

Neighborhood Legal Services Association

LSC-FUNDED SERVICE ELIGIBILITY GUIDELINES

Pursuant to 45 CFR part 1611, Neighborhood Legal Services Association has developed the following guidelines for determining an applicant's eligibility for Legal Services Corporation (LSC) - funded service when the applicant's case or matter falls within Neighborhood Legal Services Association's priorities.

For an applicant to be financially eligible for service, the income and assets of the applicant's family unit, as defined below or of the individual applicant, as defined below, must meet NLSA 's income and asset guidelines. Only individuals and groups determined to be financially eligible under these financial eligibility policies and LSC regulations may receive legal assistance supported with LSC funds.

I. Definitions:

A. A "Family Unit" is defined as one or more adults and unemancipated minor children, if any, who are related by blood or by law, and who reside in the same household.

B. An "Individual" is defined as:

1. an emancipated minor
2. an unemancipated minor living with persons not his/her natural or adoptive parents, including minors who live in residential facilities for dependent or delinquent children;
3. an adult residing alone; or,
4. an adult residing with other related or unrelated adults other than persons who are married or who have a child or children in common.

C. An "Emancipated Minor" is defined as a person under 21 who is:

1. married (whether or not the person is living with a parent or parents), or
2. financially independent of and acting independent of the control of a parent/s or other/s acting *in loco parentis*. The person may be receiving financial assistance or benefits to which he/she is entitled in his/her own right.

D. "Income" means actual, current, annual, total cash receipts before taxes.

E. "Total cash receipts" includes, but is not limited to : money wages and salaries before any deduction; income from self-employment after deductions for business

or farm expenses; regular payments from governmental programs for low income persons or persons with disabilities; social security; unemployment and worker's compensation; strike benefits from union funds; veterans benefits; training stipends; alimony, child support and military family allotments or other regular support from an absent family member or someone not living in the household; public or private employee pensions, and regular insurance or annuity payments; income from dividends, interest, rents, royalties or from estates and trusts, and other regular or recurring sources of financial support that are currently and actually available to the applicant.

F. "Total cash receipts" does not include: money withdrawn from a bank, tax refunds, gifts, compensation and/or one-time insurance payments for injuries sustained, non-cash benefits, food or rent in lieu of wages, and up to \$2000 per year of funds received by individual Native Americans that is derived from Indian trust income or other distributions exempt by statute.

G. An "Asset" consists of cash or other resources that are readily convertible to cash, which are currently and actually available to the applicant, including but not limited to: anything owned that has value, including but not limited to: bank accounts, pensions, tax refunds, IRA's, gifts, compensation and/or one-time insurance payments for injuries sustained, and non-cash benefits.

II. Maximum Income Level

A. NLSA sets the maximum income level at 125% of the Official Poverty Threshold (OPT) with the following exceptions:

(1) Any applicant seeking to maintain governmental benefits for low-income individuals and families; or any applicant for whom the Executive Director or his designee determines, on the basis of documentation received, that the applicant's income is primarily committed to medical or nursing home expenses, and that, excluding such portion of the applicant's income which is committed to medical or nursing home expenses, the applicant would otherwise be financially eligible for service, shall be determined financially eligible regardless of income. Applicable asset limits must be met.

(2) Any applicant seeking legal assistance to obtain governmental benefits for low income individuals and families; or seeking legal assistance to obtain or maintain governmental benefits for persons with disabilities shall have a maximum income level not to exceed 200% of poverty.

B. In assessing the income of an applicant who is a victim of domestic violence, NLSA shall consider only the income of the applicant and members of the applicant's household other than those of the alleged perpetrator of the domestic violence. The service for which representation is sought does not have to relate to alleviating domestic violence or require that the perpetrator be the adverse party.

C. Any applicant whose sole source of income is from Supplemental Security Income, TANF, General Assistance, or any other governmental program for low-income individuals or families which income standards are at or below 125% of the Federal Poverty

Rate and which has an asset test for eligibility, is deemed financially eligible without the need for further inquiry regarding income or assets.

D. Legal assistance may be provided to a group, corporation, or association with a legal issue that is within NLSA's priorities if the group has as a principal activity the delivery of services to those persons in the community who would be financially eligible for LSC-funded legal assistance and the legal assistance sought relates to such activity, or if the group is primarily composed of persons eligible for legal assistance under these guidelines. In addition, the group must provide information showing that it lacks, and has no practical means of obtaining, funds to retain private counsel. NLSA shall consider the resources available to the group, such as the group's income and income prospects, assets and obligations and either:

(1) For a group primarily composed of individuals who would be financially eligible for LSC-funded legal assistance whether the financial or other socioeconomic characteristics of the persons comprising the group are consistent with those of persons who are financially eligible for LSC-funded legal assistance; or

(2) For a group having as a principal activity the delivery of legal services to those persons in the community who would be financially eligible for LSC-funded legal assistance, whether the financial or other socioeconomic characteristics of the persons served by the group are consistent with those of persons who are financially eligible for LSC-funded legal assistance and the assistance sought relates to such activity of the group.

