

Legal Action of Wisconsin, Inc.

Comments on

State Justice Community's Planning Initiative Evaluation Instrument

I. General Comments

It is not clear to us why, if this is an evaluation instrument for "state justice communities," it is applicable to only a portion of a state justice community, namely, legal services programs receiving LSC funds. It has always seemed antithetical to us that the LSC envisions a state justice community composed of a wide variety of "stakeholders", yet places the responsibilities and obligations of that state justice community only on LSC grantees.

A second general comment is that this evaluation process will be extremely burdensome to legal services programs which are struggling with severe funding cuts and which will receive no additional funds with which they can conduct this evaluation compliance process. As is known to everyone, LSC funds were cut severely in 1995 - 30% in Wisconsin. This year, in Wisconsin, we are receiving an additional overall 20% funding reduction -- when the census reductions for LSC and the 30% IOLTA reductions are combined. It is becoming exceedingly difficult for us simply to maintain the current level of service with our rapidly diminishing funding base, without allocating significant resources to an evaluation instrument such as this. This means that LSC-funded legal services providers will have to allocate a portion of their scarce LSC and IOLTA resources to this evaluation, whereas every other member of the "state justice community" will not.

A third general comment concerns the statement that scores will be based on the "professional judgment of evaluators." The Evaluation Instrument does not address whether these evaluators will be persons who are familiar with the difficulties in providing legal services to low-income people in this era, or whether they will merely be consultants who have not represented our clients in quite some time. In connection with this, we question whether, if the substance of what the state planning group produces does not fit with LSC's "vision," the evaluator will give us a "1" rather than a "5." Our experience with our most recent state plan was that, after much thought and effort, we submitted the plan and LSC rejected it out of hand. Will this be repeated in this evaluation process? Or, suppose the state planning group disagrees with the scoring values of this instrument? Does Wisconsin "fail"?

A fourth general comment is that the design team is exclusive, not inclusive (Cf. Evaluation Instrument Section 1.2 “Inclusiveness of State Planning Structure”), and is somewhat unbalanced, since three states have two representatives each and most states have no representatives.

A fifth general comment is that legal services programs are already bent double under their data collection and recordation burdens, and this instrument heaps yet one more load of data collection and maintenance on them. The introduction states that “LSC will expect every state [meaning LSC grantee] to maintain its annual collection and reporting on these measures.” With each such additional data collection and reporting burden, more of our limited resources go to administration and data recordation, and fewer resources go to the actual representation of clients. This is becoming an extremely severe problem for legal services programs.

II. Section 1: Statewide Planning Process and Coverage of State Plans

Section 1.1 states that “a state’s planning structure reflects the commitment of the state’s institutions,” yet places the burden of reporting and implementation on only one of those institutions: the LSC grantee. It places no responsibility on “state institutions” such as the State Bar, the IOLTA body or the courts of the state. This belies the above-quoted statement.

With regard to 1.1.1 - Client-Centeredness: There is no recognition in this section that discerning the expressed goals of clients takes significant resources, nor is there an indication as to what a minimal expenditure on discerning such expressed goals might be.

Regarding 1.1.5 - Participation in State Planning Effort: A low score of 1 is given where “some legal services programs do not, and will not, participate in the state planning process.” It appears that the onus is on the LSC-funded legal services program to coerce unwilling non-LSC legal services programs to participate in the state planning process. Exactly what is our leverage to do this?

Regarding 1.1.7 - Quality of Staff Support: Given the funding cuts we have suffered, any staff support that goes to state planning must come from client representation. How much staff support, and how much less client representation, are we to provide in order to ensure that the “state planning effort has sufficient and effective staff support”?

III. Conclusion

This evaluation instrument represents the triumph of bureaucracy over real service to clients. It demands so many resources allocated to planning, monitoring and evaluation, that real service to clients will be severely curtailed. In addition, it assumes that all of the other members of the “state justice community” are prepared and willing to dedicate much

of their time and dollars to this state planning, implementation and evaluation. That is simply not the case. Either the LSC-funded legal services firms conduct all of the activities set forth in the evaluation instrument, or these activities are spread equitably across the "state justice community." The evaluation instrument blithely ignores the fact that almost all members of any "state justice community" are very, very short on resources, and hardly have the time or the money to dedicate to scoring highly on an evaluation instrument such as this.

While this is certainly true of LSC's own grantees, it is also true of many other legal services providers in our state, and of the State Bar itself. For example, IOLTA revenues are way, way down in Wisconsin. The IOLTA Board in this state cut the LSC providers 30%, and we fared best of any of the other providers. Many of the other providers were cut 40% to 50%, and some were defunded entirely. How does the LSC propose that we go to these zeroed-out providers and ask them to allocate significant time to this state planning and evaluation process?

In addition, we have heard from those members of our state planning group that are not LSC providers, such as judges and private attorneys, that they are not able to invest significant hours in this planning process. Are the LSC's grantees expected to compel judges, private lawyers, the State Bar and others to invest the number of hours in this process that are necessary to score a "5" in these categories?

We would also like to know what the LSC is contemplating as sanctions for a low score on this evaluation instrument. Does the LSC contemplate providing us with financial assistance to increase our scores, or will there simply be penalties imposed if we drop below a certain score?

This instrument bespeaks a jaundiced and mistrustful attitude on the part of LSC toward its grantees. Grantees, apparently, cannot be trusted to make the right decisions and do the right things. So, they must be closely and microscopically monitored and investigated through this "evaluation instrument."

Before this extremely burdensome instrument is imposed on us, we would ask that the LSC evaluate its cost. We would ask that the LSC have its test programs keep careful track of the total number of dollars allocated to compliance with this instrument -- not just the dollars necessary to conduct the measurement itself, but the dollars which are necessary to ensure a passable score under it.

We urgently request that the fast-track schedule for this instrument be slowed down, and that much more discussion of this instrument within the community be held before it is imposed on those of us who are trying to utilize very few resources to represent low-income clients with quality and vigor.

