

Why We Need to Fix the Legal Services Restriction on State, Local, Private, and Other Money

Background – The restriction on state, local, private, and other money (the “non-LSC funds restriction”) encumbers all the non-Legal Services Corporation dollars that LSC grantees receive. This restriction prevents LSC-recipient programs from using any non-LSC dollars, including individual donations, foundation grants, and state and local government funds, for any service or activity that the program is barred from doing with LSC dollars. Under LSC’s “program integrity regulation,” 45 CFR § 1610, if a legal services program wishes to spend private funds on these restricted services or activities, it must set up a separate office and incur duplicate overhead, personnel and administrative costs.

- 1. The restriction is an unnecessary federal overreach that interferes with choices of state, local and private charitable donors about how to spend their money** – The federal non-LSC funds restriction extends the federal proscriptions on legal aid lawyers’ tools and eligible clients not only to funds appropriated through LSC, but to all the funds that an LSC grantee receives. This restriction on other money ties up over \$526 million in non-LSC funding annually. Nationally, 60% of the funds that go to LSC-funded organizations come from non-LSC sources, with 22% of LSC grantees’ total funding coming from state and local government grants and another 13% coming from revenue earned from Interest on Lawyer Trust Accounts.
- 2. Individuals and families are suffering because of the restriction on non-LSC funds** – The restriction deprives countless Americans of needed civil legal services: communities are hamstrung in their ability to combat predatory lending practices and consumer fraud because legal aid clients cannot participate in class actions; legislative and administrative reform efforts suffer without the knowledgeable input of legal aid lawyers; and limitations on the categories of people eligible for representation by LSC grantees mean that immigrants vulnerable to workplace abuses go without legal assistance and efforts to help prisoners reenter society are needlessly postponed. Even though private, state and local funds are available for civil legal aid, it is usually not enough money to finance physically separate legal services offices to provide legal assistance to those people who cannot be served by LSC grantees. People have nowhere to go to address their legal needs and whole communities go unserved.
- 3. The restriction on non-LSC funds wastes precious public funds** – In many states, justice planners have had to set up entirely separate organizations and law offices, funded by state and local public funders and private charitable sources, to do the work that LSC-funded programs cannot do, resulting in wasteful duplication of overhead, personnel and administrative costs. Federal dollars that could finance more client services are also eaten up by the costs of running duplicate offices.
- 4. The restriction on non-LSC funds deters other potential funders** – The non-LSC funds restriction prevents states from funding the programs they have determined will most effectively ensure the smooth functioning of their courts. Other public and private donors cannot provide resources to LSC recipients to undertake work and serve clients that these donors have determined to be priorities because of the non-LSC funds restriction. As a result, LSC grantees have become less appealing to some state, local and private funders who wish to finance full-service providers or particular projects that the LSC restrictions prohibit.
- 5. Legal aid programs should be treated in the same way as other non-profits** – Non-profits that receive part of their funding from LSC are treated much more stringently than most other government-funded non-profits, including faith-based organizations. While other non-profits must strictly account for their government funds and use those funds consistent with any restrictions that have been imposed on them through legislation or by the agencies that provide them, those same restrictions do not apply to funds from other sources and they are not forced to operate activities funded by other sources out of separate offices.
- 6. There is an easy, no-cost fix that solves all these problems** – The provision of legal services for the poor can be made more efficient and effective by removing the restriction on non-LSC funds through a no-cost change in language in the Commerce-Justice-Science Appropriations bill, as the Obama Administration has recommended for the last two years.