intake observation and interviews revealed that intake staff members ask only two (2) asset questions which may not capture the extent of an applicant's assets which must be considered in the eligibility determination. These questions are "Do you have any bank accounts?" and "Do you own any vehicles?" Some intake staff members expand the first question to "Do you have any bank accounts, stocks, bonds, CDs or 401Ks?" SLSC written intake forms include cash, insurance, real estate, and other assets. It is possible that assets such as additional property or snow machines would be missed with only these two (2) questions. It is recommended SLSC develop at least one (1) additional "catch all" question to capture any such additional assets and that intake staff members should be trained to ask questions that encompass all of the assets contemplated by SLSC's asset policy.

Oversight

As noted previously, the Managing Attorney supervises intake. His office is located adjacent to the intake staff members' cubicles and he is readily available to answer questions and address issues as necessary. Attorneys are assigned as daily "Reviewers of the Day" on a rotating basis. They are responsible for reviewing every intake for that day. Despite the systems SLSC has in place to conduct oversight, errors were identified in the sampled files, as discussed in Findings 1, 3, 5, 9, and 10, and improvement is required to ensure that files reported to LSC satisfy LSC regulations and other authorities.

The on-site review evidenced that SLSC's intake procedures and case management system generally support compliance related requirements, however, as noted, improvement is necessary.

Finding 3: SLSC does not maintain the income eligibility documentation required by 45 CFR Part 1611, CSR Handbook (2008 Ed., as amended 2011), § 5.3, and applicable LSC instructions. Some revisions to its income eligibility policy are warranted to demonstrate compliance with this regulation.

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. *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.⁴ *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 Federal Poverty Guidelines ("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) and 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.

Policy Review

SLSC provided its financial eligibility policy in advance of the review. In compliance with 45 CFR §§ 1611.3(c)(1), 1611.3(d)(1), and 1611.3(e), the policy sets forth the eligibility requirements to receive LSC funded assistance. The policy establishes an annual income ceiling of 125% of the FPG, provides expenses and factors to be considered for households whose incomes exceed 125 % of the FPG, as well as noting that when SLSC assesses the financial eligibility of a victim of domestic violence, SLSC will consider only the income and assets of an applicant and will not consider assets jointly held with the perpetrator. The policy further provides that only applicants' who have been determined eligible under SLSC's policies will be accepted for services. SLSC has not adopted a group eligibility policy and reports that it does not represent groups. No group files were identified in the sampled cases and intake staff report they do not take group intakes.

A comparison of this policy with 45 CFR Part 1611 indicates that it contains provisions that are inconsistent with LSC regulation as follows:

Government Benefits (45 CFR § 1611.5(a)(1))

SLSC authorizes the acceptance of applicants seeking assistance to maintain benefits provided by a government programs *for the poor*. LSC regulation, however, limits these programs to those

⁴ A numerical amount must be recorded, even if it is zero. *See* CSR Handbook (2008 Ed., as amended 2011), § 5.3. 16

serving *low income individuals or families*.

Income Sources (45 CFR § 1611.2(i))

LSC regulation requires that income sources, such as *regular insurance payments, regular payments from government programs for low income person or persons, and other regular sources of financial support that are currently and actually available to the applicant* be considered during financial eligibility determinations. SLSC's 2012 Financial Eligibility Guidelines Section 1(A) (April, 2012) policy failed to include these income sources.

Authorized Exceptions (45 CFR § 1611.5)

Two (2) of the authorized exceptions considered by SLSC for applicant's whose incomes are between 125-200 % of the FPG are *home foreclosure* and *military service*. Pursuant to 45 CFR § 1611.5, recipients may only consider factors authorized by LSC regulation; home foreclosure and military service are not LSC regulatory factors.

Income Ceiling Inconsistency

An inconsistency was noted between the Statewide Legal Services of Connecticut Intake Manual ("Intake Manual") and SLSC's income policy. *See* Statewide Legal Services of Connecticut Intake Manual, Section 3, Eligibility Guidelines and Exceptions, Attachment "A." The Intake Manual indicates SLSC will consider expenses authorized by 45 CFR § 1611.5 if the applicant's household income is between 125-187 % of the FPG, however, SLSC's policy states that SLSC will consider expenses authorized by 45 CFR § 1611.5 if the applicant's income is between 125-150 % of the FPG. SLSC's Intake Manual should be consistent with its policy.

In the DR, as a Required Corrective Action, SLSC was required to ensure that its income policy is consistent with 45 CFR §§ 1611.2(i) and 1611.5. LSC offered to review any proposed changes to SLSC's Part 1611 eligibility policies prior to them being submitted for Board of Director approval. In addition, it was recommended that SLSC revise its Intake Manual so that it was consistent with its policy.

Review of Sampled Cases

All 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 does not exceed 125% of the FPG.

However, for those files reviewed in which the client's income was in excess of the 125% of the FPG threshold, SLSC failed to document its review of factors and/or expenses in accord with policy and regulation. For example, open Case No. 2012-0101721-C010 reflected that the applicant's household income was 196% of the FPG and the file failed to contain documentation of an authorized exception, closed 2012 Case No. 2012-C010-0147427 reflected that the applicant's income was at 130% of the FPG and the file failed to contain documentation of the expenses

considered, and closed 2011 staff Case No. 2011-C010-0139590 reflected that the applicant's household income was 574% of the FPG and the file failed to contain documentation of an authorized exception. Other examples of sampled files failing to contain documentation of factors, expenses, or other authorized exception considerations include: open Case Nos. 2009-0101127 (with income at 196% of the FPG), 2010-0115733 (with income of 128% of the FPG), and 2012-0146969-C010 (with income at 149% of the FPG), closed 2012 Case Nos. 2008-0093243-C010 (with income at 183% of the FPG), 2012-0143400-C010 (with income at 145% of the FPG), 2011-0133147-C010 (with income at 132% of the FPG), 2008-0093243-C010 (with income at 183% of the FPG), 2011-0132265-C010 (with income at 172% of the FPG), 2012- C010-0154816 (with income at 185% of the FPG), 2012-0147335-C010 (with income at 134% of the FPG), and 2012-C015-0000378 (with income at 200% of the FPG), closed 2011 Case Nos. 2010-0124809-C010 (with income at 127% of the FPG) and 2011-0132136-C010 (with income at 718 % of the FPG), and closed 2010 Case Nos. 2010-0118065-C010 (with income at 127% of the FPG) and 2010-0009553-C012 (with income at 157% of the FPG).

Analysis and Required Corrective Action

It was noted that SLSC's Intake Manual fails to contain protocols for the consideration of expenses and factors for applicants whose household income exceeds 125% of the FPG. The failure of SLSC to provide written information to its staff concerning the documentation of expenses and factors may be contributing to the failure of staff to document these expenses.

Accordingly, the review determined that SLSC was in non-compliance with the income eligibility documentation required by 45 CFR §§ 1611.2(i), and 1611.5, the CSR Handbook (2008 Ed., as amended 2011), § 5.3, and applicable LSC instructions for clients whose income exceeds 125% of the FPG; and that certain provisions of its income eligibility policy were inconsistent with LSC regulation. As a Required Corrective Action, SLSC was required to ensure that its files contained the documentation required by 45 CFR § 1611.5. In order to fulfill the Required Corrective Action, OCE recommended that SLSC develop written over-income protocols and train its staff to apply and document its consideration of these factors. OCE additionally recommended the preparation of monthly "over-income" case management reports and that management target these files for review to ensure that the consideration of expenses and factors were documented in the case files, when required and appropriate.

In response to the DR and this Required Corrective Action, SLSC indicated that it would revise its income eligibility policy consistent with 45 CFR § 1611.5 and § 1611.2(i) and ensure that its files contain the documentation required by 45 CFR § 1611.2(i) and 1611.5.

Based on the comments provided, OCE finds that it lacks sufficient documentation of the actions taken by SLSC to satisfy Required Corrective Action item 2. SLSC must submit, within 90 days of the issuance of this FR, a copy of its proposed revised 45 CFR Part 1611 income policy and a timetable for its adoption by the SLSC Board of Directors. Moreover, SLSC should provide a description of the actions it has taken to ensure that its files contain the documentation required by 45 CFR § 1611.2(i) and 1611.5.

Finding 4: SLSC maintains asset eligibility documentation as required by 45 CFR §§ 1611.3(c) and (d) and CSR Handbook (2008 Ed., as amended 2011), § 5.4; however, some revisions to its asset eligibility policy are warranted to demonstrate compliance with this regulation.

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-approved asset eligibility policies.⁵ *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.

Policy Review

SLSC's financial eligibility policy establishes an asset ceiling at \$10,000 for an applicant's household. Exempt from consideration are the equity values of an applicant's principal residence, [one (1) automobile] vehicles used for transportation, personal and household effects, and equipment used by an applicants' family for employment or self-employment. SLSC does not consider assets if the applicant has no income. *See* SLSC 2012 Financial Eligibility Guidelines, § 3(d). SLSC does not consider assets if applicant's are receiving or applying for SAGA, TANF, SSI, State Supplemental benefits or Medicaid. The policy further provides that the Executive Director or designee may waive the established ceilings in unusual or extremely meritorious circumstances. In such a case, the decision shall be documented and included in the client's file and a record maintained indicating the number of clients so served and the factual bases for the decisions. *See* SLSC 2012 Financial Eligibility Guidelines, §§ 3(c) and (e).

A comparison of SLSC's asset policy with 45 CFR Part 1611 indicates that it contains provisions that are inconsistent with LSC regulation or are unclear:

⁵ 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.

Failure to Consider Assets

SLSC's policy, to *not consider assets if the applicant has no income*, is not in compliance with LSC regulation because recipients must consider the assets of all applicants for legal services unless such a consideration is exempted by LSC regulation. LSC does not exclude consideration of assets for lack of income and SLSC's asset policy must be revised.

Government Benefits Exemption (45 CFR §§ 1611.3(f) and 1611.4(c))

SLSC presumes applicants have no excess assets if they are *applying for* SAGA, TANF, SSI, State Supplemental benefits or Medicaid. LSC regulation, however, permits recipients to presume applicants have no excess assets if they are *receiving benefits*.

During the on-site review, SLSC failed to provide documentation that its Board of Directors reviewed whether the income eligibility standards of the SAGA, TANF, SSI, State Supplemental, and Medicaid programs are at or below 125 % the FPG and whether the maximum asset ceilings of these programs are at or below SLSC's maximum asset ceilings. LSC regulation requires a recipient's Board of Directors to take some identifiable action to recognize the income and asset test of the governmental program being relied upon to ensure that the eligibility standards of that governmental program have been carefully considered and incorporated into the overall financial eligibility policies adopted and regularly reviewed by the governing body. *See* Preamble to 45 CFR Part 1611, 70 Fed. Reg. 45545 to 45562 (August 8, 005) at 45553.

There is no concern that SLSC is improperly applying the government benefits exemption because interviews and case file review demonstrated that staff routinely screens for income and assets for all applicants, even those applying for and receiving government benefits. However, SLSC is advised to revise its policy to conform to LSC regulation.

Vehicles Used for Transportation

Interviews determined that there is some uncertainty among SLSC staff as to whether SLSC's financial eligibility policy permits the exemption of one (1) vehicle used for transportation per household or one (1) vehicle used for transportation per adult. This should be clarified and training should be provided to ensure that all staff members exempt vehicles in a consistent manner during asset eligibility determinations.

Review of Sampled Cases

Sampled files identified no exceptions.

Required Corrective Actions

Accordingly, SLSC 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. However, some revisions to its asset eligibility policy were warranted to demonstrate compliance with 45 CFR

Part 1611 and, as a Required Corrective Action, SLSC was required to adopt asset policies consistent with LSC regulation. As a further Required Corrective Action, SLSC was required to demonstrate that its Board of Directors reviewed whether the income eligibility standards of the SAGA, TANF, SSI, State Supplemental, and Medicaid programs are at or below 125 % the FPG and whether these programs' maximum asset ceilings are at or below Board-approved asset ceilings pursuant to 45 CFR § 1611.4(c). It was recommended that SLSC management review its asset policy and clarify with staff as to whether it is one (1) vehicle used for transportation per household or one (1) vehicle used for transportation per adult that is to be exempted.

In response to the DR and this Required Corrective Action, SLSC indicated that it would revise its asset eligibility policy consistent with 45 CFR Part 1611. SLSC further indicated that its Board of Directors began this process on November 4, 2013.

Based on the comments provided, OCE finds that it lacks sufficient documentation of the actions taken by SLSC to satisfy Required Corrective Action item 3. SLSC must submit, within 90 days of the issuance of this FR, a copy of its proposed 45 CFR Part 1611 asset policy and a timetable for its adoption by the SLSC Board of Directors.

Finding 5: SLSC is in non-compliance with the screening and documentation requirements of 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. *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 also*, LSC Program Letter 99-3 (July 14, 1999). In the absence of the foregoing documentation, assistance rendered may not be reported to LSC. *See* CSR Handbook (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.⁶ 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

⁶ *See* Kennedy Amendment at 45 CFR § 1626.4.

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.

Forms

During the on-site review, written citizenship attestations forms were obtained to assess whether SLSC forms satisfied the requirements of 45 CFR Part 1626 and the CSR Handbook (2008 Ed., as amended 2011), § 5.5. The Citizenship Certification provided on-site stated “I certify that the information I have given to establish my eligibility for assistance from Statewide Legal Services of Connecticut, Inc. is true and accurate to the best of my knowledge and that I am a citizen of the United States.” Below this attestation are signature, address, and date lines. The applicant is further instructed that if they are not a citizen of the United States, they are required to provide documentation of residency. SLSC was advised that this Citizenship Certification is not compliant with LSC regulation. During the on-site review, SLSC modified its Citizenship Certification so that the attestation line is tied to a separate signature line, bringing its forms into compliance.

PAI staff indicated, during interviews, that alien applicants execute the Citizenship Certification form to attest to their eligible alien status and that they believed this practice was compliant with LSC regulation because the form requires the applicant to attest to citizenship and whether he/she is in the country legally. SLSC was advised that the Citizenship Certification cannot be used for alien eligibility because aliens cannot verify their eligible alien status, they are required by 45 CFR § 1626.7 to submit appropriate documents for SLSC to verify their eligibility.

Staff Practice: Obtaining Citizenship for In-Person Applicants

In addition, as discussed in Finding 2, *infra*, interviews revealed that SLSC is not obtaining written citizenship attestations or verifying eligible alien status for applicants who apply for services in-person. Although, as discussed in Finding 2, in-person applicants are rare, 45 CFR § 1626.6(a) and § 1626.7 require recipients to obtain written citizenship attestations or verify eligible alien status for any person applying for services in-person.

File Documentation

The on-site review identified numerous files that lacked the documentation required by 45 CFR Part 1626 and CSR Handbook (2008 Ed., as amended 2011), § 5.5. For example, closed 2012 Case Nos. 2011-0137188-C010 and 2012-0151008-C010, contained no indications in the ACMS or within the paper file that the applicant was screened for citizenship or eligible alien status. Additionally, closed 2012 Case Nos. 2012-C010-0142783, 2012-C010-0148875, 2012-0142576-C010, and 2010-0122072-C010, and closed 2011 Case Nos. 2011-0132449-C010, 2011-0132912-C010, and 2009-010918-C010, and closed 2010 Case Nos. 2009-0104779-C010 and 2005-0052945-C010, contained evidence of telephone screening for citizenship, but did not contain executed citizenship attestations after having been placed with a private attorney in either an attorney-client match or clinic and legal assistance having been provided.

Analysis and Required Corrective Action

As discussed in Findings 1 and 2, the failure of SLSC to use automated oversight mechanisms and implement systematic procedures that provide for the formal review of files may have resulted in the 45 CFR Part 1626 errors identified during the review.

It was therefore recommended that SLSC develop additional procedures for obtaining citizenship or alienage status information, such as programming data entry alerts into its ACMS to serve as a warning system when required telephone citizenship or alienage status verifications were missing and by developing systematic and periodic file review protocols for the review of citizenship and alienage status; and generating periodic "Missing Citizenship/Alienage Information" reports.

