



National Legal Aid & Defender Association
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October 21, 2013

Sent by email to 1626rulemaking@lsc.gov

Mark Freedman
Senior Assistant General Counsel
Legal Services Corporation
3333 K St., N.W.
Washington, DC 20007

Re: Revisions to 45 CFR part 1626 – Restrictions on Legal Assistance to Aliens

Dear Mr. Freedman:

NLADA offers the following comments to the Notice of Proposed Rulemaking on 45 CFR part 1626 published on August 21, 2013 in the Federal Register at 78 FR 51696.

First, we are very supportive of LSC's decision to amend 1626 to make its provisions consistent with provisions of the Victims of Trafficking and Violence Protection Act of 2000 (VTVPA), the Trafficking Victims Protection Reauthorization Act of 2003 (TVPRA), the Violence Against Women and Department of Justice Reauthorization Act of 2005 (VAWA) and the FY 2008 LSC appropriation expansion of eligibility for legal assistance to include alien forestry workers admitted to the United States as temporary workers under the H-2B program of the Immigration and Nationality Act (INA). While LSC did provide instructions to LSC-funded programs in the form of Program Letters 05-02 on trafficking acts (Oct. 6, 2005) and 06-02 on the VAWA amendments (Feb. 21, 2006), the current wording of regulation 1626 does not reflect these statutory changes or the expansion of eligibility for forestry workers.

We are also supportive of the wording of the proposed changes to 1626 with one exception. Proposed 1626.4(f)(1) - Recordkeeping - states that "[f]or a client whose eligibility is based on a grant of relief under section 101(a)(15)(U) of the INA or section 101(a)((15)(T) of the INA, or any other grant of immigration status, recipients must maintain a copy of the visa or other official record of such relief from immigration authorities". Further, proposed 1624.4(f)(2) states that "[f]or a client whose eligibility is based on other evidentiary support as described in paragraph (e) of this section, recipients are required to maintain originals or copies of such evidence. When such a client has filed an application for relief under section 101(a)(15)(U) of the INA or section 101(15)(T) of the INA recipients must maintain a

copy of the application for such relief filed with immigration authorities as well as copies of other evidentiary support”.

The requirements in proposed 1626.4(f)(1) and (2) that LSC-funded programs must maintain copies of visas, applications for visas, or other immigration documents is a significant change from the current policy and practice of LSC. LSC currently does not require recipients to maintain copies of immigration documents for alien eligibility. A requirement that programs that assist victims of sexual assault, abuse and trafficking maintain more evidence than is required of all other eligible aliens has no statutory support and should be rejected.

Currently, LSC accepts a notation in the client’s file that the recipient has seen a specified visa or other immigration document, the number of the document, the date the document was reviewed and the signature of the person from the program that reviewed the document. There is no requirement that the program must maintain a copy of the immigration document. Victims of sexual assault, abuse and trafficking should be treated the same way.

We urge LSC to reject the documentation requirements in proposed 1626.4(f)(1) and (2).

Thank you for considering these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Chuck Greenfield". The signature is written in a cursive, flowing style.

Chuck Greenfield
Chief Counsel for Civil Programs

