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LEGAL SERVICES CORPORATION

BOARD OF DIRECTORS MEETING

TUESDAY, JUNE 7, 1983

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The Board met in the GSA Central Auditorium,
18th and F Streets, N.W., Washington, D.C., at 10:00
a.m., Robert E. McCarthy, Chairman, presiding.

Present:

- ROBERT E. MCCARTHY, Chairman
- MILTON M. MASSON, Director
- FRANK DONATELLI, Director
- DANIEL RATHBUN, Director

Also Present:

- DONALD P. BOGARD, President
- DENNIS DAUGHERTY, V.P. Operations
- CHARLES RITTER, V.P. Finance
- LEA ANNE BERNSTEIN, Secretary
- ALAN SWENDIMAN, General Counsel
- JIM STREETER, Director, Government Relations
- ALFREDA HARVEY, Budget Director
- ALAN FORST, Aide
- JOHN MEYER, Deputy General Counsel
- GREGG HARTLEY, Director of Field Services

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P R O C E E D I N G S

1
2 CHAIRMAN MCCARTHY: The meeting of the Legal Services
3 Corporation will come to order, please.

4 I'd like to thank you in the audience for being
5 present this morning, and look forward to your input.
6 I also want to express my thanks to you for being so
7 patient in the inadvertent continuance of this meeting
8 from yesterday. There was nothing we could do about
9 it, and you've been very patient and understanding,
10 and we all wish to thank you for that.

11 Preliminarily, because of that postponement,
12 we are under some time constraint this morning. We're
13 going to take some of the items out of order from the
14 agenda, after it is approved, to accomodate this time
15 constraint.

16 We plan to have the open meeting until no later
17 than 11:30, at which time we will have an executive
18 session. We will then resume this afternoon, as soon
19 as we can, but the meeting must be adjourned by no
20 later than 3:00 o'clock this afternoon to accomodate
21 some of the Board members who have airplanes back to
22 their business. So with that in mind, I'm going to
23 proceed. I think there will be--and hopefully, no time
24 constraints on this--but I just want to make it clear,
25 for your own purposes, that we do have these time

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1 parameters. With that, I will refer to the tentative
2 agenda, and the agenda in the Federal Register, and
3 on the tentative agenda, I draw your attention, both
4 the Board and the public, to Item 8, Report from the
5 Office of General Counsel. Because of the importance
6 of this, and the desire for public input, we're going
7 to move eight to right after four, the authorization
8 of the Executive Session, which should give us ample
9 time this morning, before the 11:30 Executive Session
10 time, to discuss it.

11 The numbers are a little bit different than those
12 shown in the notice that was published, but I think
13 for our purposes, reference to the expanded tentative
14 agenda will be more helpful.

15 So, with that, I would solicit from this Board
16 a motion to adopt the tentative agenda, as the agenda
17 for this meeting, with the one amendment, that item
18 eight shown there come immediately after item four.

19 MR. MASSON: So moved.

20 MR. DONATELLI: Second.

21 CHAIRMAN McCARTHY: Carried.

22 And our secretary will note that, and we'll proceed
23 from there. The next item is the Notice in the Federal
24 Register. You'll note that on page one and two, under
25 the section Federal Register Notice, that notice has

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1 been duly given, and I also note that pursuant to
2 the applicable statute in law, the meeting that was
3 set on the Federal Register for yesterday, the 6th
4 of June at 10:00 o'clock in this room, was postponed
5 by a majority of the Board of Directors until this
6 time, proper notice was posted, and in the opinion
7 of our General Counsel, this is a duly constituted
8 meeting of the Board of Directors.

9 The meeting book contains the minutes of the
10 meeting of March 15th, 1983. The Board has had the
11 opportunity of reviewing these minutes, and unless
12 there are some corrections, or additions to these
13 minutes, they will be adopted as included in the minute
14 book.

15 Does anyone have any corrections or additions
16 to those minutes?

17 MR. DONATELLI: I move the adoption.

18 MR. MASSON: Seconded.

19 CHAIRMAN McCARTHY: Second. The minutes of March
20 15th, 1983, as contained in the Board book are adopted
21 as the minutes of the meeting of March 15th, 1983.

22 The notice in the Federal Registry provided for
23 a portion of this open meeting to be closed to discuss
24 personal litigation and investigatory matters under
25 45CFR1622.5(a), (e), (f) and (h), and I would entertain

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1 a motion to have such Executive Session closed, and
2 suggest that it commence no later than 11:30 a.m.

