

LEGAL SERVICES OF NORTH FLORIDA
CLIENT ELIGIBILITY GUIDELINES

Pursuant to Section 1007(a)(2) of the Legal Services Corporation Act and 48 C.F.R. Part 1611, and pursuant to criteria for funding from other Legal Services of North Florida grant sources, the following client eligibility guidelines are to give preference to the legal needs of those least able to obtain legal assistance and to adequately apportion the program's limited resources.

I. Geographic Service Area

Applicants must reside within Leon County, Jefferson County, Gadsden County, Liberty County, Calhoun County, Wakulla County, Franklin County, Okaloosa County, Walton County, Bay County, Holmes County, Jackson County, Washington County, Escambia County, Santa Rosa County, or Gulf County in order to qualify for services from Legal Services of North Florida. However, Florida residents of counties served by other legal aid or legal services programs will be accepted by this program pursuant to the statewide referral agreement so long as the referral is not inconsistent with the guidelines of Legal Services of North Florida. Out-of-state clients who meet the eligibility guidelines of their local legal services program will be accepted on a case-by-case basis at the discretion of the Senior Attorney of the office where the referral would be handled so long as the referral is not inconsistent with the guidelines of Legal Services of North Florida.

II. Definitions

A. "Governmental programs for the poor" means any federal, state or local program that provides benefits of any kind to persons whose eligibility is determined on the basis of financial need.

B. "Income" means actual current annual total cash receipts before taxes of all persons who are resident members of, and contribute to the support of, a family unit. In establishing the income of an applicant who is a victim of domestic violence, the income of the perpetrator shall not be considered in determining the applicant's eligibility under LSC guidelines.

Total cash receipts include money, wages and salaries before any deductions (not including food or rent in lieu of wages); income from self-employment after deductions from business or farm expenses; regular payments from social security, unemployment and workers' compensation benefits; strike benefits from union funds; veteran 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 employees' pensions; and regular insurance or annuity payments; and income from dividends, interest, rents, royalties, or from estates and trusts. They do not include any money withdrawn from a bank, tax refunds, gifts, compensations for and/or one-time insurance payments from injuries sustained, and non-cash benefits.

C. "Assets" include both liquid and non-liquid assets.

1. Liquid assets include cash on hand or in a checking or savings account.

2. Non-liquid assets include the equity value of real estate (buildings, land) and personal property (boats, campers, vehicles).

The following are excluded from the definition of assets:

- Homestead property being used as the principal place of residence;
- Vehicles which are necessary for household transportation and employment;
- Personal and household effects;
- Trust for medical expenses;
- Value of farm land essential to employment or self employment;
- Work related equipment needed for employment of a family member provided its owner is producing income or attempting to produce income with it;
- Cash value of IRAs, TSAs or KEOGH Plans;
- Assets excluded under the Food Stamps, TANF, and SSI programs;
- Educational grants and loans to pay for tuitions and fees;
- Any assets which are not easily convertible to cash or which are not legally or practically available to the individual or family unit;
- Incentive allowances under any federal or state training program;
- Any assistance paid with respect to a dwelling unit under the United States Housing Act of 1937;
- Any assistance received on account of major disaster;
- Jointly held assets when establishing the eligibility of a victim of domestic violence.

D. "Fixed debts" means unpaid taxes from previous years and any outstanding debts if more than \$3,000 is owed on the principal, but not including revolving loan accounts or debts for current taxes, insurance, jewelry, cars, student loans, or mortgages unless a judgment has been entered.

III. Individual Representation

A. Income Eligibility for Services Funded by LSC.

1. Automatic Eligibility: Two categories of applicants will be deemed automatically eligible for services: (1) Applicants whose total household income is derived from supplemental security income, temporary assistance to needy families, or food stamp benefits; (2) Applicants whose maximum income levels are 125% of the current official federal poverty income guidelines. The following table is a useful guideline; however, references to monthly incomes and weekly incomes are to be used to determine the respective applicant's annual income

and the applicant's current monthly or weekly income is not in and of itself evidence of the applicant's eligibility. Applicants whose yearly "income" is within the following limits are eligible unless current income prospects, taking into account seasonal variations in income, would increase the applicant's income to exceed the limits.

<u>FAMILY SIZE</u>	<u>YEARLY INCOME</u>	<u>MONTHLY INCOME</u>	<u>WEEKLY INCOME</u>
1	13,538	1,128.17	260.35
2	18,213	1,517.75	350.25
3	22,888	1,907.33	440.15
4	27,563	2,296.92	530.06
5	32,238	2,686.50	619.96
6	36,913	3,076.08	709.87
7	41,588	3,465.67	799.77
8	46,263	3,855.25	889.67

For family units with more than eight individuals add \$4,675 annually for each additional member.

