



Send by e-mail to: lscstrategicplan@lsc.gov
September 6, 2016

Ms. Rebecca Fertig Cohen
Chief of Staff
Legal Services Corporation
3333 K Street NW
Washington, D.C. 20007

RE: 2017-2020 Strategic Plan Update

Dear Ms. Cohen:

We want to thank LSC for the thoughtful and inclusive process employed in considering input from the public for revisions to your Strategic Plan. NLADA has been actively involved in responding to LSC's requests for feedback throughout this process including our last submission of key points. We want to take this final opportunity to focus on one area which is vital to the provision of quality legal services to individuals and families who are eligible for services from LSC funded civil legal aid programs and the promotion of access to justice for all.

NLADA recommends that the development of cultural competence be included and explicitly referred to in Goal 1, Initiative 4 of LSC's updated 2017-2020 Strategic Plan. Developing cultural competence in the delivery of services was considered "...inherent in how a grantee's outcomes, efficiency, and needs assessments are evaluated." in LSC's 2012-2016 Strategic Plan and the term was also a part of LSC's first draft of its updated plan.

Cultural competency is a recognized standard in the legal profession, and the need for legal aid attorneys to develop cultural competence was adopted as Standard 2.4, by the American Bar Association (ABA) in 2006 as part of the ABA Standards for the Provision of Civil Legal Aid. These Standards, developed through extensive work by a special task force working in conjunction with the ABA Standing Committee on Legal Aid and Indigent Defendants, were adopted by the ABA House of Delegates in August 2006. "The Task Force included all important stakeholders in the civil legal aid community, consisting of national experts, funders, legal aid practitioners and directors, clients and others with knowledge and experience in the topical areas included within the Standards." The task force sought broad input from the legal community holding four hearings at meetings where legal aid practitioners gathered. "Extensive testimony and written comments were received from representatives of bar associations, law schools, legal services programs, the Legal Services Corporation, clients and other interested groups and individuals. To facilitate further commentary, drafts of each existing and proposed revised standard were posted

on a well-publicized web site, and comments were accepted by e-mail, postal mail and through oral contact with the Task Force chair, members and reporters. All suggested revisions were thoroughly considered and a number of modifications were adopted in order to address concerns which had been expressed.” ABA Standards for the Provision of Civil Legal Aid, Foreword. http://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls_sclaid_civillegalaidstds2007.authcheckdam.pdf

ABA Standard 2.4 states: “A provider should ensure that its staff has the skills, knowledge and resources necessary to provide assistance in a culturally competent manner.” The standard is followed by thorough comments that explain the meaning of the term cultural competence in the context of legal aid and why being culturally competent is essential for practitioners providing essential legal services to individuals and communities that are markedly diverse in multiple ways.

To be culturally competent in legal aid means having the capacity to provide effective legal assistance that is grounded in an awareness of and sensitivity to the diverse cultures in the provider’s service area. A cultural group is identified by shared beliefs, values, customs and behaviors that define what it is. Cultural competence is particularly important with racially, ethnically and culturally distinct communities, and with persons who primarily use a language other than English. Cultural competence is also important with persons with disabilities for whom there are barriers to communication that might impede the formation of a relationship of trust necessary for effective representation, and with others who share distinct characteristics that call for heightened awareness and sensitivity. *ABA Standard 2.4, page 56.*

The language in Goal 1, Initiative 4 does not capture very important aspects of the ABA Standard 2.4. LSC’s initiative, while acknowledging that grantees need guidance: “to foster the provision of services that reflect the actual needs and circumstances of clients and potential clients” such as the use of appropriate language does not address the critical importance the ABA standard places on the relationship between the client and the provider, which goes beyond awareness of diverse contexts, and directly to the need: “...to establish a relationship of confidence and trust with the clients.”

Cultural competence involves more than having the capacity to communicate in the language of persons from each community and involves more than an absence of bias or discrimination. It means having the capacity to interact effectively and to understand how the cultural mores and the circumstance of persons from diverse communities affect their interaction with the provider and its practitioners and govern their reaction to their legal problems and to the process for resolving them. *ABA Standard 2.4, page 56-57.*

The ABA Standard 2.4 provides specific guidance on how legal services programs should promote the provision of culturally competent legal services. For example, in the area of training:

Culture-specific training efforts should be prioritized according to the size of a particular cultural community, or group of communities. Programs that serve a large range of cultures should assess the size and legal needs of particular cultural communities within the low income population in order to prioritize the training and services it offers. The provider should offer staff and board tools such as web-based and written materials regarding the cultures in its service area. In addition, providers should train staff in the skills and perspectives needed to work cross culturally.

Providers should offer advocates training in cross-cultural communication skills, such as the ability to focus deeply on content, to read verbal and non-verbal behavior and to adapt to differing conversational and behavioral styles. What communication style and gestures are appropriate, for instance, may vary depending on culture. For example, nodding in some cultures means, “yes,” while in others it means, “I’m listening.” Clients from a culture with a direct communication style are more likely to respond to direct questioning than those whose cultural norm is to communicate indirectly. Staff should also be trained in the importance of non-verbal communication signals, visual aids, gestures and physical prompts that will make interactions with clients more culturally appropriate. Staff should know how to communicate respect in the culture. In some cultures, for example, a handshake is appropriate, while in others it is not. *ABA Standard 2.4, page 60.*

Not only is there is a general understanding of what the term cultural competence means for the legal profession, as developed by the ABA, the term is widely referenced and used as a standard in other professions.¹

NLADA agrees with the comments and recommendations submitted by California Rural Legal Assistance, Legal Services of Northern California, Michigan Advocacy Program and National Center for Lesbian Rights. Their proposed redraft of Goal 1, Initiative 4 specifically referencing the term cultural competence provides clear direction for the LSC board, corporation and its grantees to achieve and expand upon Goal 1, Initiative 4. The ABA Standard 2.4 allows LSC to implement the intent of Goal 1, Initiative 4 while also building upon the research and best practices that have been and continue to be developed to promote and expand cultural competence.

Thank you again for the opportunity to present comments regarding changes to the 2017-2020 Strategic Plan Update.

Sincerely,

Robin C. Murphy, Chief Counsel for Civil Programs, National Legal Aid and Defender Association

¹ Some examples include: The U.S. Department of Health and Human Services’ National Standards for Culturally and Linguistically Appropriate Services in Health Care includes standards for culturally competent care. *National Standards for Culturally and Linguistically Appropriate Services in Health Care FINAL REPORT, U.S. Department of Health and Human Services, OPHS Office of Minority Health, March 2001.* <http://minorityhealth.hhs.gov/assets/pdf/checked/finalreport.pdf> The Georgetown University Center for Child and Human Development operates a National Center for Cultural Competency whose mission is: “to increase the capacity of health care and mental health care programs to design, implement, and evaluate culturally and linguistically competent service delivery system.” <http://nccc.georgetown.edu/> The National Educational Association in their *Diversity Toolkit: Cultural Competence for Educators* indicates that: “Cultural competence is the key to thriving in culturally diverse classrooms and schools - and it can be learned, practiced, and institutionalized to better serve diverse students, their families, and their communities.” <http://www.nea.org/tools/30402.htm>