E. NLSA may provide representation to the groups as defined herein with non-LSC funds as long as said representation is otherwise permissible under applicable law and regulations. All representation of groups must receive approval from the Executive Director prior to commencement of the representation.

F. The applicable monthly and annual gross income levels are set forth in NLSA's "Financial Eligibility Guidelines" for Title XX and LSC Funded Legal Services.

III. Asset Ceilings

In addition to the above consideration of income, for an applicant to be eligible for service, all assets of the family unit as defined above shall be considered with the exception of the following:

- A. Equity in the person's principal residence;
- B. Household goods, furnishings and appliances, books, musical instruments, crops or animals held primarily for personal, family or household use of the applicant or applicant's dependants in which the applicant or member of the applicant's household has an interest not to exceed \$475.00 in value in any individual item or \$9,850.00 in aggregate value.

C. The cash value of life insurance;

D. Vehicles used for transportation;

E. Assets used in producing income;

F. Assets owned jointly with a spouse who is not a member of the family unit as defined above, which are not accessible to the family unit except through court action.

G. In assessing the assets of an applicant who is a victim of domestic violence, NLSA shall consider only the assets of the applicant and members of the applicant's household other than those of the alleged perpetrator of the domestic violence and shall not include any assets held by the alleged perpetrator of the domestic violence, jointly held by the applicant with the alleged perpetrator of the domestic violence, or assets jointly held by any member of the applicant's household with the alleged perpetrator of the domestic violence. The service for which representation is sought does not have to relate to alleviating domestic violence or require that the perpetrator be the adverse party.

H. Any applicant whose sole source of income is from Supplemental Security Income, TANF, General Assistance, or any other governmental program for low-income individuals or families with income standards are at or below 125% of the Federal Poverty Rate and which have an asset test for eligibility, is deemed financially eligible without the need for further inquiry regarding income or assets.

After appropriate exclusions as in paragraphs A-H above and taking into account the equity value of the asset, the asset ceilings shall be as follows: \$3900 for a single individual; \$4700 for a two member family and \$300 for each additional family member. The asset ceiling for an individual who is 60 or older, is institutionalized, or who is receiving disability benefits shall be \$5100 ; for each additional member of the family unit who is also over 60, or who is receiving disability payments, add \$450 .

In cases where the net available assets exceed the ceilings set forth above, representation will not be afforded while the excess in assets exists. However, in unusual circumstances, the Executive Director or his/her designee may grant waivers of these assets ceilings. When the Executive Director or his/her designee grants a waiver, the decision shall be documented and included in the client's file. A copy of the signed waiver shall be forwarded to the Executive Director or his/her designee.

IV. Manner of Determining Eligibility

A. The Client Information Intake form shall be used to obtain the information necessary to determine eligibility. If there is substantial reason to doubt the accuracy of the information, NLSA shall make appropriate inquiry to verify it, in a manner consistent with an attorney-client relationship.

B. Information furnished to NLSA by a client to establish financial eligibility shall not be disclosed to any person who is not employed by NLSA in a manner that permits identification of the client, without express written consent of the client, except that the recipient shall provide such information to LSC when:

1. LSC is investigating allegations that question the financial eligibility of a previously identified client and NLSA's representation thereof;
2. The information sought by LSC relates solely to the financial eligibility of that particular client;
3. The information sought by LSC is necessary to confirm or deny specific allegations relating to that particular client's financial eligibility and NLSA's representation thereof; and
4. The specific information sought by LSC is not protected by the attorney-client privilege.

V. Retainer Agreement

Consistent with the requirements of §1611.8, NLSA shall execute a retainer agreement for each client who receives legal services from NLSA when representation commences (or, if not possible owing to an emergency situation, as soon thereafter as is practicable), and shall clearly identify: the relationship between the client and NLSA; the matter in which representation is sought; the nature of the legal services to be provided; and the rights and responsibilities of the client. NLSA shall retain the executed retainer agreement as part of the client's file, and shall make the agreement available for review by LSC in a manner which protects the identity of the client.

Program staff are not required to execute a written retainer agreement when the only service to be provided is brief advice and consultation.

VI. Change in Circumstances

If an eligible client becomes ineligible through a change in circumstances, NLSA shall discontinue representation if NLSA determines that the change in circumstances is sufficiently likely to continue and discontinuation is not inconsistent with the attorney's professional responsibilities.

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Mark F. Nowak, President