As Required Corrective Action, SLSC was required to ensure it obtains the required level of documentation necessary to evidence citizenship or alienage eligibility pursuant to 45 CFR Part 1626.

In response to the DR and this Required Corrective Action, SLSC indicated that it now prepares automated case management reports to identify all files with missing citizenship or alienage information. These reports are reviewed monthly to resolve all deficiencies. Secondly, SLSC reported that it now conducts monthly inventories of its PAI files to ensure that every file referred to a private attorney satisfies the requirements of 45 CFR Part 1626. Finally, SLSC indicated that it intends to include a 45 CFR Part 1626 policy statement in its work rules, Intake Manual, and PAI Plan. The proposed policy statement provided as part of the response to the DR indicates that SLSC staff must obtain citizenship or verify eligible alien status during in-person contact with all applicants. The proposed policy statement is not sufficient as it does not require that SLSC obtain the citizenship or alienage information prior to legal assistance services being provided or when SLSC provides continuous representation beyond counsel and advice pursuant to 45 CFR § 1626.1 and the CSR Handbook (2008 Ed., as amended 2011), § 5.5. Moreover, the policy statement does not describe how and when the citizenship and alienage information will be obtained from applicants. For example, it is recommended that SLSC not refer applicants to private attorneys or outside clinics without first obtaining citizenship or alienage information as this procedure has been effective in ensuring that files contain the requisite 45 CFR Part 1626 information prior to legal services being provided.

Based on the comments provided, OCE finds that it lacks sufficient documentation of the actions taken by SLSC to satisfy Required Corrective Action item 4. SLSC must submit, within 90 days of the issuance of this FR, a description of the automated case management search query it uses for its "Missing Citizenship/Alienage Information" report, together with a copy of its automated case management "Missing Citizenship/Alienage Information" report from August 1 through January 31, 2014 (the applicant's name and other identifying information should be redacted to preserve client confidentiality). Moreover, SLSC should submit to OCE, within 90 days of the issuance of this FR, a copy of its revised policy statement.

Finding 6: SLSC is in 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.⁷ 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 SLSC was executing retainer agreements in accordance with 45 CFR § 1611.9. The review demonstrated that SLSC uses a standard paper retainer agreement form.

The review identified that extended service closed 2011 Case No. 2009-010918-C010 failed to contain a retainer agreement when required. Sampled files evidenced that, with this one (1) exception, SLSC is in compliance with the retainer requirements of 45 CFR § 1611.9. As no patterns of error were identified, there are no recommendations or corrective actions required.

Finding 7: SLSC is in 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).

SLSC's Identification of client and Pre-complaint Statement of Facts and Statement of Facts policy and form comports with LSC regulation.

⁷ 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.

Sampled files evidenced that SLSC is in compliance with the requirements of 45 CFR Part 1636 (Client identity and statement of fact) as all sampled files contained these statements, where required.

There are no recommendations or corrective actions required.

Finding 8: SLSC is in substantial compliance with the requirements of 45 CFR § 1620.3(a), 45 CFR § 1620.4, and 45 CFR § 1620.6 (Priorities in the use of resources) and is in non-compliance with the requirements of 45 CFR § 1620.5.

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

LSC regulations further requires that staff who handle cases or matters, or make case acceptance decisions, sign written agreements indicating they have read and are familiar with the recipient's priorities, have read and are familiar with the definition of an emergency situation and procedures for dealing with an emergency, and will not undertake any case or matter for the recipient that is not a priority or an emergency.

Annual Priority Review

In advance of the on-site visit, SLSC provided its 2010 Priority Statement (adopted December 3, 2012) for OCE review. Pursuant to LSC regulation, a recipient's Board of Directors must review its established priorities annually (or more frequently if the recipient has accepted a significant number of emergency cases outside of its priorities). Recipient Boards are required to conduct a review of priorities consistent with the requirements of 45 CFR § 1620.5 which requires that the recipient Board consider the:

- factors it considered to determine the priorities should not be changed;
- extent to which the objectives of the recipient's priorities have been accomplished;
- changes in the resources of SLSC;
- changes in the size, distribution, and needs in the eligible client population; and
- volume of non-priority emergency cases or matters in particular priority areas since the priorities were last reviewed.

The December 3, 2012 Minutes of SLSC's Board of Directors reflected that the priorities were reviewed on that date and "that no changes were recommended." The Minutes fail to reflect that the Board considered the factors required by 45 CFR § 1620.5 and the review of recipient's priorities is insufficient.

As required corrective action, SLSC was informed that it must ensure its Board of Directors reviews its priorities consistent with 45 CFR § 1620.5, and submit with its comments to the DR, a report summarizing that such a review was undertaken consistent with the requirements of 45 CFR § 1620.5.

Policy Review

Pursuant to its 2010 Priority Statement (adopted December 3, 2012), SLSC can accept staff cases concerning *any* civil legal problem, except criminal matters, fee-generating cases, commercial matters, and other case types prohibited by LSC, can provide limited information and education to migrant populations, service providers, other groups, and clients, and can accept cases in its PAI program in the areas of consumer, housing, employment law and *other cases involving a compelling need if an attorney with the relevant skills necessary to handle such case is available.*

SLSC's pro bono priority is broader than what is contemplated by LSC regulations because SLSC could, consistent with its pro bono priorities, place cases with private attorneys to provide legal assistance in restricted or prohibited matters, such as class actions or criminal matters.

As a Required Corrective Action, SLSC was to ensure that its priorities are consistent with LSC regulations. For example, SLSC could modify its priority to authorize the acceptance of cases *involving a compelling need if attorneys with the relevant skills necessary to handle such cases are available and if such cases are consistent with the LSC Act and other authorities.*

Signed Priorities Statement

Interviews with the Executive Director and a limited review of signed written agreements evidenced that SLSC is in compliance with the requirements of 45 CFR § 1620.6.

SLSC made no response to this Finding or the Required Corrective Action relating to the requirements of 45 CFR § 1620.5.

Based on the lack of response contained in the comments provided, OCE finds that it lacks sufficient documentation of the actions taken by SLSC to satisfy Required Corrective Action item 5. SLSC must submit, within 90 days of the issuance of this FR, a report describing SLSC's review of its priorities to ensure that its priorities are consistent with LSC regulations and that the actions it has taken to demonstrate that its priority review is consistent with 45 CFR § 1620.5.

Finding 9: SLSC is in non-compliance with the requirements of the 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 evidenced that SLSC is in non-compliance with CSR Handbook (2008 Ed., as amended 2011), § 5.6 as numerous files contained no description of legal assistance or the description was not sufficient to describe the nature of the legal services provided to the client.

For example, the legal activities documented in closed 2012 Case Nos. 2012-0143400-C010 and 2012-0147410-C010, closed 2011 Case Nos. 2011-C010-0139590, 2011-0136535-C010, and 2011-C010-0141029, and closed 2010 Case No. 2010-0115045-C010 did not rise to the level of legal assistance because they were referrals to SLSC's Connecticut Legal Services Network partners without any documentation that legal advice had been provided to the applicant prior to referral. The CSR Handbook notes that recipients may not report the referral of an applicant for legal services as a case when the referral is the only form of assistance that the applicant receives from the program, although it may be included in the Other Services Report.

Other examples include open Case No. 2012-0095309-C010 and closed 2012 Case No. 2012-0012414-C012 which contained no documentation that legal assistance was provided to applicant.

Final examples include cases in which legal services appeared to be provided but the file failed to document the nature of the legal services with sufficient detail to meet the requirements of CSR Handbook (2008 Ed., as amended 2011), § 5.6. Two (2) patterns of error were identified. First, staff cases, such as closed 2012 Case No. 2012-0149753-C010 and closed 2010 Case No. 2010-0121848-C010 described the nature of the applicant's legal problem, contained evidence that staff consulted with the applicant, but failed to document the advice provided.

Second, PAI cases failed to contain a sufficient description of the legal assistance provided by the private attorneys because the PB Closing Form used by SLSC only captures the case closure category information. This information mirrors the case categories contained in the CSR Handbook (2008 Ed., as amended 2011), §§ 8.2 and 8.3, such as "A-Counsel and Advice," "B-Limited Action (beyond counsel and advice)," "F-Negotiated Settlement-without Litigation," "G-Negotiated Settlement with Litigation," "H-Administrative Agency Decision (and indicate whether the case was won or lost)," "I-Court Decision: Uncontested, Contested, or Appeals and indicate whether the case was won or lost," "K-Other/Explain," and "L-Extensive Service (not resulting in settlement or court or administrative action)." For example, closed 2012 Case No. 2011-0132265-C010 and closed 2011 Case Nos. 2010-0126882-C010 and 2011-0129694-C010 were assigned

case closure category “G-Negotiated Settlement with Litigation” because the private attorney checked this box on closing sheet, however, the files contained no evidence of the negotiated settlement as required by CSR Handbook (2008 Ed., as amended 2011), § 8.3, and thus contained no documentation of the legal assistance provided to the client. The errors identified in sampled PAI files occurred because the PB Closing forms used to document the activities of the private attorneys documented the level of service provided to the clients but did not describe the specific legal advice and other assisted provided to the client which is required by the CSR Handbook (2008 Ed., as amended 2011), § 5.6 (For each case reported to LSC, the client’s case file or the ACMS must contain a description of the legal assistance provided to the client. Such description should be sufficient to document that the assistance is a case and to support the level of assistance selected by the program to close the case).

As a Required Corrective Action, SLSC was required to ensure that all cases reported to LSC in the CSRs contain a description of the legal assistance provided to the clients, as well as the level of service provided. OCE recommended SLSC reformat its Pro Bono Case Closing Form so that it elicits from the private attorneys a description of the legal services rendered, provide its Hotline and PAI staff with training on the requirements of CSR Handbook (2008 Ed., as amended 2011), and that management responsible for PAI oversight review all files at closure for evidence of legal assistance.

In response to the DR and this Required Corrective Action, SLSC indicated that it now requires its daily file reviewers to document in the file when the file has been reviewed for the sufficiency of legal assistance.

Based on the comments provided, OCE finds that it lacks sufficient documentation of the actions taken by SLSC to satisfy Required Corrective Action item 6. SLSC must submit, within 90 days of the issuance of this FR, a description of its file review procedures for staff and PAI cases, including the number of files reviewed (whether all files are reviewed or a sample--if a sample then provide the percentage of files reviewed), the type of files reviewed (staff, PAI, or staff and PAI), who conducts the review, when the review occurs (daily, weekly, monthly, etc.), as well as the written standards SLSC has established to determine whether the documentation of legal assistance satisfies the requirements of the CSR Handbook (2008 Ed., as amended 2011), §5.6.

Finding 10: SLSC’s application of the CSR case closure categories is generally consistent with Chapters VIII and IX of the 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 SLSC’s 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 closing categories, including more complex case closure categories. SLSC’s application of the CSR case closure categories is generally

consistent with Chapters VIII and IX of the CSR Handbook (2008 Ed., as amended 2011). The review, however, also identified limited patterns of error.

The first pattern of error noted was the apparent misunderstanding of the “K-Other” case closure category. SLSC reported using the K case closure category when private attorneys fail to return Pro Bono Case Closing Form or when no legal assistance has been provided to the client. The CSR Handbook (2008 Ed., as amended 2011), § 8.1 fn. 41, requires cases be closed in the category that best reflects the level of service provided, and if a descriptive closure category is applicable then the K closure category should not be used. Several sampled files, such as closed 2012 Case Nos. 2012-C010-0147427, 2008-0093243-C010, 2012-0012414-C010, and 2011-0136601-C010, closed 2011 Case Nos. 2010-0116999-C010, 2011-0141479-C010, and 2011-0132753-C010, and closed 2010 Case No. 2008-0083417-C010 were files identified in which SLSC employed the K closure category when other case closure categories or rejection codes, such as “A-Counsel and Advice”, “B-Brief Services/Limited Actions,” “L-Extensive Services,” or “R-Rejection” more accurately described the nature of the legal services performed or that no services were provided. The files noted above indicate that SLSC should review the use of the K closure category as LSC does not intend for this closure category to be used frequently because most common services provided to clients should fit more accurately within another case closure category.

A second minor pattern of error was identified, concerning the inconsistent use of the A and B case closure categories. For example, closed 2012 Case No. 2012-0145426-C010 was closed A when the file reflected third party contact with a utility on a client’s behalf. A few other cases, such as closed 2011 Case No. 2011-0131107-C010, and closed 2010 Case No. 2010-0121182-C010 were assigned the A case closure category when the file reflected brief services had been provided. These errors indicate that SLSC should remind staff of the differences between the A and B case closure categories.

Finally, a few PAI clinic cases were assigned a B case closure category when the files reflected that only advice had been provided to the clients. These PAI files, such as closed 2011 Case Nos. 2011-0132449-C010 and 2011-0132912-C010, and closed 2010 Case No. 2010-0120582-C010 failed to contain the documentation of the limited actions taken by private attorneys during PAI clinics; the files only documented the telephone advice provided by Hotline staff prior to the acceptance of the client for brief clinic services, and the more appropriate case closure categories for these files would be A. As discussed in Findings 1 and 7, these errors could have been prevented had PAI staff had engaged in effective PAI follow-up activities and management engaged in oversight activities.

As a Required Corrective Action, SLSC was required to ensure the correct assignment of case closure categories. It is recommended that SLSC provide training to staff consistent with Chapters VIII and IX of the CSR Handbook (2008 Ed., as amended 2011). It was further recommended that SLSC develop procedures for the review of case closure categories upon file closure.

In response to the DR and this Required Corrective Action, SLSC indicated that it would continue to assign case closure categories consistent with the CSR Handbook (2008 Ed., as amended 2011). SLSC further noted that its regular staff meetings could be used to discuss concerns relating to the requirements of Chapters VIII and IX of the CSR Handbook (2008 Ed., as amended 2011).

Based on the comments provided, OCE finds that it lacks sufficient documentation of the actions taken by SLSC to satisfy Required Corrective Action item 7. SLSC must submit, within 90 days of the issuance of this FR, a description of its use of staff meetings – or other methods used - to provide training to its staff on the proper assignment of the A, B, and K case closure categories.

Finding 11: SLSC is in non-compliance regarding the requirements of the CSR Handbook (2008 Ed., as amended 2011), § 3.3 (Timeliness of Cases).

To the extent practicable, programs shall report cases as having been closed in the year in which assistance ceased, depending on case type. Cases in which the only assistance provided is counsel and advice 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).⁸ 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).

The review assessed compliance with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 3.3. The review identified no exceptions in the sampled staff files, but detected numerous untimely closed and dormant files in the PAI sample, such as open Case Nos. 2012-0095309-C010 (This file was opened during 2008 and the last activity in the file was the placement of the client's case with a private attorney, with no notations in the file of any further legal assistance needed or provided since 2008, and therefore this case is dormant), 2009-0101127 (This file was opened during 2009 and the last activity in the file was the placement of the client's case with a private attorney, with no notations in the file of any further legal assistance needed or provided since 2009, and therefore this case is dormant), 2009-0110334- C010 (This file was opened during 2009 and the last activity in the file was the placement of the client's case with a private attorney, with no notations in the file of any further legal assistance needed or provided since 2009, and therefore this case is dormant), and 2010-0115733-C010 (This file was opened during 2010 and the last activity in the file was the placement of the client's case with a private attorney, with no notations in the file of any further legal assistance needed or provided since 2010, and therefore this case is dormant), closed 2012 Case No. 2008-0093243-C010 (This case was opened in 2008 for the purpose of placement with a private attorney, however, the case was never placed, and the last legal

⁸ 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 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).

work that was documented in the file was staff advice in 2008, with no notations in the file of any further legal assistance needed or provided since 2008, and therefore was untimely closed); closed 2011 Case No. 2007-073305-C010 (This case was opened in 2007 for the purpose of placement with a private attorney, however, the case was never placed, and the last legal work that was documented in the file was staff advice in 2007, with no notations in the file of any further legal assistance needed or provided since 2008, and therefore was untimely closed), and closed 2010 Case No. 2008-0083417-C010 (This case was opened in 2008 and the last legal work documented in the file was in 2008, with no notations in the file of any further legal assistance needed or provided since 2008, and therefore was untimely closed). As the last legal activities documented in the files were more than two (2) years prior to closure, these closed cases were not timely closed and the open cases are dormant. *See* CSR Handbook (2008 Ed., as amended 2011), § 3.3 and *Frequently Asked Questions*, Question 1. As discussed in Finding 1, *supra*, and Finding 17, *infra*, these errors could have been prevented had PAI staff engaged in effective PAI follow-up activities and could have been identified and corrected had management engaged in PAI oversight activities.