3 MR. DONATELLI: So move.

4 MR. MASSON: Second.

5 CHAIRMAN McCARTHY: Carried. And the Executive
6 Session will be at 11:30 in this building.

7 I would like to call at this time on our General
8 Counsel to certify the propriety of the Executive
9 Session.

10 MR. BOGARD: I think maybe, if I may, please,
11 we probably should have a roll call vote on that,
12 just to make sure that everybody concurs that the
13 Executive Session should be held. It can be done by
14 voice.

15 (Chorus of ayes.)

16 CHAIRMAN McCARTHY: May the minutes note that
17 this voice roll call was had, and that all members
18 of the Board, constituting a quorum, were in assent.

19 MR. SWENDIMAN: Pursuant to the Regulations, I
20 hereby certify that a portion of this meeting has
21 been closed to the public by a majority of the Board
22 of Directors, pursuant to 45CFR1622.6, and,
23 on the grounds that this portion of the meeting
24 will consider matters falling under the provisions
25 of 45CFR1622.5(a)(e)(f)(g), relating to personnel,

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1 investigatory, and litigation matters.

2 CHAIRMAN McCARTHY: Thank you, Alan. The next
3 agenda is the out of order, Report From Office of
4 General Counsel, that because of the importance of
5 the proposed regulations, and in view of the time,
6 I believe that this is the proper time to take that
7 up, and if you could proceed, Alan, I'd appreciate
8 it.

9 MR. SWENDIMAN: The matter before the Board this
10 morning is the proposed regulations relating to the
11 alien rider contained in Public Law 97.377. Those
12 proposed regulations were published in the Federal
13 Register.

14 CHAIRMAN McCARTHY: Excuse me, Alan. Does the
15 public have a copy of those?

16 MR. SWENDIMAN: There is a copy out in the entryway
17 coming in to the auditorium.

18 CHAIRMAN McCARTHY: Good. It may be beneficial
19 to follow along as Alan gives his statement.

20 MR. SWENDIMAN: These proposed regulations were
21 published for comment, and, as of the close of the
22 business day on June 2nd, which was the cutoff period
23 for comments, one hundred and six comments were
24 received. These comments were reviewed by four members
25 of the Office of General Counsel, by various members

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1 of the staff, and I can say that all of them were
2 reviewed and considered quite carefully.

3 The document which you have before you, and which
4 is available out front, sets forth the regulations,
5 as recommended by the Staff, in light of those comments,
6 and I would, at this juncture, go over the major sugges-
7 tions and recommendations made to the Board, with
8 respect to the proposed regulations.

9 The first appears on page three, and relates
10 to the definition of "on behalf of", which appears,
11 and is statutory language in the continuing resolution.
12 A number of comments were made to the effect that,
13 as proposed, the regulations might very well bar the
14 reunification of family members. There was also a
15 concern as to the distinction between direct and indirect.
16 The definition which appears there is a simplified
17 one, and specifically sets forth the definition of
18 "on behalf of an ineligible alien" to one in which
19 an eligible client does not benefit from the service.

20 The next proposed, or major recommendation --
21 well, let me skip on to 1626.5 on page seven, and
22 then, moving to eight. Under the verification section,
23 a number of comments were made as to the understanding
24 the language, or the phrase, "good cause"; Attempting
25 to dovetail with similar language in the current

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1 regulations of the Corporation, a recommendation has
2 been made to change that to "reason to doubt", which
3 may clarify for the field, exactly under what circum-
4 stances verification will be required. You will also
5 note, that on page eight, there is the addition of
6 additional documentation for evidence of citizenship,
7 and that's dealing with a baptismal certificate. A
8 number of the comments we received, this is extremely
9 important in the Southwest United States.

10 The next major change appears on page nine, again
11 under the verification. This is more of a technical
12 matter, technical from the standpoint of following
13 the Immigration and Naturalization Acts. A number
14 of comments pointed out the fact that there was other
15 documentation which--other categories in which there
16 were in fact eligible aliens. This matter was checked
17 with the Immigration and Naturalization Service, and
18 was confirmed, so that starting with subparagraph
19 two, (a) and (b), this is an attempt to make sure
20 that all eligible aliens are in fact covered by the
21 regulations.