University student applicants considered tax dependents by their parents or legal guardians will have their parents' or legal guardians' household income considered when determining financial eligibility.

The Case Acceptance Committee should consider medical expenses, fixed debts, child care, transportation, availability of private low cost legal representation, consequences to the applicant if representation is denied, existence of assets, and expenses associated with age or physical infirmity prior to determining the client's eligibility. Absent unusual circumstances the Board finds, based on past historical information, these factors will not preclude representation within the maximum income level.

2. Eligibility with Deductions: If an applicant's income is above the maximum income guidelines but below 200% of the current official federal poverty guidelines as reflected in the following chart:

<u>FAMILY SIZE</u>	<u>YEARLY INCOME</u>	<u>MONTHLY INCOME</u>	<u>WEEKLY INCOME</u>
1	21,660	1,805.00	416.54
2	29,140	2,428.33	560.38
3	36,620	3,051.67	704.23
4	44,100	3,675.00	848.08
5	51,580	4,298.33	991.92
6	59,060	4,921.67	1,135.77
7	66,540	5,545.00	1,279.62
8	74,020	6,168.33	1,423.46

For family units with more than eight individuals add \$7,480 annually for each additional member.

[Year 2009]

the applicant may receive representation from the program if he or she is seeking legal assistance to secure benefits provided by a

governmental program for the poor or if deductions in sections (a)-(c) below singularly or in the aggregate place the client's income within Section III-A-1 (top chart above) and the factors in (a)-(f) support the need for representation.

a. Current prospects for the applicant's income (taking into account seasonal variations) are likely to decrease the applicant's income.

b. Deductions for medical expenses; child care expenses; transportation needed for employment; and/or fixed debts and obligations (including unpaid federal, state, and local taxes from prior years) decrease the applicant's income.

c. Deductions for expenses associated with age or physical infirmity of resident family members or other significant factors decrease the applicant's income or relate to financial inability to afford legal assistance.

d. Private legal representation is unavailable at a low cost with respect to the particular matter in which assistance is sought.

e. The individual suffers significant consequences if legal assistance is denied.

f. Assets, including both liquid and non-liquid, are available to the applicant and are in excess of the asset ceiling set by the recipient.

If a person is determined eligible under Section 2, the factual basis for the decision will be documented in the Case Management System (CMS).

3. Exception Based on Jeopardy to Family or Economic Future: If an applicant is determined ineligible under criteria listed in 2, the person may receive representation, if the executive director determines that consequences of denial of legal representation are sufficient to jeopardize the family structure or to place the applicant's economic future and well being in peril. **A copy of the written documentation and the executive director's approval will be maintained by the executive director.**

4. Fifty Percent Medical Exception: If an applicant's income is above the 200% ceiling, but over 50% of the applicant's income is committed to medical or nursing home expenses and written approval of the executive director has been obtained based on written documentation received from the applicant, that applicant may receive representation from the program. **A copy of the written documentation and the executive director's approval will be maintained by the executive director.**

5. Other Eligibility Factors: If an applicant is tentatively determined eligible based on the criteria listed in 1, 2, 3, or 4, that person may not receive representation, if:

- The applicant has liquid and non-liquid assets in excess of those in Section V (and the executive director does not waive the asset limitations), or
- There is available private legal representation at low cost to address the legal matter, or
- The applicant has refused or is unwilling without good cause to seek or accept suitable employment.

6. Verification of Client Income: If the senior attorney or a staff attorney of a particular office has substantial reason to doubt the accuracy of the client's income information, he/she shall request that the client produce proof of income and expenses. Such proof may include, but not be limited to, the last year's W-2 form, employer's salary voucher, copy of check from pension/governmental agency, actual copies of bills of indebtedness, or a sworn statement from creditor, of same.

B. Income Eligibility for Services Funded by IOTA Legal Assistance for the Poor.

1. Automatic Eligibility: Applicants whose income is within 125% of the federal poverty guidelines (see chart III-A-1 above) are eligible.

2. Eligibility with Deductions: Applicants whose income is within 200% of the federal poverty guidelines (see chart III-A-2 above) are eligible if extenuating circumstances (such as significant medical expenses or child care expenses in connection with employment) clearly render them unable to hire private counsel.

C. Eligibility for Title III Services.

Applicants who are 60 years of age and over are eligible for advice, referral and brief services irrespective of their income or assets. Applicants who are 60 years of age and over who are also eligible for services funded by LSC, IOTA, or another funding source will be provided the full range of services offered by LSNF in accordance with priorities, case acceptance criteria and LSNF's long range plan.