SLSC was found to be in non-compliance regarding the requirements of CSR Handbook (2008 Ed., as amended 2011), § 3.3. As a Required Corrective Action, SLSC was required to ensure the timely closing of cases consistent with the CSR Handbook (2008 Ed., as amended 2011), § 3.3 (Timeliness of Cases). It was recommended that SLSC develop procedures to identify dormant and untimely files prior to case closure and/or reporting to LSC.

In response to the DR and this Required Corrective Action, SLSC indicated that it would enhance its review of staff cases to prevent dormant and untimely closed files, especially in the Pardon Assistance Program type cases. While OCE values any effort to improve compliance-related activities, enhancing the review of staff case files, without also enhancing the review of PAI case files, does not implement the Required Corrective Action because the untimely and dormant files noted in the DR were identified in the PAI case sample rather than the staff case sample. Thus any action taken to improve compliance must be directed to ensuring the timely closing of PAI cases consistent with the CSR Handbook (2008 Ed., as amended 2011), § 3.3 (Timeliness of Cases).

Based on the comments provided, OCE finds that it lacks sufficient documentation of the actions taken by SLSC to satisfy Required Corrective Action item 8. SLSC must submit, within 90 days of the issuance of this FR, a description of its efforts to engage in the effective review of PAI cases to ensure that cases are not dormant or untimely closed. Examples of effective review of PAI cases may be the preparation of automated case management reports, tickler systems for PAI activities, policies that articulate the periodic follow-up of all open PAI cases, as well as the periodic review of open and closed PAI cases to identify dormancy and instances of untimely closed files.

Finding 12: SLSC is in substantial compliance with the requirements of the CSR Handbook (2008 Ed., as amended 2011), § 3.2 regarding 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 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 on-site review, several files were targeted to test for duplicate reporting of cases. Two (2) sets of duplicates were identified in the sampled cases: closed 2012 Case Nos. 2012-C010-0147427 and 2011-0136117-C010 (The cases were opened for the same client concerning the same legal matter -- excessive utility charges) and closed 2010 Case Nos. 2010-0120582-C010 and 2009-0110764-C010 (The cases were opened for the same client concerning the same legal matter - the legal protections available to preserve equity in the client's home).

As only two (2) sets of duplicates were identified, SLSC is in substantial compliance with the requirements of the CSR Handbook (2008 Ed., as amended 2011), § 3.2. It was recommended that PAI management develop a procedure to identify duplicate files.

There are no corrective actions required.

Finding 13: Review of the timekeeping records and interviews with full-time attorneys who have engaged in the outside practice of law evidenced that SLSC is in compliance with the requirements of 45 CFR Part 1604 (Outside practice of law); however, some revision to its policy is warranted to demonstrate compliance with this regulation.

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.

Policy Review

Review of SLSC's Policy on Outside Practice of Law (Attorneys) evidenced that SLSC does not require its full-time attorneys to comply with its policy *during leaves without pay*. SLSC is reminded that the restrictions contained in 45 CFR § 1604.2 apply during the entire period of full-time attorneys' *employment* with SLSC and apply even during leave without pay.

Outside Practice Activities Review

The limited review of timekeeping records for the period October 4, 2010-October 12, 2010, as well as interviews with management and the staff member who was granted permission to engage in outside practice activities from January 1, 2010 through December 31, 2012 evidenced that the subject matter of the cited circumstances were within the guidelines of 45 CFR § 1604.4, and approval to engage in the activity was sought and was granted by the Executive Director.

Compliance Finding and Required Corrective Actions and Recommendations

Based on a review of SLSC's timekeeping records and interviews with attorneys who engaged in the outside practice of law during the review period, SLSC is in compliance with the requirements of 45 CFR Part 1604.

However, as noted above, a review of the recipient's policies evidenced that its policy does not require its full-time attorneys to comply with its policy *during leave without pay* and, thus, does not conform to LSC regulations. As a Required Corrective Action, SLSC was required to revise its Outside Practice of Law policy to ensure that it conforms to 45 CFR Part 1604.

In response to the DR and this Required Corrective Action, SLSC provided a copy of its Outside Practice of Law policy that now requires full-time attorneys to comply with its policy *during leave without pay*.

Based on the comments provided by SLSC, OCE finds that SLSC has implemented Required Corrective Action item 9. However, SLSC must submit, within 90 days of the issuance of this FR, information concerning the date this policy was adopted by its Board of Directors, as well as the date of its implementation.

Finding 14: A limited fiscal and sampled file review, as well as interviews with members of management and staff, 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.

A limited review of the vendor list and trial balance reports as of January 30, 2013, demonstrated that SLSC appears to have not expended LSC grant funds, personnel, or equipment in prohibited political activities and that SLSC is in compliance with 45 CFR § 1608.3(b).

A review of sampled files disclosed no evidence that staff members, while engaged in legal assistance activities supported under the Act, engaged in any political activity, provided voters with transportation to the polls, or provided similar assistance in connection with an election or voter registration activity. Finally, interviews with management disclosed no evidence that SLSC employees have intentionally supported or identified the Corporation with any partisan or

nonpartisan political activity, or with the campaign of any candidate for public or party office.

SLSC is in compliance with the requirements of 45 CFR Part 1608 (Prohibited political activities).

There are no recommendations or corrective actions required.

Finding 15: Review of the recipient's policies and sampled files, as well as interviews with members of management and staff, evidenced non-compliance with the documentation 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 (1) 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.

Policy Review

SLSC has a written policy governing fee-generating cases. *See* SLSC Policy on Fee Generating

Cases. This policy is in compliance with 45 CFR Part 1609.

Review of Sampled Cases

During the on-site review, open Case No. 2012-01469-C010, a LSC supported file was identified as a potentially fee-generating case, however, fiscal review determined that no fees were awarded or collected. The intermediary relayed that, in this case, the client suffered discrimination and the case was placed with a private attorney who requested the client be awarded \$30,000 in compensatory damages. The intermediary reviewed the file and determined that the recordkeeping requirements and forms for the acceptance of fee-generating cases were not present in the file.

The CSR Handbook (2008 Ed., as amended 2011), § 2.1 states that recipients may report the provision of legal assistance as a case if the case is within the recipient's priorities and the type of legal assistance provided is not prohibited by the LSC Act, regulations, or other applicable law. *See* CSR Handbook (2008 Ed., as amended 2011), § 2.1. To the extent that the case appears to involve issues within SLSC's priorities, it is reportable to LSC. However, to the extent that the case involves legal assistance provided in a fee-generating case, the legal assistance provided was inconsistent with 45 CFR § 1609.3(a).

SLSC is reminded that it may provide advice or legal representation in fee-generating cases by making either of the determinations set forth in 45 CFR §§ 1609.3(b)(2) or (3) or by supporting such activities with non-LSC funds. SLSC must be mindful that if the case is not supported with LSC funds, time spent by staff may not be allocated to the PAI requirement.

As sampled files, as well as interviews with members of management and staff, disclosed evidence that SLSC provided legal assistance in a fee-generating case, absent required documentation, SLSC is in non-compliance with the requirements of 45 CFR Part 1609 (Fee-generating cases). As a Required Corrective Action, SLSC was required to ensure that it is not using LSC funds to provide assistance in fee-generating cases unless the requirements of 45 CFR Part 1609 and applicable letters of instruction are met. It was recommended that SLSC provide training to its staff concerning the acceptance of fee-generating cases and develop/implement procedures to assist its staff in complying with LSC regulations and other authority.

In response to the DR and this Required Corrective Action, SLSC indicated that it would provide training to staff concerning the acceptance of fee-generating cases consistent with its fee-generating policy which was provided to OCE as part of its response to the DR.

SLSC further indicated that it did not understand the nature of its compliance error in accepting open Case No. 2012-01469-C010. In this case, the client suffered discrimination and his case was placed with a private attorney who requested the client be awarded \$30,000 in compensatory damages. OCE advises that this case implicated the prohibitions contained in 45 CFR Part 1609 because this case "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. The compliance concern was noted because SLSC supported the case with LSC funds and failed to execute the mandatory recordkeeping requirements and forms for fee-generating cases (alternatively, SLSC

could have supported the case with non-LSC funds and would not have had to maintain fee-generating records). *See* LSC Memorandum to All Program Directors (December 8, 1997).

Based on the comments provided, OCE finds that it lacks sufficient documentation of the actions taken by SLSC to satisfy Required Corrective Action item 10. SLSC must submit, within 90 days of the FR, a description of the actions it has taken to ensure such a lapse does not occur in the future. SLSC's submission may include a description of its training efforts, and, if so, an agenda, attendance list(s), and a detailed summary of the information provided as part of the training should be included.

Finding 16: A limited fiscal review evidenced that SLSC is in non-compliance with 45 CFR §§ 1610.5 and 1610.9.

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*, 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--particularly 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).

Funder notification

Pursuant to 45 CFR § 1610.5, recipients are required to provide contributors of funds in the amount of \$250 or more with written notification of the prohibitions and conditions tied to the use of the funds due to the recipient's receipt of LSC funding. Interviews with the Deputy Director and the Bookkeeper disclosed non-compliance with 45 CFR § 1610.5 as the Deputy Director and the Bookkeeper reported that SLSC failed to send out written notification to contributors and to potential/actual grant funders describing LSC prohibitions that govern the funds SLSC is soliciting. During the on-site review, SLSC drafted a funder notification letter which satisfied the notification requirements of 45 CFR §1610.5 and provided its contributors and funders with a copy of this newly drafted letter on February 6, 2013.

SLSC has taken corrective action designed to ensure compliance with 45 CFR § 1610.5, however, it is recommended that SLSC develop a policy/procedure to assist its staff in complying with the requirements of this regulation.

Separate accounting for LSC and Non-LSC receipts

A limited review of SLSC's chart of accounts, cash disbursement records, general ledger, cost allocation methodology policy, grant agreements, as well as accounting procedures and Financial Procedures and Accounting Manual ("Accounting Manual") was performed to determine whether SLSC's fiscal operations maintained separate and distinct accounting for reporting of LSC and non-LSC receipts and disbursements pursuant to 45 CFR § 1610.9. The on-site review evidenced that SLSC was unable to indicate through accounting coding of disbursements whether LSC or non-LSC funds were used for certain disbursements. SLSC's chart of general ledger accounts and cost allocation policy and procedures are not set up to separately account for its LSC and non-LSC disbursements as required by 45 CFR § 1610.9.

Accordingly, SLSC is in non-compliance with the requirements of 45 CFR § 1610.9. As a Required Corrective Action, SLSC was required to revise its accounting code procedures to include

a mechanism to indicate the type of funds used to pay disbursements. For instance, the disbursement made to pay membership fees or dues should be posted to an account that indicates that non-LSC funds were used to make the payment.

In response to the DR and this Required Corrective Action, SLSC indicated that it has added separate accounting codes for disbursements.

Based on the comments provided, OCE finds that it lacks sufficient documentation of the actions taken by SLSC to satisfy Required Corrective Action item 11. SLSC must, submit within 90 days of the issuance of this FR, a description of its new accounting code procedures, together with a listing of the new accounting codes used for disbursements.

Finding 17: SLSC is in non-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). Additionally, 45 CFR Part 1614 requires that recipients utilize a financial management system and procedures that document its PAI cost allocations, identify and account for separately direct and indirect costs related to its PAI effort, and report separately the entire allocation of revenue and

expenses relating to the PAI effort in its year-end audit.

Expenditures and Allocations

A review of the December 31, 2012 PAI Report indicated that SLSC's allocation of direct and indirect expenses to the PAI requirement was in compliance with 45 CFR Part 1614. SLSC uses an appropriate ratio to determine the percentage to be used in the allocation of indirect PAI costs. The ratio is pro bono cases divided by total cases.

However, interviews with the Executive Director, the Bookkeeper, a Pro Bono ("PB") Coordinator, and Administrative Secretary, as well as review of its 2011 AFS and the general ledger evidenced that SLSC's cost allocation methodology is not adequately documented. Review of the 2011

AFS reflected that PAI expenditures are mentioned in a footnote rather than being reported separately by establishing a separate fund or by providing a separate schedule in the financial statements as required by 45 CFR § 1614.3(e)(2).

Moreover, the on-site review identified inconsistencies in the methodology. For example, SLSC allocated 100% of a PB Coordinator's time to the PAI requirement when the on-site review evidenced that the Coordinator engaged in certain activities that cannot be allocated to the requirement, such as spending time on Pardon Assistance Program cases. SLSC also allocated 90% of the Administrative Secretary's time to the requirement; however, the Secretary reported that she engages in PAI activity support approximately 80% of her time. During the on-site review, SLSC could not resolve these inconsistencies because SLSC failed to maintain written documentation evidencing its allocation percentages as required by 45 CFR § 1614.3. Finally, several costs allocated to the PAI requirement lacked adequate documentation because SLSC could not establish that the activity for which the funds were expended was in furtherance of the PAI effort. For example, expenses were supported with documentation which simply stated "Pro Bono Committee" and failed to describe how the activity for which the funds were expended was in furtherance of SLSC's PAI program. SLSC may consider attaching a committee agenda or other supporting documentation to establish that the expense was incurred for PAI activities.

SLSC is in non-compliance with 45 CFR §§ 1614.3(e)(2) and 1614.3(e)(1)(ii). As a Required Corrective Action, SLSC was required to review its cost allocation methodology and resolve the inconsistencies discussed herein. As further Required Corrective Action, SLSC was required to ensure that PAI expenditures are being reported separately by establishing a separate fund or by providing a separate schedule in the financial statements as required by 45 CFR § 1614.3(e)(2), implement financial systems and procedures that enable it to maintain supporting documentation to identify and account separately for costs related to the PAI effort, and ensure that only adequately supported charges are allocated towards the PAI requirement.

In response to the DR and Required Corrective Action item 12, SLSC indicated that it now reports PAI expenditures separately, has financial systems and procedures in place that enable it to identify, document, and separately account for costs related to the PAI effort, and will only allocate to its PAI requirement charges that are adequately supported. However, SLSC failed to submit documentation describing its review of its cost allocation methodology, or to submit a report

describing the actions it has taken to resolve the inconsistencies pursuant to Required Corrective Action item 12.

Based on the comments provided, OCE finds that it lacks sufficient documentation of the actions taken by SLSC to satisfy Required Corrective Action item 12. SLSC must review this Required Corrective Action item and submit, within 90 days of the issuance of this FR, the required information.

PAI Plans

In advance of the review, SLSC provided two (2) PAI Plans (together referred to as “Plans”) which each 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 SLSC consulted with the legal community. The first Plan entitled “Pro Bono Opportunities as Statewide legal Services of CT, Inc.” is dated November 29, 2011. The second Plan entitled “Applicant PAI Plan” is not dated. The PAI Plans are not in conformance with LSC regulation because SLSC has not provided documentation that they were developed annually and that SLSC presented its Plan to *all* local bar associations within its service area and summarized the responses received. *See* 45 CFR § 1614.4(b). As a Required Corrective Action, SLSC was required to adopt an annual PAI Plan consistent with 45 CFR § 1614.4(b).

The Applicant PAI Plan sets forth, on page 5, that its pro bono priority areas which are meant to provide “general guidance as to the types of cases to be referred.” The primary types of cases handled are simple bankruptcy, disability, family, consumer, and housing law matters, and less commonly tort defense, tax, and estate law. The PB Coordinators indicated that they allow the private attorneys to advise them as to the types of cases they would like to handle and look for those types of cases to refer. The spectrum of cases is fairly wide and is only limited by an attorney’s expertise and ethical obligations. As discussed in Finding 8, the priorities of the PAI component were reviewed and found to be quite broad and should be reviewed to ensure compliance with 45 CFR Part 1620.