22 CHAIRMAN McCARTHY: Alan, if I'm not mistaken,
23 the initial draft was after a result of talking with
24 people at INS, and they had indicated that that was
25 the only category of people eligible for service,

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1 and then after the comments you rechecked with INS,
2 and they expanded upon their previous comments?

3 MR. SWENDIMAN: That's correct. That's correct.

4 The next recommended recommendation appears on
5 page eleven, and it deals with emergency service.
6 A number of the commentators pointed out that there
7 are emergency situations that arise, where it may
8 be impossible to have verification obtained on such
9 a short notice. Taking that in light, we have made
10 provision for a provision of emergency service in
11 those instances.

12 We also received a number of comments from rural
13 programs, which mentioned the fact that a number of
14 their rendering of service is done by, strictly by
15 telephone, and oftentimes, they give advice and consulta-
16 tion over the telephone, that requiring verification
17 would be cumbersome in that situation, and we have
18 made a provision in--recommended a provision in subpara-
19 graph F, to cover that situation.

20 The next changes appear on page fifteen, dealing
21 with records. It was determined that it was rather
22 bureaucratic to require keeping copies of documentation
23 by persons who are ineligible from the outset, and
24 so that situation has been remedied. There is also
25 instances where the photocopying of particular documents

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1 is illegal in certain states. For example, birth certi-
2 ficates cannot be photocopied. So, we have taken care
3 of that situation, and there's also maybe situations
4 where photocopying is impractical. A number of the
5 attorneys out in the field must go to migrant camps,
6 and the access to any photocopying equipment is nil.
7 So we've made -- there is a recommendation, that in
8 those circumstances, that some notation be made.

9 I might add that I did, or our office did check
10 with the Immigration and Naturalization Service. We
11 were informed that the photocopying of INS documents
12 is not improper in terms of aliens.

13 That, in brief, are the suggestions and recommen-
14 dations that the staff has made. I might conclude
15 with a comment, that the continuing resolution puts
16 the Board in a very difficult situation. There are,
17 as we're well aware of, certain ethical duties, profes-
18 sional responsibilities that an attorney must follow.
19 On the other hand, the continuing resolution explicitly
20 states that none of the funds appropriated under the
21 resolution shall be expended to provide legal assistance
22 for or on behalf of any alien, unless it falls within
23 a certain category. The Board might very well wish
24 to invite Congress to clarify that situation and to
25 resolve what is a very difficult point.

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1 That concludes my remarks. If you have any questions,
2 I'll be glad to answer them. I have several members
3 of the Office of General Counsel here this morning.
4 If I can't answer the question, I will call upon them
5 to see if we might be able to obtain an answer to
6 any inquiry you may have.

7 CHAIRMAN McCARTHY: Thank you, Alan, for an excellent
8 piece of work.

9 At this time, I would ask the Board to address
10 any questions they may have, to Alan at this time.

11 The staff and the Board have spent quite a bit
12 of time on the point that Alan just brought up about
13 the ethical position of an attorney, in view of the
14 limitations under the continuing resolution. It was
15 the staff's opinion, and the Board individually, that
16 the proposed regulations take care, as best can be,
17 of both of these rather sticky problems, and if the
18 Board wants to do any further discussion at this time,
19 it would be in order, on that particular specific
20 problem.

21 I believe, at this time, we would appreciate
22 from the audience any constructive comments as to
23 the proposed regulations, with special attention to
24 those changes that Alan has recited, which were not
25 in the regulations as published some time ago.

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1 MR. DONATELLI: Mr. Chairman, may I ask perhaps
2 you, or the General Counsel, to respond to the concern
3 that you've just alluded to, namely, that we do have
4 a conflict here between an ethical obligation and
5 a statutory duty. What sorts of avenues could you
6 see would be available to an attorney that's currently
7 representing someone who is now eligible, but will
8 not be eligible under these regulations, and under
9 the act of Congress? What sorts of things can that
10 attorney do?