D. Eligibility for Services Funded by the Violence Against Women Act (VAWA) and the Victims of Crime Act (VOCA):

Domestic violence victims who qualify for emergency services under grants funded by VAWA and VOCA are eligible for services irrespective of their income or assets.

E. Eligibility for Services Funded by the IRS Low Income Tax Clinic:

Applicants with tax cases and controversies (in amounts up to \$50,000 per controversy in any one year) are eligible for assistance if their income is at or below 250% of the poverty guidelines (with a provision for waiver in up to 10% of the cases).

F. Other.

Services provided pursuant to other grants will be performed according to the grant requirements.

IV. Group, Corporation or Association Representation

Groups, corporations or associations may receive legal assistance under LSC guidelines if they:

- are primarily composed of eligible individuals for legal assistance, or
- have as a principal activity the delivery of services to persons who would be financially eligible (and the assistance sought relates to such activity), and
- provide information showing that they lack, and have no practical means of obtaining, funds to retain private counsel.

Groups, corporations or associations may receive legal assistance under IOTA guidelines if:

- 50% or more of their membership is eligible for services; or
- their primary function or activity is the furtherance of interests that benefit persons financially eligible under subsection III-B and they are seeking legal assistance on a matter relating to such function or activity (and the applicant demonstrates it lacks and has no practical means of obtaining funds to enable it to obtain private counsel in the matter for which legal assistance is sought).

V. Asset Ceiling - Liquid and Non-Liquid Assets

Applicants whose assets exceed the following ceilings, notwithstanding their eligibility under Section III, will not be represented:

For an applicant with a family size of one, \$10,000. For households containing additional family members, the limit increases by \$3,000 per family member.

The executive director may waive the asset ceiling "in unusual or extremely meritorious situations." **This waiver must be documented and included in the applicant's file.**

In computing the value of assets, only the equity value will be considered. In computing the assets of an applicant who is a victim of domestic violence, assets of the alleged perpetrator, held jointly by the alleged perpetrator with the applicant, or held jointly by any member of the applicant's household with the alleged perpetrator will not be considered.

VI. Withdrawing from a Case

If a person or group who qualifies for services pursuant to a means test becomes ineligible through a change in circumstance, the program shall discontinue representation if the change in circumstance is sufficiently likely to continue so that the person or group can afford private legal

assistance, and discontinuation is not inconsistent with the attorney's professional responsibility.

VII. Case Restrictions

Legal Services of North Florida will not represent persons who fall within case restrictions imposed by the Legal Services Corporation or by policies set by Legal Services of North Florida as described below, notwithstanding the financial eligibility of those persons.

A. Restrictions Established by the Legal Services Corporation.

1. Legal Services of North Florida will not undertake representation with LSC funds in the following:

- a. Abortion matters;
- b. Desegregation of schools;
- c. Violations of Military Selective Service Act or military desertion;
- d. Assisted suicide, euthanasia or mercy killing.

2. Legal Services of North Florida will not undertake representation with any source of funds in the following:

- a. Class actions;
- b. Aliens unless they

(A) are present in the United States and are:

- 1) lawfully admitted for permanent residence;
- 2) married to U.S. citizens and have pending applications for adjustment of status;
- 3) parents of a U.S. citizen and have pending applications for adjustment of status;
- 4) unmarried children under the age of 21 of a U.S. citizen and have pending applications for adjustment of status;
- 5) lawfully present in the U.S.
 - a. pursuant to a refugee admission;
 - b. based on a granted asylum by the Attorney General;
 - c. as a result of being granted conditional entry to the United States before April 1, 1980, because of persecution, fear of persecution, or being uprooted by catastrophic natural calamity;

d. as a result of the Attorney General's withholding a deportation;

or (B) are:

- 1) special agricultural workers whose status is adjusted to temporary resident alien under IRCA,
- 2) H-2 nonimmigrant agricultural workers for matters arising under their specific employment contract in the areas of wages, housing, transportation and other specified employment rights, or
- 3) lawfully admitted for temporary residence as replenishment agricultural workers;

or (C) are victims of domestic violence (battered or subjected to extreme cruelty), sexual assault, or qualify for immigration relief under Section 101(a)(15)(U) of the Immigration and Nationality Act (INA);

or (D) have a child who, without the active participation of the alien, has been subjected to battery, extreme cruelty, or sexual assault in the U.S. or qualifies for immigration relief under Section 101(a)(15)(U)

and the legal services are directly related to the prevention of, or obtaining relief from, the activities described in (C) and (D) above or the crimes listed in Section 101(a)(15)(U)(ii) of the INA;

or (E) are victims of trafficking or have a child who, without the active participation of the alien, has been a victim of trafficking seeking assistance with any legal issue in which LSNF would otherwise provide legal services or representation.