In response to the DR and Required Corrective Action item 13, SLSC indicated that its Board of Directors was reviewing SLSC’s PAI Plan and would act accordingly by December 31, 2013.

Based on the comments provided, OCE finds that it lacks sufficient documentation of the actions taken by SLSC to satisfy Required Corrective Action item 13. SLSC must, submit within 90 days of the issuance of this FR, a description of the status of the Board of Director’s efforts. OCE further requests that SLSC provide a copy of the PAI Plan when completed.

Overview of the PAI Program

The pro bono effort (“PB”) is managed by the Executive Director who directly supervises all of the pro bono staff members. SLSC employs an Administrative Secretary and two (2) PB Coordinators, who are responsible for pro bono activities at SLSC. The focus of PB is to provide attorney-client matches, legal information and advice clinics, and telephone advice through the Call4Law program.

SLSC states in its PAI Plans that PB is a “joint venture between the collaborative legal services network of programs and the organized bar, particularly the Connecticut Bar Association” (“CBA”) as follows:

- The CBA has primary responsibility for advertisement, recruitment, retention, education, and recognition of private attorneys for SLSC private attorneys, as well as those not affiliated with SLSC’s PAI program. SLSC, however, collaborates with the CBA and participates in some of these activities;
- SLSC pays for printing and refreshment costs for joint trainings; and
- SLSC pays a portion of the CBA’s PB Coordinator’s salary. The CBA PB Coordinator recruits private attorneys, organizes trainings, and coordinates private attorney recognition activities for SLSC private attorneys, as well as those not affiliated with SLSC’s PAI program.

SLSC, along with the other legal service providers in the state of Connecticut, in partnership with the Connecticut Network for Legal Aid, identifies eligible clients to participate in PAI activities. The CBA serves as a pro bono information clearinghouse for private attorneys in the state of Connecticut. The CBA recruits, trains, and recognizes private attorneys for SLSC, as well as for other legal services providers in the state of Connecticut. SLSC places these cases as part of its pro bono effort.

Intake and Case Acceptance Process

The intake screening process for a private attorney case is no different from the intake process for a staff case. As discussed in Finding 2, intake is conducted by the Hotline or completed by an applicant on-line and reviewed by intake staff, and then referred to PB during daily case review. The decision to refer to the PAI component is approved by the Reviewing Attorney. PB staff members report that they do not review compliance-related information when an intake is received from the Hotline or on-line intake because it has been previously reviewed by intake staff.⁹ If the case is appropriate for private attorney activity, an applicant will be interviewed by a PB Coordinator to determine suitability for placement, either as an attorney-client match¹⁰ or a telephone advice consultation, or is more suited for clinic services. The decision to refer a case to an attorney or clinic is made in any number of ways. For example, if the applicant will be provided with an attorney-client match, the PB Coordinator will determine the suitability for referral. If an applicant is to attend a clinic, either intake staff or a PB Coordinator will schedule the applicant based upon specific case acceptance protocols. PB does not utilize group case acceptance meetings. The client is informed that he/she is scheduled to attend a clinic while on the telephone with the PB Coordinator and is informed of the attorney-client match by the PB Coordinator by telephone call after the match is confirmed with the private attorney.

⁹ While a PB Coordinator indicated that the Administrative Secretary may review intake information, the Administrative Secretary reported that she reviews the applicant’s factual statement, and does not review eligibility information because eligibility is determined during intake.

¹⁰ The Attorney-Client Match Program is a traditional program that matches a client with an attorney for individual representation.

Call4Law

As part of the Call4Law program, started in 2012, private attorneys provide 45-60 minute telephone consultations to applicants who have previously been screened and determined eligible by SLSC. At the time of the on-site review, SLSC reported that about 50 cases had been referred for telephone advice. When an applicant has been accepted, he/she is mailed a notification letter explaining that the case any guidelines to instruct staff as to how to close files in which the attorney has not returned the Interview Summary and the PB Coordinator reported she has not closed any such cases. Upon receipt of the form, the Coordinator completes a Status Sheet; assigns a case closure category, and transfers the file to the Administrative Secretary who closes the file. Management does not review *any* Call4Law files to oversight compliance-related activities. The PB Coordinator does not record the time spent on Call4LAW activities in the case files.

Clinics

SLSC maintains PB clinics throughout the state mainly in the areas of family and housing law. Participants are scheduled to attend clinics by SLSC after completing the intake process. Private attorneys provide information, advice, brief services, and document preparation services at the clinics. The clinics may be held in the offices of SLSC or in the offices of other Network partners, such as NHLAA and GHLA. If SLSC staff does not attend the clinics held at its partners' offices it emails the clients' intakes, Citizenship Certifications, and Clinic Agreements to its partners and directs the clients to the scheduled clinic.

On the day of the clinic, the clients signs in at the receptionist desk and executes the Citizenship Certification Forms and the Clinic Agreements. As discussed in Finding 5, The PB Coordinator reported that the clients will execute these Forms even when they are eligible aliens because the Form requires the client to attest to citizenship and whether he/she is in the country legally. As discussed in Finding 5, numerous clinic files failed to contain citizenship information and SLSC's reliance on its partners to obtain citizenship/alien eligible status information may have led to these compliance errors.

The private attorney then meets with the client and may provide information, advice, contact third parties, and/or prepare legal documents for the clients. At the conclusion of the clinic, the partner returns the Citizenship Certifications and Clinic Agreements to SLSC. The PB Coordinator then completes the closing Status Sheets. Although, the private attorney does not provide *any* information concerning the legal services provided, or not provided, during the clinic, the PB Coordinators close *all* cases with the B case closure category. After the file is assembled, the Administrative Secretary closes the file in the system. Management does not review *any* clinic files to oversight compliance-related activities.

When a PB Coordinator attends a clinic, the Coordinator completes the Status Sheet. The Coordinator does not obtain copies of the documents prepared and does not note whether legal assistance was provided, or not provided, to the client. These practices are inconsistent with CSR Handbook (2008 Ed., amended 2011) which requires that the file contain documentation that the

private attorney reviewed the client's particular facts and provided legal assistance. SLSC's failure to obtain documentation from the private attorney concerning the legal assistance provided has led to compliance errors. As discussed in Findings 9, sampled files evidenced that clinic PAI cases lacked documentation of the legal assistance provided. Finally, as discussed in Finding 1, management's failure to conduct oversight reviews of clinic files resulted in the failure to identify and avoid compliance errors.

During the on-site review, a PB Coordinator noted that she coordinates the Pardon Assistance Program as part of her PAI activities. This program uses volunteer *paralegals* to prepare pro se documents necessary to obtain civil expungement of Connecticut convictions and provisional pardon relief. Although, this program does not involve private attorneys, the time spent coordinating and managing Pardon Assistance Program cases is allocated towards the PAI requirement and the cases are designated as PAI cases. These practices are inconsistent with 45 CFR § 1614.3(b)(1) and CSR Handbook (2008 Ed., as amended 2011), § 10.1, which provides that "a PAI case is defined as the provision of permissible legal assistance by a *private attorney* participating in a recipient's PAI program." As there are no private attorneys involved in Pardon Assistance Program case activities, the time spent by the PB Coordinator on these activities cannot be allocated to the PAI requirement nor may these cases be reported as PAI cases in the CSRs. Time should be kept as staff time and cases reported in the CSRs as staff cases. SLSC should cease allocating time spent to the PAI requirement and cease reporting such cases in the CSRs as PAI cases.

The PB Coordinator indicated that she does not record the time spent on cases or other clinic activities in the case file. Time spent on PAI activities are aggregated and recorded as general time. As discussed in Finding 19, PAI staff must contemporaneously record the time spent on each case in compliance with 45 CFR § 1635.3(b).

Attorney-Client Match Placement

Upon acceptance for referral, the applicant is mailed Citizenship Certification and Retainer Agreement forms to complete and return within 21 days. After receipt of these documents, the Administrative Secretary opens the file in the ACMS and transfers it to the PB Coordinator who places the case with a private attorney by a telephone call. The PB Coordinator will attempt referral to four (4) attorneys and will reject the case if a private attorney cannot be located within a month. The PB Coordinator completes a Status Sheet that contains the applicant and private attorney's contact information. The Administrative Secretary then mails the applicant a referral packet which includes a letter with instructions to contact the private attorney and the PB Coordinator also telephones the applicant. The private attorney is mailed the Application for Legal Services, a PB Referral Fact Form, and a PB Case Closing Report Form to complete and return. The PB Referral Fact Form requires a private attorney to advise the PB Coordinator whether the case has been accepted or rejected, and if rejected, the reason the case was not accepted by the private attorney.

The case is set for a nine (9) month status review. At this time, the private attorney is sent a status letter and another PB Case Closing Report Form. If the PB Referral Fact Form is not returned, two (2) more requests for status information will be sent and then the attorney may be

contacted by telephone to obtain a status update. If the form is never returned, the case is assigned the “K-Other” case closure category because no legal assistance has been provided. As stated in Finding 10, SLSC is advised that the CSR Handbook requires cases be closed in the category that best reflects the level of service provided, and if a descriptive closure category is applicable then the K closure category should not be used. *See* CSR Handbook (2008 Ed., as amended 2011), § 8.1 fn. 41. If there is evidence of legal advice provided by SLSC staff, the case should be closed with the appropriate LSC closing category, however if there is no evidence of any legal advice/assistance being provided the case should be not be closed with an LSC closing category and should be marked for exclusion from CSR reporting.

If status information is obtained, the case will be set for additional consecutive nine (9) months status updates or the timing of status reviews will be based upon the nature of the case and knowledge of the court proceedings in the counties served. Sampled status letters reflect that the time between status checks is quite lengthy as the letters note that “it has been several years since I last contacted you about the Pro Bono Case” and, as noted in Finding 11, numerous files sampled during the review reflected that status reviews are not regularly documented in the files.

At the conclusion of a case, the private attorneys are encouraged to complete a PB Case Closing Report Form. As described in Finding 9, the PB Case Closing Report Form requires a private attorney to check any of eight (8) reasons for closing the case that mirror CSR case closure categories and to submit a copy of any court orders. Upon closure, the Administrative Secretary assigns a case closure category based upon information contained in a case file and/or the PB Case Closing Report Form. The Administrative Secretary reports that 90% of the private attorneys do not provide notes or in describe the specific legal assistance provided to the client. The Administrative Secretary does not contact the private attorney, check the court’s docket or website, or contact the client for status in order to obtain further information. All information is maintained outside of the case file in a “Case Tracking Log” kept by the Administrative Secretary. Prior to the on-site review, and then again, during the on-site review, SLSC was given the opportunity to place any status review letters maintained in the Case Tracking Log or elsewhere in the physical file, however, during the on-site review, numerous files lacked evidence of the oversight activity described during the interviews.

Case Supervision

Management does not approve the case closure category assignments or review any PAI files for oversight and compliance-related activities. The Office of Program Performance, in 2011, noted that the failure to conduct a supervisory review of files was a performance weakness and recommended that SLSC implement a formal written procedure for case review and legal work supervision. *See* Office of Program Performance, Program Quality Visit, February 7-11, 2011 (Tier 1 Recommendation). The Office of Program Performance further advised SLSC in 2013 that it would benefit from written policies for the referral and screening of PB cases. OCE concurs with these recommendations.

Conclusion

LSC requires recipients to create oversight and follow-up systems and procedures that are sufficient

to track the timely referral, follow-up, and disposition of PAI cases. *See* 45 CFR §1614.3(d)(3) and CSR Handbook (2008 Ed., as amended 2011), § 10.4. While SLSC has systems and practices in place to track PAI activities, these systems and supervisory practices are insufficient to ensure that PAI cases have effective oversight and follow-up and has led to high rate of compliance error being identified during the review. Interviews with PAI staff evidenced that SLSC fails to supervise the activities of the Administrative Secretary and PB Coordinators by reviewing *any* PAI files for compliance-related activities. Interviews and review of PAI oversight documentation provided during the on-site review evidenced that:

- Case oversight activities are conducted infrequently (every 9 months to once every several years);
- Case oversight activities are maintained outside of client files (oversight documentation is maintained in a separate Case Tracking Log);
- PAI staff do not utilize all of the available strategies to obtain information about the case (PAI staff do not check the court's docket or website, do not contact the client, and do not telephone or email the private attorney for information); and
- The methods used to obtain documentation of the private attorneys' legal work are insufficient (90% of the private attorneys do not provide notes or describe the specific legal assistance provided to the client on the Status Sheets or PB Case Closing Forms).

The weaknesses in SLSC's oversight and follow-up systems resulted in numerous errors being identified in the sampled files. As discussed in Findings 9 and 11, numerous files were identified as dormant/untimely closed and/or lacking sufficient evidence of the legal assistance provided.

Further, SLSC's systems and supervisory practices are insufficient to ensure that all compliance-related information required by Chapter V of the CSR Handbook (2008 Ed., as amended 2011) and LSC regulations is accurately and correctly documented and, as discussed in Findings 1, 3, 5, 8, and 10, numerous documentation errors were also identified during review of sampled files. Finally, on-site interviews identified PAI practices that were inconsistent with CSR Handbook (2008 Ed., as amended 2011) and LSC regulations, such as:

- Allocating time spent on Pardon Assistance Program cases to the PAI requirement and reporting these cases in the CSRs as PAI cases;
- The application of CSR case closure categories (B and K) inconsistent with Chapter VIII of the CSR Handbook (2008 Ed., as amended 2011);
- The entry of time records for PAI case activities that are inconsistent with the requirements of 45 CFR § 1635.3; and
- Eligible alien status documentation that is inconsistent with 45 CFR Part 1626.

It appears that more intensive oversight of both PAI clinic and case activities is necessary to ensure compliance-related requirements are satisfied.

SLSC is in non-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. As Required Corrective Actions, SLSC was required to review and adopt additional PAI oversight and follow-up systems and procedures for the timely follow-up and disposition of PAI cases and periodic supervision and management of cases. It was recommended that these PAI systems articulate:

- The increased frequency and additional methods by which case oversight and follow-up activities are to be conducted;
- That oversight and follow-up activity information is to be maintained in individual client case files;
- The selection of appropriate case closure categories for clinics and case activities;
- The method for ensuring that all cases contain sufficient documentation of legal assistance;
- A system that identifies files without documentation of legal assistance and untimely or dormant cases, so that such cases may be administratively closed and are not included in future CSRs; and
- A system of periodic management case supervision that is designed to ensure that the requirements of LSC regulations and the CSR Handbook (2008 Ed., as amended 2011), § 10, are satisfied.

In response to the DR and Required Corrective Action item 14, SLSC indicated that it has ceased allocating time spent assisting clients with Pardon Assistance Program cases to the PAI requirement and has ceased reporting such cases in the CSRs as PAI cases.

Based on the comments provided, OCE finds that it lacks sufficient documentation of the actions taken by SLSC to satisfy Required Corrective Action item 14. SLSC must submit, within 90 days of the issuance of this FR, a description of the actions it has taken to ensure that Pardon Assistance Program cases are not allocated to the PAI requirement and that they are not being reported in the CSRs. For example, SLSC may have provided instructions to PAI staff, prepared and reviewed automated case management reports, or developed procedures when implementing this Required Corrective Action item.

In response to the DR and Required Corrective Action item 15, SLSC indicated that it was developing a PAI Manual containing policies and procedures to ensure the correct handling and supervision of PAI cases.

Based on the comments provided, OCE finds that it lacks sufficient documentation of the actions taken by SLSC to satisfy Required Corrective Action item 15. SLSC must submit, within 90 days of the issuance of this FR, a description of the status of the PAI Manual and a timetable for its completion, as well as providing OCE with a copy of the PAI Manual when completed.

Finding 18: SLSC is in substantial compliance with the requirements of 45 CFR Part 1627 which prohibits recipients from using LSC funds to pay membership fees or dues to any private or nonprofit organization.

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.¹¹ 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).

All subgrants must be in writing and must be approved by LSC. In requesting approval, recipients are required to disclose the terms and conditions of the subgrant and the amount of funds to be transferred. Additionally, LSC approval is required for a substantial change in the work program of a subgrant, or an increase or decrease in funding of more than 10%. Minor changes of work program, or changes in funding less than 10% do not require LSC approval, but LSC must be notified in writing. *See* 45 CFR § 1627.3(a)(1) and (b)(3).