11 CHAIRMAN McCARTHY: These are covered in, starting
12 on page twelve at Section 1626.1, and, briefly, Frank,
13 what the regs propose at this time, is that in the
14 event that an attorney finds himself in a position
15 of representing an ineligible alien, that at the time
16 of representation was not ineligible, but now is,
17 the and the proscription against use of the continuing
18 resolution funds, we propose that at that time, the
19 attorney, upon realization of this fact, do two things,
20 in the alternative. One, either find a substitution
21 of attorney through some other source than the Legal
22 Services Corporation recipients, and, if that is
23 not feasible or possible, then make application to
24 the appropriate court for a withdrawal, which may
25 or may not be granted. It's a practical question

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1 that all the attorneys that are here, and on the Board
2 have gone through themselves, I'm sure. But it would
3 then put upon the Court, the protection of the client.
4 In my opinion, the ethical question need not be considered.
5 There is a ethical and, in some states, in my state
6 of California, a statutory requirement that a client
7 be protected once representation is commenced. And
8 it's a serious thing, and the client can not be set
9 free.

10 However, we find, in California, in my experience
11 as an attorney, that the court understands this, and
12 will do everything possible to alleviate the position
13 that the petitioning attorney is in, who has a good
14 valid reason for wanting to withdraw, and finding
15 some other attorney to substitute in.

16 Now, that should take care, in a practical manner,
17 of most all of it, but in the event that that is not,
18 for some reason not feasible or possible, and the
19 court will not release, or allow the withdrawal of
20 the petitioning attorney, in that case we have provided
21 that holdover funds, or funds not the subject of the
22 continuing resolution may be used to continue that
23 representation until final disposition. And in the
24 staff's opinion, and in the individual board member's
25 opinion, that seems to be a very practical and

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1 effective solution to this problem that has been created
2 by the continuing resolution. And we would, at this
3 time, appreciate suggestions from the public on the
4 points that have been raised. We have a time limitation
5 of one hour, it's now 10:30, to 11:00, which should
6 be adequate and I would appreciate a show of hands
7 of those who would give some input. I see four hands,
8 which, if I had my calculator, I would say that would
9 not be more than fifteen minutes apiece. And would
10 you care to identify yourself, sir.

11 MR. GOINES: My name is Dwight Goines. I'm here
12 representing the National Organization of Legal Services
13 Workers, District 65, UAW.

14 We represent thousands of workers across this
15 country who work in Legal Services programs, and obviously,
16 the proposed regulations that you're considering here
17 today impact very significantly, on both the people
18 who work in the program, and obviously on the clients.
19 I'd like to say a couple of things about these proposed
20 regulations, that, quite frankly, disturb us.

21 First of all, it's interesting, that a number
22 of corrections were made--well, not corrections, but
23 revisions were made after the comment period. However,
24 the ethical considerations, which we think are the
25 most serious, we frankly don't think have been dealt

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1 with at all, and certainly, not adequately. First
2 of all, the notion of withdrawal or referral, the
3 very process of engaging in that kind of a situation,
4 it seems to me, raises very serious ethical questions.
5 When an attorney, or whoever is representing an alien,
6 has to go before a forum, or has to make arrangements
7 to refer a case, the implications of that process
8 is that the person being represented is in fact here
9 perhaps in violation of some immigration law or restric-
10 tion.

11 That process in and of itself compromises and
12 prejudices the clients that we're concerned about.
13 That has not been addressed at all, and I note that
14 a number of comments that were submitted to you quite
15 clearly address that question.

16 The idea of an attorney, or a paralegal, anyone
17 who works in the program, representing a person on
18 an uncompensated basis, it seems to us also raises
19 very serious ethical questions.

20 Because that person, given the reality of the
21 heavy caseloads, the lack of adequate resources in
22 the program that have resulted from the cutback that
23 we're all quite aware about, aware of--all of these
24 things place the workers in the program in very serious
25 difficult situations in terms of managing their current

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1 caseloads, and managing their resources. When you
2 ask these people to then continue representing people
3 without compensation, it seems to us you put that
4 person in a situation which, frankly, is untenable.

5 Let me also state, that the process by which
6 these regulations were developed is contrary, historically,
7 to what has happened in the LSC corporation. As far
8 as I know, you've gotten very little, if no impact,
9 from the field in terms of developing the initial
10 proposals here. I think if you had done that initially,
11 you would have avoided some of the clear problems
12 that exist in this proposed regulation.

13 There also seems to be some confusion in the
14 last several days. What we're looking at here today
15 differs quite, in a number of ways, at least from
16 what was published in the original Board book.

17 And just quickly skimming through the material,
18 there seems to be some indication that, at one point,
19 information was going to be deleted, you had brackets,
20 and then apparently somebody whited out those brackets.
21 I'm not sure, you know, when that was done, but obviously,
22 that's an area, the area that was bracketed out, and
23 then subsequently whited out, deals precisely with
24 the ethical questions that I'm concerned about today.
25 So, clearly, you have not dealt with the problem.