c. Administrative representation challenging conditions of incarceration or any civil litigation on behalf of prisoners;

d. Cases which are not within the program's board adopted priorities unless they fall within the emergency definition defined by the board;

e. Reapportionment including influencing the timing or manner of taking a census;

f. Attempts to influence executive orders, regulations or other general future statements of federal, state or local agencies unless the attempts are made with non-LSC funds and (a) are solely regarding LSNF funding or (b) constitute comment on public rulemaking or (c) are in response to a written request to the party making the request and LSNF has not arranged for the request to be made;

g. attempts to influence adjudicatory proceedings designed to formulate or modify general future agency policy;

- h. attempts to influence federal, state or local legislation or constitutional amendments unless the attempts are made with non-LSC funds and (a) are solely regarding LSNF funding or (b) are in response to a written request to the party making the request and LSNF has not arranged for the request to be made;
- i. attempts to influence oversight proceedings of LSC;
- j. filing affirmative complaints or engaging in pre-complaint settlement negotiations unless a client statement of facts is on file (unless an injunction has been obtained or an emergency exists);
- k. abortion litigation;
- l. litigation, lobbying or rulemaking involving efforts to reform federal or state welfare systems (except in compliance with f and h above);
- m. proceedings to evict persons from public housing projects if the person has been charged with or convicted of illegal sale, distribution or manufacture of drugs or with possession with intent to sell or distribute drugs and the illegal activity threatens the health or safety of another resident or an employee of the public housing agency;
- n. actions resulting from in-person unsolicited advice from a LSNF employee that the applicant should obtain counsel or take legal action.
- o. Fee generating cases, unless other adequate representation is unavailable, except for cases seeking SSA and SSI benefits, cases involving emergencies, or cases in which recovery of damages is not the principal object of the case and substantial statutory fees are not likely;

B. Restrictions Established by Legal Services of North Florida.

Legal Services of North Florida will not undertake representation in the following:

- 1. traffic cases;
- 2. matters which can be litigated in Small Claims Court where it is determined that the eligible person is capable of representing himself or herself;
- 3. child support actions (except as part of dissolution actions) because the Department of Revenue is under contract to provide representation to persons seeking to establish and/or enforce child support;
- 4. appeals brought in any court unless approved by the executive director;
- 5. legislative or administrative advocacy described in VII-A-2 (f) and (h) unless approved in writing by the executive director;

6. Criminal cases;
7. Collateral actions attacking criminal convictions.

VIII. Referral of Ineligible Applicants

Attorneys in this program will make an affirmative effort to assist applicants who are outside the eligibility guidelines or whose claim is potentially "fee generating" to obtain counsel, either through a referral system established by the local bar association or by The Florida Bar Association.

IX. Disclosure

The client must be informed that information provided on an intake application will not be treated as confidential for the limited purposes of enabling Legal Services of North Florida to screen for conflicts or to make referrals. Additionally, as required by federal law, eligibility information, client retainer agreements, client names, client trust accounts, time records, and financial records maintained by Legal Services of North Florida that may contain information about clients' cases must be made available to auditors or monitors. Additionally, information regarding client eligibility must be made available to the Legal Services Corporation to evaluate allegations regarding eligibility. If a civil complaint is filed on behalf of a client (or pre-complaint settlement negotiations are pursued), the client must be informed that a statement of facts supporting that complaint (or claim) must also be made available to auditors or monitors. Except where protected by state or federal law or an order or rule of court, or where the client would be placed at physical risk of harm, in each case filed LSNF must provide to LSC and upon public request, each party's name and address, the cause of action, the name and address of the court where the case is filed and the case number assigned by the court.

X. Limitation on Representation

The client must be informed at the beginning of the case that Legal Services of North Florida is governed by certain restrictions that may affect our ability to provide full representation of the client's claim, and that the client will be informed as an apparent restriction applies of the limitation on representation, with the ability to consent to the limited representation or to determine that the client does not wish to have Legal Services of North Florida continue its representation.

XI. Review of Guidelines

These guidelines shall be reviewed each year by the Board of Directors and may be amended at any time the Board deems it necessary. The reference to 125% and 200% of the official poverty guidelines shall be adjusted as the federal government updates its official economic definition of poverty without prior board review.

02/99
04/99 (updated pgs 2 and 3)
11/00 (amended asset ceilings)
11/05
02/06
09/06
12/07
02/08
02/09