Subgrants may not be for a period longer than one (1) year, and all funds remaining at the end of the grant period are considered part of the recipient's fund balance. All subgrants must provide for their orderly termination or suspension, and must provide for the same oversight rights for LSC with respect to subrecipients as apply to recipients. Recipients are responsible for ensuring that subrecipients comply with LSC's financial and audit requirements. It is also the responsibility of the recipient to ensure the proper expenditure of, accounting for, and audit of the transferred funds. *See* 45 CFR § 1627.3(b)(1), (b)(2), (c), and (e).

LSC funds may not be used to pay membership fees or dues to any private or nonprofit organization, except that payment of membership fees or dues mandated by a governmental organization to engage in a profession is permitted. *See* 45 CFR § 1627.4. Nor may recipients

¹¹Programmatic 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.

make contributions or gifts of LSC funds. *See* 45 CFR § 1627.5. Recipients must have written policies and procedures to guide staff in complying with the regulations and shall maintain records sufficient to document the recipient's compliance. *See* 45 CFR § 1627.8.

Subgrants

A limited fiscal review of SLSC's accounting records, related operating policies and procedures, the AFS for 2009, 2010, and 2011, as well as discussions with members of SLSC's fiscal staff and management, disclosed compliance with the financial reporting requirements of 45 CFR § 1627.3. The review noted no evidence of payments to private attorneys that required subgrants.

SLSC is in compliance with 45 CFR § 1627.3.

Membership Fees and Dues

The fiscal review of SLSC's accounting records for selected general ledger expenses, known as "Memberships and Dues" and "Pro Bono" revealed that SLSC used LSC funds to pay for non-permissible membership fees on May 16, 2011 (\$175 to the Connecticut Housing Coalition) and on February 1, 2012 (\$30 to NAPBPro). These fees cannot be charged to the LSC grant because memberships in these organizations are not mandatory. SLSC, on February 20, 2013, advised that it would be making a corrective entry to restore \$205 to the LSC fund.

SLSC is in non-compliance with the requirements of 45 CFR § 1627.4(a). As a Required Corrective Action, SLSC was required to ensure that no non-mandatory fees and dues are charged to the LSC fund and submit, with its comments to the DR, evidence that the LSC fund was restored \$205.

In response to the DR and Required Corrective Action item 16, SLSC indicated that it had restored the \$205 to the LSC fund. However, SLSC failed to provide documentation of this transaction pursuant this Required Corrective Action item. Moreover, SLSC failed to provide documentation of the actions it has taken to ensure that non-mandatory fees and dues are not charged to the LSC fund in the future.

Based on the comments provided, OCE finds that it lacks sufficient documentation of the actions taken by SLSC to satisfy Required Corrective Action item 16. SLSC must submit, within 90 days of the issuance of this FR, evidence of the restoration of the \$205 to the LSC fund and a description of the actions it has taken to ensure that non-mandatory fees and dues are not charged to the LSC fund in the future. For example, SLSC may develop a procedure that describes the funding sources that may be used to pay mandatory and non-mandatory fees and dues.

Finding 19: Review of the recipient's policies and interviews with members of management and staff evidenced that SLSC is in non-compliance with 45 CFR Part 1635 (Timekeeping requirement).

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. 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.

Policy review

SLSC has a written policy governing time records.¹² This policy is in compliance with 45 CFR §§ 1635.3(b) and (c).

Restricted activities

SLSC reported that no paralegal or attorney staff engaged in restricted activity during any time for which the attorney or paralegal was compensated by the recipient and had not used recipient resources for restricted activities.

Time Records

LSC regulation requires that 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.¹³ 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.

SLSC's automated time management system, Legal Files, records and accounts for time spent by case handlers, attorneys and paralegals who work on cases, matters, and supporting activities. In accordance with SLSC's operating policy, SLSC requires its case handlers to keep contemporaneous time records for which compensation is paid, to enter this information into its

¹² Attorneys and paralegals are required to contemporaneously enter their time spent in 15 minute increments. *See* SLSC Policy on Timekeeping.

¹³ Attorneys and paralegals are required to contemporaneously enter their time spent in 15 minute increments. *See* 45 CFR Part 1635.

case management system, to indicate whether the time is spent on a case, matter or support activity, as well as to specify the particular case the time was spent on by including a case number.

A limited review of case handlers' time records, as well as SLSC's policies and procedures, evidenced that case handlers fail to identify the category of action on which the time was spent on matters and support activities. The review of sampled time records did not reflect that case handlers indicated the action taken for time spent on matters and supporting activities. This may be because the timekeeping policy does not require case handlers to identify the category of action on which the time was spent on matters and support activities.

Interviews conducted during the on-site review with PAI paralegals, attorneys, and management disclosed that management aggregates its time with other non-PAI activities and enters this time into as general administration, a supporting activity in its time records; and that the PAI paralegal and attorney staff aggregate their time spent working on staff and PAI activities and enter this time as a matter--even when working on individual cases.

As described above, SLSC's practice of aggregating time spent on individual cases and entering such time as a supporting or matter activity is not consistent with LSC regulation.

SLSC is in non-compliance with 45 CFR § 1635.3(b)(2). As Required Corrective Action, SLSC was required to ensure that its case handlers identify the category of action on which the time was spent when recording time for matters and supporting activities and contemporaneously record the time spent on each case in compliance with 45 CFR § 1635.3(b).

In response to the DR and this Required Corrective Action, SLSC indicated that it had provided timekeeping training to its advocacy staff and that members of management would conduct periodic reviews of timekeeping records to ensure that these records were being maintained in conformance with 45 CFR § 1635.3(b).

Based on the comments provided, OCE finds that it lacks sufficient documentation of the actions taken by SLSC to satisfy Required Corrective Action item 17. SLSC must submit, within 90 days of the date of this FR, a description of the actions it has taken to prevent this deficiency from occurring in the future. SLSC's submission may include a description of both the procedures for periodic reviews and of its training efforts, and, if so, an agenda, attendance list(s), and a detailed summary of the information provided as part of the training should be included.

Finding 20: Review of sampled files, as well as interviews with management and staff members, 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* 45 CFR § 1642.3.¹⁴ However, with the enactment of LSC's FY 2010 consolidated

¹⁴ 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 50

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 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).

Review of sampled files, as well as interviews with management and staff members evidenced that SLSC is in compliance with the requirements of former 45 CFR Part 1642 (Attorneys' fees). There are no recommendations or corrective actions required.

Finding 21: Review of sampled files, as well as interviews with members of management and staff, evidenced compliance with the requirements of 45 CFR Part 1612 (Restrictions on lobbying and certain other activities); however, review of the recipient's policies evidenced that the Board-approved policy does not contain all required provisions.

The purpose of 45 CFR Part 1612 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.

Policy review

SLSC has a written policy containing the 45 CFR Part 1612 restrictions and has implemented procedures which substantially comport with the regulation. However, paragraph II(D) of the policy should be revised because it omits the required provisions of 45 CFR § 1612.8(a)(2) which states that employees cannot support or conduct training programs that "encourage or facilitate the development of strategies to influence legislation or rulemaking." *See* SLSC Prohibitions on Advocacy Efforts Intended to Influence Certain Legislative and Administrative Activities.

attorney from a client's retroactive statutory benefits. *See* 45 CFR § 1642.2(a).

Lobbying activity

A limited fiscal and document review of Semi-Annual Legislative and Administrative Activity submissions, and documentation supporting the Semi-Annual Reports during the review period, as well as interviews with management and staff members, was conducted to assess compliance with 45 CFR Part 1612. A generalized web search disclosed no indications of lobbying or other prohibited activities. None of the sampled files evidenced that SLSC staff participated in any lobbying or other prohibited activities while engaged in legal assistance activities. Finally, a review of fiscal documentation and timekeeping records maintained by SLSC, pursuant to 45 CFR § 1612.6, evidenced compliance with 45 CFR § 1612.10.

Required Corrective Actions

Review of sampled files and interviews with management and staff members evidenced compliance with the requirements of 45 CFR Part 1612 (Restrictions on lobbying and certain other activities). A review of the recipient's policies, however, evidenced that its Board of Director approved policy does not contain all required provisions. As a Required Corrective Action, SLSC was required to revise its policy to ensure that it conformed to 45 CFR § 1612.8(a)(2).

In response to the DR and this Required Corrective Action, SLSC provided a copy of its Legislative and Administrative Activities policy which now states that "employees of Statewide Legal Services of Connecticut, Inc. may not support or conduct training programs that encourage or facilitate the development of strategies to influence legislation or rulemaking."

Based on the comments provided by SLSC, OCE finds that SLSC has implemented Required Corrective Action item 18. However, SLSC must submit, within 90 days of the issuance of this FR, information concerning the date this policy was adopted by its Board of Directors, as well as the date of its implementation.

Finding 22: Review of recipient's policies and sampled files, as well as interviews with members of management and staff, evidenced that SLSC is in 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.

SLSC's Policy on Criminal Proceedings comports with 45 CFR Parts 1613 and 1615. None of the sampled files reviewed involved legal assistance with respect to a criminal proceeding or a collateral attack in a criminal conviction. Interviews with management and staff members also confirmed that SLSC is not involved in this prohibited activity.

There are no recommendations or corrective actions required.

Finding 23: Review of the recipient's policies and sampled files, as well as interviews with members of management and staff, evidenced that SLSC is in 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).¹⁵ SLSC's Policy on Class Actions comports 45 CFR Part 1617.

None of the sampled files reviewed involved initiation or participation in a class action. Interviews with management and staff members, as well as review of the recipient's policies also confirmed that SLSC is not involved in this prohibited activity and is in compliance with the requirements of 45 CFR Part 1617.

There are no recommendations or corrective actions required.

Finding 24: Review of sampled files, as well as interviews with members of management and staff, evidenced that SLSC is in compliance with the requirements of 45 CFR Part 1632 (Redistricting); however, review of the recipient's policies evidenced that the Board-approved policy does not contain all required provisions.

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 involved initiation or participation in redistricting activities. Interviews with management and staff members confirmed that SLSC is not involved in this prohibited activity.

SLSC has a written policy containing the 45 CFR Part 1632 restrictions and has implemented procedures which substantially comport with the LSC regulation. *See* SLSC Policy on Redistricting. This policy, however, should be revised because it omits the required provision of 45 CFR § 1632.3(a), which is that the *recipient cannot make available any funds, personnel, or*

¹⁵ 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).

equipment for use in advocating or opposing any plan or proposal for redistricting.

As a Required Corrective Action, SLSC was required to revise its policy on redistricting to ensure the policy conforms to 45 CFR § 1632.3(a).

In response to the DR and this Required Corrective Action, SLSC provided a copy of its Redistricting policy which now states that SLSC “will not make available any funds, personnel or equipment for use in advocating or opposing any plan or proposal for redistricting.”

Based on the comments provided, OCE finds that SLSC has implemented Required Corrective Action item 19. However, SLSC must submit, within 90 days of the issuance of this FR, information concerning the date this policy was adopted by its Board of Directors, as well as the date of its implementation.

Finding 25: Review of sampled files, as well as interviews with members of management and staff, evidenced that SLSC is in compliance with the requirements of 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings); however, review of the recipient’s policies evidenced that the Board-approved policy contains provisions not authorized by the LSC regulation.

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 involved defense of any such eviction proceeding. Interviews with management and staff members, as well as review of the recipient’s policies, confirmed that SLSC is not involved in this prohibited activity and is in compliance with the requirements of 45 CFR Part 1633.

SLSC has a written policy governing the defense of certain eviction proceedings as required by 45 CFR Part 1633. *See* SLSC Policy on Representation in Certain Eviction Proceedings. This policy should be revised as it is inconsistent with LSC regulation. SLSC’s policy permits representation of clients who have been convicted of *the illegal sale or distribution of a controlled substance within one (1) year of the date when legal services were requested*. This policy is both narrower and broader than LSC regulation which prohibits representation of clients who have been charged or convicted of, the illegal sale, distribution, *manufacture, or possession with intent to distribute a controlled substance*. To bring its policy into compliance, SLSC should omit the one (1) year conviction time period and expand its prohibition to include charges or convictions for the manufacture, or possession with intent to distribute a controlled substance.

As a Required Corrective Action, SLSC was required to revise its policy governing the defense of

certain eviction proceedings to ensure the policy conforms to 45 CFR § 1633.3(a).

In response to the DR and this Required Corrective Action, SLSC provided a copy of its Representation in Certain Eviction Proceedings policy that states that SLSC will not “defend any person in a proceeding to evict that person from a public housing project if the person has been charged with has been convicted of the illegal possession, manufacture, sale or distribution of a controlled substance.”

Based on the comments provided, OCE finds that SLSC has implemented Required Corrective Action item 20. However, SLSC must submit, within 90 days of the issuance of this FR, information concerning the date this policy was adopted by its Board of Directors, as well as the date of its implementation.

Finding 26: Review of the recipient’s policies and sampled files, as well as interviews with members of management and staff, evidenced that SLSC is in 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.

SLSC’s Policy on Representation of Incarcerated Persons comports with 45 CFR Part 1637. None of the sampled files reviewed involved participation in civil litigation or administrative proceedings on behalf of incarcerated persons. Interviews with management and staff members confirmed that SLSC is not involved in this prohibited activity and is in compliance with the requirements of 45 CFR Part 1637.

There are no recommendations or corrective actions required.

Finding 27: Review of the recipient’s policies and sampled files, as well as interviews with members of management and staff, evidenced that SLSC is in 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. *See* Section 504(a)(18). This restriction has 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: “[t]his part is designed to ensure that recipients and their employees do not solicit clients.”

SLSC has a written policy governing the restrictions on solicitation as required by 45 CFR Part

1638.

None of the sampled files reviewed evidenced involvement in these activities. Interviews with management and staff members confirmed that SLSC is not involved in this prohibited activity and is, therefore, in compliance with the requirements of 45 CFR Part 1638.

There are no recommendations or corrective actions required.

Finding 28: Review of the recipient's policies and sampled files, as well as interviews with members of management and staff, evidenced that SLSC is in 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. Nor may LSC funds be used to bring suit to assert, or case handler, a legal right to suicide, euthanasia, or mercy killing, or case handler, or any other form of legal assistance for such purpose. *See* 45 CFR § 1643.3.

SLSC's Policy on Restrictions on Assisted Suicide, Euthanasia, and Mercy Killing comports with 45 CFR Part 1643.

None of the sampled files reviewed evidenced involvement in these activities. Interviews with management and staff members confirmed that SLSC is not involved in this prohibited activity and is, therefore, in compliance with the requirements of 45 CFR Part 1643.

There are no recommendations or corrective actions required.

Finding 29: Review of sampled files, as well as interviews with members of management and staff, evidenced that SLSC is in 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)); however, it is recommended that SLSC adopt written policies governing these LSC statutory prohibitions.

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.

SLSC has not adopted written policies governing the restrictions on abortion, school desegregation litigation, and military selective service as required by 42 USC 2996f § 1007 (a) (8), 42 USC 2996f § 1007 (a) (9), and 42 USC 2996f § 1007 (a) (10).

None of the sampled files evidenced involvement with these prohibited activities. Interviews with management and staff members confirmed that SLSC is not involved in the aforementioned prohibited activities and is in compliance with these requirements.

It is recommended that SLSC's Board of Directors adopt a policy governing the restrictions on abortion, school desegregation litigation, and military selective service as required by 42 USC 2996f § 1007 (a) (8), 42 USC 2996f § 1007 (a) (9), and 42 USC 2996f § 1007 (a) (10).

Finding 30: Review of the recipient's policies evidenced compliance with the requirements of 45 CFR Part 1644 (Disclosure of case information).

In accordance with 45 CFR Part 1644, recipients are directed to disclose to LSC and the public certain information on cases filed in court by their attorneys. 45 CFR § 1644.4 requires that the following information be disclosed for all actions filed on behalf of plaintiffs or petitioners who are clients of the recipient:

- a. the name and full address of each party to a case, unless the information is protected by an order or rule of court or by State or Federal law, or the recipient's attorney reasonably believes that revealing such information would put the client of the recipient at risk of physical harm;
- b. the cause of action;
- c. the name and full address of the court where the case is filed; and
- d. the case number assigned to the case by the court.

SLSC's Policy on Disclosure of Case Information comports with 45 CFR Part 1644. There are no recommendations or corrective actions required.

Finding 31: A limited review of SLSC’s internal control policies and procedures evidenced that they compare 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.); however, a few exceptions were noted and further improvement is required.

In accepting LSC funds, recipients agree to administer these funds in accordance with requirements of the Legal Services Corporation Act of 1974 as amended (Act), any applicable appropriations acts and any other applicable law, rules, regulations, policies, guidelines, instructions, and other directives of the LSC, including, but not limited to, LSC Audit Guide for Recipients and Auditors, Accounting Guide For LSC Recipients (2010 Ed.), the CSR Handbook, the LSC Property Acquisition and Management Manual, and any amendments to the foregoing. Applicants agree to comply with both substantive and procedural requirements, including recordkeeping and reporting requirements.

An LSC recipient, under the direction of its board of directors, is required to establish and maintain adequate accounting records and internal control procedures. Internal control is defined as a process effected by an entity’s governing body, management and other personnel, designed to provide reasonable assurances regarding the achievement of objectives in the following categories: (1) Effectiveness and efficiency of operations; (2) Reliability of financial reporting; and (3) Compliance with applicable laws and regulations. *See* Chapter 3 of the Accounting Guide for LSC Recipients (2010 Edition).

The Accounting Guide for LSC Recipients provides guidance on all aspects of fiscal operations and the 2010 edition has a significantly revised Accounting Procedures and Internal Control Checklist that provides guidance to programs on how accounting procedures and internal control can be strengthened and improved with the goal of eliminating, or at least reducing as much as reasonably possible, opportunities for fraudulent activities to occur.

Fiscal Structure and Operating Systems

SLSC’s fiscal department consists of a part-time Bookkeeper who maintains SLSC’s accounting system and generates fiscal documentation for the approval of executive management and the Board of Directors. The Bookkeeper reports to the Executive Director. SLSC uses DataPro and Sage 50 by Peachtree accounting software, Microsoft Excel spreadsheets, and Legal Server software for case and time management.

Bonding

A limited fiscal review evidenced that SLSC maintains fidelity bond coverage exceeding the requirements of 45 CFR Part 1629.

There are no recommendations or corrective actions required.

Accounting Manual

SLSC has established its financial planning and controls in its Accounting Manual which describes SLSC's financial philosophy, its management controls, and fiscal operations. The Accounting Manual reflects that it was prepared in compliance with the Accounting Guide for LSC Recipients (2010 Ed.).

A limited fiscal review of the Accounting Manual identified two (2) small inconsistencies. First, the Accounting Manual refers to LSC's Accounting Guide for LSC Recipients (2010 Ed.) as the *LSC Audit Guide* when the more appropriate reference would be to the *Accounting Guide for LSC Recipients (2010 Ed.)*. Second, the Accounting Manual instructs staff to obtain prior LSC approval before executing any consultant contract, which is not the LSC requirement. It is recommended that SLSC review its Accounting Manual to bring it into conformance with the provisions of the *Accounting Guide for LSC Recipients (2010 Ed.)* as discussed herein.

Cost Standards and Allocations

The Accounting Guide for LSC Recipients (2010 Ed.), Appendix VII, Section G-3 (Accounting Procedures and Internal Controls), requires that recipients timely review and pay vendor charge account transactions, avoid finance charges and late fees, and maintain such supporting documentation that will validate disbursements.

A limited fiscal review from January 1, 2010 through December 31, 2012 found that SLSC's management reports list actual expenses against budget, display variances for both over and under budget for each expense item, provides management and the SLSC Board of Directors with fiscal information by cost center, funding source, and costs by total program. For cost allocations, SLSC uses a Department of Health and Human Services approved indirect cost allocation rate to allocate its indirect costs among its LSC and non-LSC funding sources. SLSC maintains its cost allocation methodology in its Accounting Manual.

The limited fiscal review evidenced that SLSC's cost standards and allocations procedures compare 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.).

There are no recommendations or corrective actions required.

Contract Services Controls

SLSC maintains contract services policies in its Accounting Manual. These procedures require SLSC to solicit proposals or bids prior to contract award, to set forth the contract terms in writing, and to obtain funding source approval prior to entering into any contact. Interviews disclosed that SLSC currently has no contracted services.

The limited fiscal review evidenced that SLSC's contract services controls compare 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.).

There are no recommendations or corrective actions required.

Transaction Controls

A limited fiscal review from January 1, 2010 through December 31, 2012 found that SLSC's general ledger appears to be posted on a timely basis, its chart of accounts adequately provides general ledger detail sufficient to generate financial management information, and SLSC has the capacity for fund and cost-center accounting.

The limited fiscal review evidenced that SLSC's transaction controls compare 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.).

There are no recommendations or corrective actions required.

Payroll Controls

A limited fiscal review from January 1, 2010 through December 31, 2012 found that SLSC uses its ACMS to capture attendance information for each employee, to capture payroll information for total employee compensation, and for management to enter approvals of employees' time. The on-site review evidenced that SLSC processes payroll bi-monthly and disburses it from an imprest account that is maintained for this purpose.

The limited fiscal review, evidenced that its payroll controls compare 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.).

There are no recommendations or corrective actions required.

Bank Reconciliation Controls

The Accounting Guide for LSC Recipients (2010 Ed.), Section 3-5.1 (Fundamental Criteria: Control, Roles and Responsibilities, Reconciliations) recommends that bank statement reconciliations to the general ledger should be conducted on a monthly basis and be reviewed and approved by a responsible individual. Such review must be appropriately documented, signed, and dated.

The on-site review determined that SLSC reconciles bank statements monthly; however, this reconciliation is documented by hand and lacks the required secondary reviews, approvals, signatures, and dates. For example, the October, November, and December 2012 Webster Bank checking account reconciliations evidenced no secondary review by the Executive Director as they failed to contain the signature and date of the Executive Director's review. Moreover, the on-site review determined that the Bookkeeper failed to use SLSC's suggested bank reconciliation format and performed the reconciliations without use of a date stamp.

The limited fiscal review evidenced that SLSC's bank reconciliation procedures exhibited weaknesses when compared 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.). As a Required Corrective Action, SLSC was required to develop and implement a formal reconciliation procedure for initial and secondary bank reconciliation reviews. SLSC was additionally advised to require the use of a date stamp during its bank reconciliation reviews and must require that the person performing the reconciliation to initial and date the reconciliations. Finally, SLSC was advised to require managerial approval of all of its reconciliations.

Property Controls

A limited fiscal review from January 1, 2010 through December 31, 2012 found that SLSC's subsidiary property records contain evidence that SLSC conducts property inventories: that is, SLSC tags fixed assets with a unique identification numbers, conducts physical inventories with property checklists that compare physical asset records, and requires formal approval for the purchase of physical assets. The on-site review, however, identified weaknesses. First, a property inventory had not been conducted since August of 2010, and LSC recommends that inventories be conducted every two (2) years.¹⁶ The on-site review also determined that a single staff member maintains the inventory records, conducts the inventory, and reconciles the inventory records to the general ledger, demonstrating that there was not sufficient segregation of the these duties. Sufficient segregation of duties occurs when fiscal duties are divided between physical control and the recordkeeping responsibility so that no single individual can independently initiate, execute, and record a transaction.

The limited fiscal review evidenced that SLSC's property controls exhibited weaknesses when compared 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.). As a Required Corrective Action, SLSC was required to segregate its physical inventory duties amongst its staff and revise its Accounting Manual to set forth the procedures and requirements for the performance of a physical inventory, including the frequency of the inventory and a requirement that the results of the inventory be documented.

Financial Accountancy Controls

A limited fiscal review evidenced a single staff member, the Bookkeeper, is responsible for making entries to the general journal, reviewing and approving these entries, posting them to the general ledger, preparing monthly trial balances of the general ledger, and preparing financial statements and reports resulting from these entries. As SLSC only employs one (1) fiscal staff member to conduct all of its financial functions, the limited fiscal review evidenced that SLSC fails to maintain sufficient staffing assignments and does not have in place sufficient management oversight to provide adequate segregation of fiscal duties and responsibilities.

The limited fiscal review evidenced that SLSC's financial accountancy controls exhibited weaknesses when compared to the elements outlined in Chapter 3 - Internal Control/Fundamental

¹⁶ See Accounting Guide for LSC Recipients (2010 Ed.), § 2-2.4.

Criteria of an Accounting and Financial Reporting System of the Accounting Guide for LSC Recipients (2010 Ed.). As a Required Corrective Action, SLSC was required to ensure that fiscal duties are divided between physical control and the recordkeeping responsibility so that no single individual can independently initiate, execute, and record a financial transaction. It was recommended that the responsibilities of reviewing and approving the general journal and reviewing the trial balances of the general ledger be assigned to an individual other than the Bookkeeper.

In response to the DR and Required Corrective Action items 21 and 22, SLSC indicated that it has engaged its financial consultants to assist with the implementation of these Required Corrective Action items. SLSC indicated that these items will take time to complete.

Based on the comments provided, OCE finds that it lacks sufficient documentation of the actions taken by SLSC to satisfy Required Corrective Action items 21 and 22. SLSC must submit, within 90 days of the issuance of this FR, information concerning the status of its efforts and a timetable for the implementation of Required Corrective Action items 21 and 22. SLSC should also provide OCE with a copy of its Accounting Manual, as well as a copy of its segregation of fiscal duties and responsibilities procedures, when completed.

IV. RECOMMENDATIONS¹⁷

Consistent with the findings of this report, it was recommended that SLSC implement the following recommended actions:

1. Program its ACMS to alert staff when data fields are incomplete, develop additional case management report generation protocols, and develop protocols to conduct comprehensive periodic file reviews as discussed in Findings 1, 3, 5, 10, 11, and 12;
2. Review its asset policy and develop at least one (1) additional "catch all" question to capture any such additional assets and train staff members accordingly as discussed in Finding 2;
3. Review its policy and clarify whether its financial eligibility policy permits the exemption of one (1) vehicle used for transportation per household or per adult as discussed in Finding 3;
4. Revise its Intake Manual to reflect SLSC's annual maximum income ceiling amounts as discussed in Finding 3;
5. Develop written over-income protocols concerning the application of 45 CFR § 1611.5 (exceptions to annual income ceiling), revise its Intake manual to reflect these protocols, and train staff accordingly as discussed in Finding 3;
6. Revise its Pro Bono Case Closing Form so that it elicits from the private attorneys a description of the legal services rendered that documents the provision of legal assistance, in addition to the documentation of the level of service provided, as discussed in Finding 9;
7. Provide training to staff concerning Chapters VIII and IX of the CSR Handbook (2008 Ed., as amended 2011) (case closure categories), 45 CFR Part 1626 (citizenship and alien status), and 45 CFR Part 1609 and applicable letters of instruction (fee-generating cases) as discussed in Findings 5, 10, and 15;
8. Develop a procedure to assist its staff in complying with the requirements of 45 CFR § 1610.5;
9. Adopt, as discussed in Finding 17, additional PAI systems and procedures that articulate:

¹⁷ 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.

- a. The increased frequency and additional methods by which case oversight and follow-up activities are to be conducted;
 - b. That oversight and follow-up activity information that is to be maintained in individual client case files;
 - c. The selection of appropriate case closure categories for clinics and case activities;
 - d. The method for ensuring that all cases contain sufficient documentation of legal assistance;
 - e. A system that identifies lack of contact, untimely or dormant cases so that they may be administratively closed and are not included in future CSRs; and
 - f. A system of periodic management case supervision that is designed to ensure that the requirements of LSC regulations and the CSR Handbook (2008 Ed., as amended 2011), § 10, are satisfied;
10. Adopt policies governing the restrictions on abortion, school desegregation litigation, and military selective service as required by 42 USC 2996f § 1007 (a) (8), 42 USC 2996f § 1007 (a) (9), and 42 USC 2996f § 1007 (a) (10), as discussed in Finding 29;
 11. Review its Accounting Manual to bring it into conformance with the provisions of the *Accounting Guide for LSC Recipients (2010 Ed.)* as discussed in Finding 31; and
 12. Assign the responsibilities for reviewing and approving the general journal and reviewing the trial balances of the general ledger to an individual other than the Bookkeeper as discussed in Finding 31.

V. REQUIRED CORRECTIVE ACTIONS

Consistent with the findings of this report, SLSC was required to submit a plan within 30 days of the receipt of the DR that describes the actions it will take to implement the Required Corrective Actions and implement the following corrective actions:

1. Ensure that information necessary for the effective management of cases is accurately and timely recorded so that congruence is maintained between the information in the case files and the ACMS as discussed in Finding 1;

In response to the DR and this Required Corrective Action, SLSC indicated that it now prepares automated case management reports so as to identify all files with incomplete or missing information. These “Missing and Incomplete Information” reports are reviewed weekly to resolve compliance errors. On-going and persistent errors are noted and efforts are made to implement systemic changes to resolve any patterns of error identified. SLSC is in the process of reviewing whether to incorporate a data entry alert system, such as a “red flags,” into its ACMS.

Based on the comments provided, OCE finds that it lacks sufficient documentation of the actions taken by SLSC to satisfy Required Corrective Action item 1. SLSC must submit, within 90 days of the issuance of this FR, a description of the automated case management search query it uses for its “Missing and Incomplete Information” reports, together with a copy of its automated case management “Missing and Incomplete Information” report from August 1, 2013 through January 31, 2014 (the applicant’s name and other identifying information should be redacted to preserve client confidentiality). Moreover, SLSC should provide a description of the actions it has taken to ensure that cases are properly designated as PAI or staff. OCE strongly encourages the implementation of a data entry alert system as it is a proven method of preventing common data entry error types.

2. Ensure that all cases contain evidence of income screening consistent with 45 CFR § 1611.5 and revise its income policies consistent with 45 CFR §§ 1611.5 and 1611.2(i) as discussed in Finding 3;

In response to the DR and this Required Corrective Action, SLSC indicated that it would revise its income eligibility policy consistent with 45 CFR §§ 1611.5 and 1611.2(i) and ensure that all cases contain evidence of income screening consistent with 45 CFR § 1611.5.

Based on the comments provided, OCE finds that it lacks sufficient documentation of the actions taken by SLSC to satisfy Required Corrective Action item 2. OCE SLSC must submit, within 90 days of the issuance of this FR, a copy of its proposed revised 45 CFR Part 1611 income policy and a timetable for its adoption by the SLSC Board of Directors. Moreover, SLSC should provide a description of the actions it has taken to ensure that its files contain the documentation required by 45 CFR §§ 1611.2(i) and 1611.5.

3. Revise its asset policies consistent with 45 CFR §§ 1611.3(d) and 1611.3(f) and demonstrate that its Board of Directors has reviewed whether the income eligibility

standards of the SAGA, TANF, SSI, State Supplemental, and Medicaid programs are at or below 125 % the FPG and whether these programs' maximum asset ceilings are at or below Board-approved asset ceilings pursuant to 45 CFR §1611.4(c) as discussed in Finding 4;

In response to the DR and this Required Corrective Action, SLSC indicated that it would revise its asset eligibility policy consistent with 45 CFR Part 1611. SLSC further indicated that its Board of Directors began this process on November 4, 2013.

Based on the comments provided, OCE finds that it lacks sufficient documentation of the actions taken by SLSC to satisfy Required Corrective Action item 3. SLSC must submit, within 90 days of the issuance of this FR, a copy of its proposed 45 CFR Part 1611 asset policy and a timetable for its adoption by the SLSC Board of Directors.

4. Ensure that it obtains the required level of documentation necessary to evidence citizenship or alien eligibility pursuant to 45 CFR Part 1626 as discussed in Finding 5;

In response to the DR and this Required Corrective Action, SLSC indicated that it now prepares automated case management reports to identify all files with missing citizenship or alienage information. These reports are reviewed monthly to resolve all deficiencies. Secondly, SLSC reported that it now conducts monthly inventories of its PAI files to ensure that every file referred to a private attorney satisfies the requirements of 45 CFR Part 1626. Finally, SLSC indicated that it intends to include a 45 CFR Part 1626 policy statement in its work rules, Intake Manual, and PAI Plan. The proposed policy statement provided as part of the response to the DR indicates that SLSC staff must obtain citizenship or verify eligible alien status during in-person contact with all applicants. The policy statement is not sufficient as it does not require that SLSC obtain the citizenship or alienage information prior to legal assistance services being provided or when SLSC provides continuous representation beyond counsel and advice pursuant to 45 CFR § 1626.1 and the CSR Handbook (2008 Ed., as amended 2011), § 5.5. Moreover, the policy statement does not describe how and when the citizenship and alienage information will be obtained from applicants. For example, it is recommended that SLSC not refer applicants to private attorneys or outside clinics without first obtaining citizenship or alienage information as this procedure has been effective in ensuring that files contain the requisite 45 CFR Part 1626 information prior to services being provided.

Based on the comments provided, OCE finds that it lacks sufficient documentation of the actions taken by SLSC to satisfy Required Corrective Action item 4. SLSC must submit, within 90 days of the issuance of this FR, a description of the automated case management search query it uses for its "Missing Citizenship/Alienage Information" report, together with a copy of its automated case management "Missing Citizenship/Alienage Information" report from August 1, 2013 through January 31, 2014 (the applicant's name and other identifying information should be redacted to preserve client confidentiality). Moreover, SLSC should submit to OCE within 90 days of the FR, a copy of its revised policy statement.

5. Ensure that its priorities are consistent with LSC regulations and demonstrate that its

priority review is consistent with 45 CFR §1620.5 by submitting, with its comments to the DR, a report describing its review as discussed in Finding 8;

SLSC made no response to the DR and this Required Corrective Action.

Based on the lack of response contained in the comments provided, OCE finds that it lacks sufficient documentation of the actions taken by SLSC to satisfy Required Corrective Action item 5. SLSC must submit, within 90 days of the issuance of this FR, a report describing SLSC's review of its priorities to ensure that its priorities are consistent with LSC regulations and that the actions it has taken demonstrate that its priority review are consistent with 45 CFR §1620.5.

6. Ensure that all cases reported to LSC in the CSRs contain a description of the legal assistance provided to the clients consistent with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 5.6, as discussed in Finding 9;

In response to the DR and this Required Corrective Action, SLSC indicated that it now requires its daily file reviewers to document in the file when the file has been reviewed for the sufficiency of legal assistance.

Based on the comments provided, OCE finds that it lacks sufficient documentation of the actions taken by SLSC to satisfy Required Corrective Action item 6. SLSC must submit, within 90 days of the issuance of this FR, a description of its file review procedures for staff and PAI cases, including the number of files reviewed (whether all files are reviewed or a sample--if a sample then provide the percentage of files reviewed), the type of files reviewed (staff, PAI, or staff and PAI), who conducts the review, when the review occurs (daily, weekly, monthly, etc.), as well as the written standards SLSC has established to determine whether the documentation of legal assistance satisfies the requirements of the CSR Handbook (2008 Ed., as amended 2011), § 5.6.

7. Ensure the correct assignment of case closure categories consistent with Chapters VIII and IX of the CSR Handbook (2008 Ed., as amended 2011) as discussed in Finding 10;

In response to the DR and this Required Corrective Action, SLSC indicated that it would continue to assign case closure categories consistent with the CSR Handbook (2008 Ed., as amended 2011). SLSC further noted that its regular staff meetings could be used to discuss concerns relating to the requirements of Chapters VIII and IX of the CSR Handbook (2008 Ed., as amended 2011).

Based on the comments provided, OCE finds that it lacks sufficient documentation of the actions taken by SLSC to satisfy Required Corrective Action item 7. SLSC must submit, within 90 days of the issuance of this FR, a description of its use of staff meetings – or other methods used- to provide training to its staff on the proper assignment of the A, B, and K case closure categories.

8. Ensure the timely closing of cases consistent with the CSR Handbook (2008 Ed., as

amended 2011), § 3.3 (Timeliness of Cases) as discussed in Finding 11;

In response to the DR and this Required Corrective Action, SLSC indicated that it would enhance its review of staff cases to prevent dormant and untimely closed files, especially in Pardon Assistance Project cases. While OCE values any effort to improve compliance-related activities, enhancing the review of staff case files, without also enhancing the review of PAI case files, does not implement the Required Corrective Action because the untimely and dormant files noted in the DR were identified in the PAI case sample rather than the staff case sample. Thus any action taken to improve compliance must be directed to ensuring the timely closing of PAI cases consistent with the CSR Handbook (2008 Ed., as amended 2011), § 3.3 (Timeliness of Cases).

Based on the comments provided, OCE finds that it lacks sufficient documentation of the actions taken by SLSC to satisfy Required Corrective Action item 8. SLSC must submit, within 90 days of the issuance of this FR, a description of its efforts to engage in the effective review of PAI cases to ensure that cases are not dormant or untimely closed. Examples of effective review of PAI cases may be the preparation of automated case management reports, tickler systems for PAI activities, policies that articulate the periodic follow-up of all open PAI cases, as well as the periodic review of open and closed PAI cases to identify dormancy and instances of untimely closed files.

9. Revise its Policy on Outside Practice of Law to ensure the policy conforms to 45 CFR § 1604.2 as discussed in Finding 13;

In response to the DR and this Required Corrective Action, SLSC provided a copy of its Outside Practice of Law policy that now requires its full-time attorneys to comply with its policy *during leave without pay*.

Based on the comments provided, OCE finds that SLSC has implemented Required Corrective Action item 9. However, SLSC must submit, within 90 days of the issuance of this FR, information concerning the date this policy was adopted by its Board of Directors, as well as the date of its implementation.

10. Ensure that SLSC does not use LSC funds to provide legal assistance in fee-generating cases unless the requirements of 45 CFR Part 1609 are met as discussed in Finding 15;

In response to the DR and this Required Corrective Action, SLSC indicated that it would provide training to staff concerning the acceptance of fee-generating cases consistent with its fee-generating policy which was provided to OCE as part of its response to the DR.

SLSC further indicated that it did not understand the nature of its compliance error in accepting open Case No. 2012-01469-C010. In this case, the client suffered discrimination and his case was placed with a private attorney who requested the client be awarded \$30,000 in compensatory damages. OCE advises that this case implicated the prohibitions contained in 45 CFR Part 1609 because this case “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. The compliance concern was noted because SLSC supported the case with LSC funds and failed to execute the mandatory recordkeeping requirements and forms for fee-generating cases (alternatively, SLSC could have supported the case with non-LSC funds and would not have had to maintain fee-generating records). *See* LSC Memorandum to All Program Directors (December 8, 1997).

Based on the comments provided, OCE finds that it lacks sufficient documentation of the actions taken by SLSC to satisfy Required Corrective Action item 10. SLSC must submit, within 90 days of the FR, a description of the actions it has taken to ensure such a lapse does not occur in the future. SLSC’s submission may include a description of its training efforts, and, if so, an agenda, attendance list(s), and a detailed summary of the information provided as part of the training should be included.

11. Revise its accounting code procedures to include a mechanism to indicate the type of funds used to pay the disbursement as discussed in Finding 16;

In response to the DR and this Required Corrective Action, SLSC indicated that it has added separate accounting codes for disbursements.

Based on the comments provided, OCE finds that it lacks sufficient documentation of the actions taken by SLSC to satisfy Required Corrective Action item 11. SLSC must submit, within 90 days of the issuance of this FR, a description of its new accounting code procedures, together with a listing of the new accounting codes used for disbursements.

12. Review its cost allocation methodology and resolve the inconsistencies discussed in Finding 17 and demonstrate that its cost allocation methodology is consistent with 45 CFR § 1614.3 by submitting, with its comments to the DR, a report describing its review, as well as ensuring, as discussed in Finding 17, that:
 - a. PAI expenditures are reported separately as required by 45 CFR § 1614.3(e)(2);
 - b. Financial systems and procedures are implemented that enable SLSC to identify, document, and account separately for costs related to the PAI effort; and
 - c. Only adequately supported charges are allocated towards the PAI requirement;

In response to the DR and Required Corrective Action item 12, SLSC indicated that it now reports PAI expenditures separately, it now has financial systems and procedures in place that enable it to identify, document, and separately account for costs related to the PAI effort, and now will only allocate to its PAI requirement charges that are adequately supported. However, SLSC failed to submit documentation describing its review of its cost allocation methodology, as well as submit a report describing the actions it has taken to resolve the inconsistencies pursuant to Required Corrective Action item 12.

Based on the comments provided, OCE finds that it lacks sufficient documentation of the actions taken by SLSC to satisfy Required Corrective Action item 12. SLSC must review this Required Corrective Action item and must submit, within 90 days of the issuance of this FR, the required information.

13. Adopt an annual PAI Plan consistent with 45 CFR § 1614.4 (b) as discussed in Finding 17;

In response to the DR and Required Corrective Action item 13, SLSC indicated that its Board of Directors was reviewing SLSC's PAI Plan and would act accordingly by December 31, 2013.

Based on the comments provided, OCE finds that it lacks sufficient documentation of the actions taken by SLSC to satisfy Required Corrective Action item 13. SLSC must submit, within 90 days of the issuance of this FR, a description of the status of the Board of Director's efforts. SLSC must also provide a copy of the PAI Plan to OCE when completed.

14. Cease allocating time spent assisting clients with Pardon Assistance Program cases to the PAI requirement and cease reporting such cases in the CSRs as PAI cases as discussed in Finding 17;

In response to the DR and Required Corrective Action item 14, SLSC indicated that it has ceased allocating time spent assisting clients with Pardon Assistance Program cases to the PAI requirement and has ceased reporting such cases in the CSRs as PAI cases.

Based on the comments provided, OCE finds that it lacks sufficient documentation of the actions taken by SLSC to satisfy Required Corrective Action item 14. SLSC must submit, within 90 days of the issuance of this FR, a description of the actions it has taken to ensure that Pardon Assistance Program cases are not allocated to the PAI requirement and that they are not being reported in the CSRs. For example, SLSC may have provided instructions to PAI staff, prepared and reviewed automated case management reports, or developed procedures when implementing this Required Corrective Action item.

15. Adopt additional PAI oversight and follow-up systems and procedures for the timely follow-up and disposition of PAI cases and periodic supervision and management of cases as discussed in Finding 17;

In response to the DR and Required Corrective Action item 15, SLSC indicated that it was developing a PAI Manual containing policies and procedures to ensure the correct handling and supervision of PAI cases.

Based on the comments provided, OCE finds that it lacks sufficient documentation of the actions taken by SLSC to satisfy Required Corrective Action item 15. SLSC must submit, within 90 days of the issuance of this FR, a description of the status of the PAI Manual and a timetable for its completion, as well as providing OCE with a copy of the PAI Manual when completed.

16. Ensure that non-mandatory fees and dues are not charged to the LSC fund and submit, with its comments to the DR, evidence that the LSC fund was restored \$205 for the payment of non-mandatory dues as discussed in Finding 18;

In response to the DR and Required Corrective Action item 16, SLSC indicated that it had restored the \$205 to the LSC fund. However, SLSC failed to provide documentation of this transaction pursuant this Required Corrective Action item. Moreover, SLSC failed to provide documentation of the actions it has taken to ensure that non-mandatory fees and dues are not charged to the LSC fund in the future.

Based on the comments provided, OCE finds that it lacks sufficient documentation of the actions taken by SLSC to satisfy Required Corrective Action item 16. SLSC must submit, within 90 days of the issuance of this FR, evidence of the restoration of the \$205 to the LSC fund and a description of the actions it has taken to ensure that non-mandatory fees and dues are not charged to the LSC fund in the future. For example, SLSC may develop a procedure that describes the funding sources that may be used to pay mandatory and non-mandatory fees and dues.

17. Ensure that all staff contemporaneously record the time spent on each case and that its case handlers identify the category of action on which the time was spent when recording time for matters and supporting activities in compliance with 45 CFR § 1635.3(b) as discussed in Finding 19;

In response to the DR and this Required Corrective Action, SLSC indicated that it had provided timekeeping training to its advocacy staff and that members of management would conduct periodic reviews of timekeeping records to ensure that these records were being maintained in conformance with 45 CFR § 1635.3(b).

Based on the comments provided, OCE finds that it lacks sufficient documentation of the actions taken by SLSC to satisfy Required Corrective Action item 17. SLSC must submit, within 90 days of the date of this FR, a description of the actions it has taken to prevent this deficiency from occurring in the future. SLSC's submission may include a description of both the procedures for periodic reviews and of its training efforts, and, if so, an agenda, attendance list(s), and a detailed summary of the information provided as part of the training should be included.

18. Revise its Policy on Legislative and Administrative Activities to ensure the policy conforms to 45 CFR § 1612.8(a)(2) as discussed in Finding 21;

In response to the DR and this Required Corrective Action, SLSC provided a copy of its Legislative and Administrative Activities policy which now states that "employees of Statewide Legal Services of Connecticut, Inc. may not support or conduct training programs that encourage or facilitate the development of strategies to influence legislation or rulemaking."

Based on the comments provided by SLSC, OCE finds that SLSC has implemented Required Corrective Action item 18. However, SLSC must submit, within 90 days of the issuance of this FR, information concerning the date this policy was adopted by its Board of Directors, as well as the date of its implementation.

19. Revise its Policy on Redistricting to ensure the policy conforms to 45 CFR § 1632.3(a) as discussed in Finding 24;

In response to the DR and this Required Corrective Action, SLSC provided a copy of its Redistricting policy which now states that SLSC “will not make available any funds, personnel or equipment for use in advocating or opposing any plan or proposal for redistricting.”

Based on the comments provided, OCE finds that SLSC has implemented Required Corrective Action item 19. However, SLSC must submit, within 90 days of the issuance of this FR, information concerning the date this policy was adopted by its Board of Directors, as well as the date of its implementation.

20. Revise its policy governing the defense of certain eviction proceedings to ensure the policy conforms to 45 CFR § 1633.3(a), as discussed in Finding 25;

In response to the DR and this Required Corrective Action, SLSC provided a copy of its Representation in Certain Eviction Proceedings policy that states that SLSC will not “defend any person in a proceeding to evict that person from a public housing project if the person has been charged with has been convicted of the illegal possession, manufacture, sale or distribution of a controlled substance.”

Based on the comments provided, OCE finds that SLSC has implemented Required Corrective Action item 20. However, SLSC must submit, within 90 days of the issuance of this FR, information concerning the date this policy was adopted by its Board of Directors, as well as the date of its implementation.

21. Revise the Accounting Manual, as discussed in Finding 31, to set forth the procedures and requirements for the performance of a physical inventory, including the frequency of the inventory and a requirement that the results of the inventory be documented; and

In response to the DR and Required Corrective Action item 21, SLSC indicated that it has engaged its financial consultants to assist with the implementation of this Required Corrective Action. SLSC indicated that the development of an Accounting Manual will take time in which to complete.

Based on the comments provided, OCE finds that it lacks sufficient documentation of the actions taken by SLSC to satisfy Required Corrective Action item 21. SLSC must submit, within 90 days of the issuance of this FR, information concerning the status of its efforts to develop an Accounting Manual and a timetable for its completion. OCE further requests that SLSC provide OCE with a copy of the Accounting Manual when completed.

22. Provide adequate segregation of fiscal duties and responsibilities, as discussed in Finding 31, by:
- a. Developing and implementing formal reconciliation procedures for initial and secondary bank reconciliation reviews by requiring the use of a date stamp during its bank reconciliation reviews and requiring that the person performing the reconciliation initial and date the reconciliations, as well as requiring managerial approval of all of its reconciliations;
 - b. Segregating the financial accountancy duties amongst its staff to ensure that fiscal duties are divided between physical control and the recordkeeping responsibility so that no single individual can independently initiate, execute, and record financial transactions; and
 - c. Segregating the physical inventory duties amongst its staff.

In response to the DR and Required Corrective Action items 21 and 22, SLSC indicated that it has engaged its financial consultants to assist with the implementation of these Required Corrective Action items. SLSC indicated that these items will take time to complete.

Based on the comments provided, OCE finds that it lacks sufficient documentation of the actions taken by SLSC to satisfy Required Corrective Action items 21 and 22. SLSC must submit, within 90 days of the issuance of this FR, information concerning the status of its efforts and a timetable for the implementation of Required Corrective Action items 21 and 22. SLSC should also provide OCE with a copy of its Accounting Manual, as well as a copy of its segregation of fiscal duties and responsibilities procedures, when completed.

STATEWIDE LEGAL SERVICES OF CT

OCE – Response to Draft Report – dated September 6, 2013

November 5, 2013

Required Corrective Action:

1. Ensure that information necessary for the effective management of cases is accurately and timely recorded so that congruence is maintained between the information in the case files and the ACMS as discussed in Finding 1.

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

Although SLS has always generated reports on a regular basis (weekly or monthly) to monitor the completeness of the case file, there have been times when errors have occurred and files have slipped between the cracks, creating a non-compliance concern. SLS now has in place a weekly review of all cases where a field has not been entered to insure that all of the applications are complete and in compliance. Concerns are identified and discussed at the bi weekly intake professional meeting. After the matters are fully vetted, a notation or policy change is inputted into the Intake Manual. This way all cases can be tracked from the original intake person to the final reviewer. In addition, SLS is meeting with their IT person to seek solutions and implementation of possible "red flag" warnings, to further alleviate the problems of intake. It is noted that in many instances the problems are found in the On Line Intake applications, where the consumer is providing the first information to get the case underway. Then if that consumer is not reached after 3 attempts, a letter is sent and the case is closed with the file itself being incomplete, and administratively closed.

2. Ensure that all cases contain evidence of income screening consistent with 45 CFR § 1611.5 and revise its income policies consistent with 45 CFR §§ 1611.5 and 1611.2(i) as discussed in Finding 3.

Finding #3: SLSC does not maintain the income eligibility documentation required by 45 CFR part 1611, CSR handbook (2008 Ed., as amended 2011), §5.3, and applicable LSC instructions. Some revisions to its income eligibility policy are warranted to demonstrate compliance with this regulation.

SLS will continue to record all income and other necessary information electronically to determine that the applicants are financially eligible for the high quality legal services provided by SLS per the LSC guidelines. SLS will follow the recommendation that "over income" case

management reports are generated monthly and management target these files for review to ensure that the consideration of expenses and factors are documented in the case files, when required and appropriate. We will revise our income eligibility policy to be consistent with 45 CFR § 1611.5 (authorized exceptions to the annual income ceiling) and §1611.2(i) (the definition of Income).

3. Revise it asset policies etc.: *Pending further work with our Board of Directors. Board meets the week of Nov 4 and will begin to discuss the OCE findings and requirements.*

4. Ensure that it obtains the required level of documentation necessary to evidence citizenship or alien eligibility pursuant t 45 CFR Part 1626 as discussed in Finding 5.

SLS Citizenship Certification form has been modified to evidence the applicants attestation tied to a separate signature line as noted in the report.

The SLS work rules, Intake Manual and PAI plan will be revised to reflect these policies as follows:

Applicants applying in person and who are receiving in-person services from SLCT staff or PAI participants are now provided with the Citizenship Certification form. Should the applicant not be a citizen, but is here under lawful immigration status the program will collect and retain copies of the appropriate documentation as set forth in 45 CFR 1626.7

Any applicant who contacts SLSCT for assistance in person, or who attends an SLSCT clinic and who is not a US Citizen shall produce the required documentation as set forth in the relevant regulations, 45 CFR 1626.7. Copies of this documentation shall be retained by SLSCT.

Ineligible immigrant applicants who fall under certain exceptions related to the Violence against Women Act 2006 Amendment shall be eligible for services provided they meet other program eligibility criteria.

Attendees of in-person clinics shall be given the Citizenship Certificate form.

Any applicant accepted and referred to an SLS/PAI clinic or private attorney shall execute a Citizenship Certification and said Certification shall be kept at the SLS offices.

SLS PAI personnel under the director of the Executive Director or her designee shall undertake monthly inventories of referred case files to ensure they contain the required documentation.

A monthly report has been created to flag any missing information on each application contained in the CSRs. A member of management shall review and seek correction of any missing data.

6. Ensure that all cases reported to LSC in the CSRs contain a description of the legal assistance provided to the clients consistent with the requirement of the CSR Handbook (2008 Ed., as amended 2011), § 5.6, as discussed in Finding 9.

Finding #9: SLSC is in non-compliance with the requirements of the CSR Handbook (2008 Ed., as amended 2011), §5.6 (Description of legal assistance provided).

SLS will continue to document the legal assistance that was provided for each case reported to LSC. Each case will have a description of the legal assistance so as to support the determination that such assistance is considered a case in the LSC CSR report and to support the selection of the programs closing codes selected by the advocate. Since the OCE visit in February 2013, SLS has now included in the daily reviewing of all cases, that the reviewer of each case be identified electronically and any questions down the road are able to be discussed with both the advocate and the reviewer.

7. Ensure the correct assignment of case closure categories consistent with Chapters VIII and IX of the CSR Handbook (2008 ED., as amended 2011) as discussed in Finding 10.

Finding #10: SLSC's application of the CSR case closure categories is generally consistent with Chapters VIII and IX of the CSR Handbook (2008 ED., as amended 2011).

SLS will continue to assign the correct Case Definitions and Closure Categories and Legal Problem Categories and Codes as described in Chapters VIII and IX of the CSR Handbook to each case. SLS is primarily a telephone hot-line system and so most of the CRS closure categories are limited to A - Counsel and Advice or B- Limited Action. As a state wide hot-line, SLS continues to take calls and assist Connecticut residence in all of the ten Legal Problem Categories and Codes. Our regular staff meetings are an excellent forum and can be used for reviewing and discussing any concerns or confusion with the above LSC requirements.

8. Ensure the timely closing of cases consistent with the CSR Handbook (2008 Ed., as amended 2011), §3.3 (timeliness of Cases) as discussed in Finding 11.

Finding #11: SLSC is in non-compliance regarding the requirements of the CSR Handbook (2008 Ed., as amended 2011), § 3.3 (Timeliness of Cases).

Because we are a hot-line modality the cases are typically closed within a day or two of the call if not that same day. The exception can be when the advocate is going to consult with another colleague or the reviewing attorney on the case, or when the client has promised to send legal papers by fax to us to review. Weekly, all open, pending and returned case reports are provided to the managing attorney and the specific advocate for review to ensure that cases are closed on a timely matter.

That being said, we do have some cases that are pending for extended periods of time, namely those found in the Pardon Assistance Program. These cases do go on and we wait for information from the candidates in order to complete the State of Connecticut pardon Application. Since the OCE visit we have implemented a new system to monitor the cases and

so that we can comply with LSC, and continue to monitor the stage of that particular client's pardon application.

9. Revise its Policy of the Outside Practice of Law to ensure the policy conforms to 45 CFR sec. 1604.2 as discussed in Finding 13.

The SLS policy shall be revised accordingly.

OUTSIDE PRACTICE OF LAW
45 CFR 1604.2

- a. Attorneys employed full time by SLS, including those who are on full time unpaid leave from SLS, may not engage in the outside practice of law for personal compensation of any kind. Attorneys employed less than full time may engage in the compensated practice of law with the written permission of SLS and after a plan is developed which insures that:
 1. no work for private clients is done during time compensated by SLS;
 2. the part-time attorney employee will not charge a fee for representation to any person who has contacted SLS regarding a legal matter;
 3. there will not be any confusion, especially with regard to clients, as to when the part-time attorney is acting in her/his capacity as a SLS employee and when he/she is acting in a private capacity;
 4. the Rules of Professional Responsibility regarding conflicts and confidentiality will be strictly adhered to.
2. Attorneys may engage in uncompensated outside practice of law if all of the following conditions are met:
 - a. It is done outside of SLS working hours and at no expense to SLS;
 - b. The client is a close friend, a family member, or a religious, community or charitable group;
 - c. The representation will not conflict or interfere with the attorney's SLS responsibilities, as determined by SLS;
 - d. The representation is approved in advance by SLS; and
 - e. The client(s) are informed, in writing, that the attorney is providing the representation in a private capacity and not as an employee of SLS.
3. Attorneys shall not engage in activities for which compensation is paid by a party other than SLS except with the prior approval of SLS and in accordance with the following rules:
 - a. All such compensated activities which involve training of SLS or other legal services staff members or others working at SLS or other training pursuant to a SLS project or activity shall be approved only as part of an attorney's SLS

- work responsibilities and all compensation shall be assigned to SLS; and
- b. All other such compensated activities may be approved provided they are conducted outside of SLS working hours and do not conflict or interfere with the attorney's SLS responsibilities or the interests of SLS.

10. Ensure that SLSC does not use LSC funds to provide legal assistance in fee-generating cases unless the requirements of 45 CFR Part 1609 are met as discussed in Finding 15;

SLS's policy on fee generating cases is provided below. We will re-train advocacy staff to be mindful of the LSC requirements. (It remains unclear how SLCT exactly violated the regulation, and would seek further clarification should this not be enough).

FEE-GENERATING CASES

A. A fee-generating case means any case or matter which, if undertaken on behalf of an eligible client by an attorney in private practice, reasonably may be expected to result in a fee for legal services from an award (1) to a client, (2) from public funds, or (3) from the opposing party.

A fee-generating case does not include a case where (1) a court appoints SLS or an employee of a SLS to provide representation in a case pursuant to a statute or a court rule or practice equally applicable to all attorneys in the jurisdiction, or (2) SLS undertakes representation under a contract with a government agency or other entity.

B. Subject to policies regarding direct representation of clients, SLS will provide legal assistance in a fee-generating case only if:

1. The case has been rejected by the local lawyer referral service, or by two private attorneys; or
2. Neither the referral service nor two private attorneys will consider the case without payment of a consultation fee.

SLS may provide legal assistance in a fee-generating case without first attempting to refer the case pursuant to paragraph (A) of this section only when:

1. An eligible client is seeking only statutory benefits, including but not limited to, subsistence benefits under Subchapter II of the Social Security Act, 42 U.S.C. 401 *et seq.*, as amended, Federal Old Age, Survivors, and Disability Insurance Benefits; or Subchapter XVI of the Social Security Act, 42 U.S.C. 1381 *et seq.*, as amended, Supplemental Security Income for Aged, Blind, and Disabled;
2. SLS, after consultation with appropriate representatives of the private bar, has determined that the type of case is one that private attorneys in the area served by the recipient ordinarily do not accept, or do not accept without prepayment of a fee; or

3. The executive director, or the director=s designee, has determined that referral of the case to the private bar is not possible because:
 - (i) Documented attempts to refer similar cases in the past generally have been futile;
 - (ii) Emergency circumstances compel immediate action before referral can be made, but the client is advised that, if appropriate and consistent with professional responsibility, referral will be attempted at a later time; or
 - (iii) Recovery of damages is not the principal object of the recipient=s client=s case and substantial statutory attorneys= fees are not likely to be available.

11. Revise its accounting code procedure to include a mechanism to indicate the type of funds used to pay the disbursement as discussed in Finding 16.

We have added a separate coding for this type of disbursement.

12. Review Cost allocation methodology and resolve the inconsistencies discussed in Finding 17 and demonstrate that its cost allocation methodology is consistent with 45 CFR sec 1614.3 by submitting, with its comments to the DR, a report describing its review:

Ensure as discussed in Finding 17 that:

- a. PAI expenditure are reported separately as required by 45 CFR sec. 1614.3€(2):
- b. Financial systems and procedures are implemented that enable SLSC to identify , document and account separately for costs related to the PAI effort; and
- c. Only adequately supported charges are allocated towards the PAI requirement

Steps to complete 12. a.- c. have been completed.

13. Adopt and annual PAI Plan consistent with 45 CFR sec 1614.4 (b) as discussed in Finding 17;

The SLS Board of Directors will review and act accordingly by the end of this year.

14. Cease allocating time spent assisting clients with Pardon Assistance Program cases to the PAI requirement and cease reporting such cases in the CSR's as PAI cases as discussed in Finding 17;

Said allocations have ceased.

15. Adopt additional PAI oversight and follow-up systems and procedure for the timely follow-up and disposition of PAI cases a periodic supervision and management of cases as discussed in Finding 17;

SLS is developing a PAI (Pro Bono) unit manual containing policies and procedures to install correct handling and supervision of Pro Bono cases.

16. Ensure that no non-mandatory fees and dues are charged to the LSC fund and submit , with its comments to the DR , evidence that the LSC fund was restored \$205 for the payments of non-mandatory dues as discussed in Finding 18;

SLS has restored the \$205 payment and will ensure greater accuracy regarding the allocation of non-mandatory fees and dues charges.

17. Ensure that all staff contemporaneously record the time spend in each case and that its case handlers identify the category of action on which the time was spent when recording time for matters and supporting activities in compliance with 45 CFR sec 1635.23 (b) as discussed in Finding 19;

Advocacy staff have been trained on this matter. Managers will conduct periodic reviews to ensure compliance from hereon in.

18. Revise it Policy on Legislative and Administration Activities to ensure the policy confirms to 45 CFR sec. 1612. (a)(2) as discussed in Finding 21;
SLS's policy has been corrected to add II.D to read as follows:

Employees of Statewide Legal Services of Connecticut , Inc. my not support or conduct training programs that encourage or facilitate the development of strategies to influence legislation or rulemaking.

19. Revise its Policy on Redistricting to ensure the policy confirms to 45 CFR sec. 1632.3(a) as discussed in Finding 24;

SLS's policy has been corrected to read as follows:

REDISTRICTING

It is impermissible for any individual, while engaged in legal services activities funded by Statewide Legal Services of Connecticut, Inc., to advocate or oppose any plan or proposal, or represent any party or participate in any other way in litigation related to redistricting, or to make available any equipment for use in such activities. AAdvocating or opposing any plan≅ means any effort, whether by request or otherwise, even if of a neutral nature, to revise a legislative, judicial, or elective district at any level of government.

SLS will not make available any funds, personnel or equipment for use in advocating or opposing any plan or proposal for redistricting.

This policy does not prohibit any litigation brought under the Voting Rights Act of 1965, as amended, 42 U.S.C. 1971, et seq., provided such litigation does not involve redistricting.

20. Revise its policy governing the defense of certain eviction proceedings to ensure the policy conforms to 45 CFE sec. 1633.3(a) as discussed in Finding 25;

The SLS policy has been revised to contain the appropriate language:

REPRESENTATION IN CERTAIN EVICTION PROCEEDINGS

It is impermissible for any individual, while engaged in legal services activities funded by Statewide Legal Services of Connecticut, Inc., to defend any person in a proceeding to evict that person from a public housing project if:

(a) The person has been charged with has been convicted of the illegal possession, manufacture, sale or distribution of a controlled substance, and

(b) The eviction proceeding is brought by a public housing agency on the basis that such illegal drug activity, for which the person has been charged or for which the person has been convicted, did or does now threaten the health or safety of other tenants residing in the public housing project or employees of the public housing agency.

For purposes of this policy, a person is considered to have been Acharged with≅ engaging in illegal drug activities if a criminal proceeding has been instituted against such person by a governmental entity with authority to initiate such proceeding and such proceeding is pending.

21. Revise Accounting Manual, as discussed in Finding 31, to set forth the procedures and requirements for the performance of a physical inventory , including the frequency of the inventory and a requirement that the results of the inventory be documented; and

22. Provide adequate segregation of fiscal duties and responsibilities , as discussed in Finding 31 , by:

- a. Developing and implementing formal reconciliation procedures for initial and secondary bank reconciliation reviews by requiring the use of a data stamp during its bank reconciliation reviews and requiring that person performing the reconciliation initial and date the reconciliations , as well as requiring managerial approval for all of its reconciliations;**
- b. Segregating the financial accountancy duties amongst its staff to ensure that fiscal duties are divided between physical control and the recordkeeping responsibility so that no single individual can independently initiate, execute and record financial transaction; and**

c. Segregating the physical inventory duties amongst management staff.

For Requirements 21 & 22, SLS will work with our CPA consultant to devise a better system. We are working on this now, but it is too early to finalize changes to the Accounting Manual.