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1 The president, Mr. McCarthy, in his comments,
2 frankly, has not responded to the serious ethical
3 considerations that have been raised. Thank you.

4 CHAIRMAN McCARTHY: Thank you very much for your
5 comments.

6 The next speaker. Good morning, Mr. Horsky.

7 MR. HORSKY: I'm Charles Horsky, here representing
8 the American Bar Association Committee on Legal Aid
9 and Indigent Defendants.

10 Perhaps I could ask a question that was suggested
11 by the last speaker. I'm concerned with the same ethical
12 problems that you've mentioned, but, if you will turn
13 to page twelve of what was passed out this morning,
14 there's a bracket at the beginning of subparagraph
15 (a) of 1626(c). I don't know where that bracket ends,
16 and I don't know whether it's supposed to be bracketed,
17 or not.

18 MR. BOGARD: If I may respond to that. The 1626.6 --

19 MR. HORSKY: It's the bottom of page 12.

20 MR. BOGARD: Yes, sir. -- the entire paragraph,
21 the entire section stays in.

22 MR. HORSKY: What does the bracket mean?

23 MR. BOGARD: The bracket means that at one time,
24 there was consideration of taking it out. As a matter
25 of fact, as of yesterday, there was a staff disagreement

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1 on what the final resolution would be as far as submission
2 to the Board, and at that time, we decided that it
3 would be best to proceed as we had originally published
4 the regulation in the Federal Register, and therefore,
5 this section would not be renewed, and another section
6 would not be inserted in it's place. So --

7 MR. HORSKY: No change.

8 MR. BOGARD: No change.

9 MR. HORSKY: Well, that distresses me, I must
10 say. It seems to me -- and I recognize that you're
11 wrestling with this problem, but it seems to me that
12 you have taken the wrong answer.

13 There is in this statute, in Section 1006(b),
14 a mandate from the Congress that you not interfere
15 with the responsibility of the attorneys to carry
16 out their responsibilities with all regard for the
17 canons of ethics. This is not repealed by the continuing
18 resolution, and it seems to me that Congress clearly
19 didn't intend that it should be repealed. That section
20 was used as a basis for the resolution of a similar
21 problem in 1974, and in 1977, when the Corporation
22 simply said withdraw, if it is within your professional
23 responsibility to make it possible to withdraw, otherwise,
24 carry on, and I suggest to you that you will find
25 no criticism from the Congress for the actions taken

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1 by the Board in those two instances. And I don't
2 think you can violate Section 10006(b) by these
3 regulations. Moreover, Section 1006(b) does no more,
4 really, than mandate what the Code of Professional
5 Responsibility does for all lawyers, and it seems
6 to me clearly, that what you're doing here is to viola-
7 ting, or asking the lawyers, putting them in a Catch-
8 22 position. They either violate the regulations,
9 or they violate their professional responsibility,
10 and are subject to punishment for that.

11 Take the situation which we have before us. We
12 have a situation where a lawyer takes a client, perfect-
13 ly legally; no question about the propriety of the
14 representation; and you tell him that he is to find
15 another lawyer for that client.

16 As the previous speaker indicated, that is a
17 decision which the lawyer is required to make under
18 the Code of Professional Responsibility. You do not
19 withdraw lightly from a case, once you have undertaken
20 it, and it is your responsibility, as the lawyer,
21 to determine whether you can do it without prejudice
22 to the client.

23 You mandate it. You tell him he's got to go somewhere
24 and find another lawyer. And as was suggested by the
25

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1 previous speaker, that may very well impinge on the
2 client's right to confidentiality of the information
3 which he has communicated to the lawyer, during the
4 course of a perfectly proper representation. That is
5 a situation which no lawyer should be put in to by
6 these regulations.

7 Moreover, the client, under the Code, must consent.
8 Suppose the client doesn't consent. What does the lawyer
9 do? Suppose the tribunal doesn't consent? Then you
10 say all right, if the tribunal doesn't consent, then
11 you do it on your own time. That clearly seems to me --
12 well, you've confined funds from other sources, well
13 and good. I don't object to that provision in the regula-
14 tions. If there are other funds to pay for it, that's
15 perfectly fine. But if there are no other funds, you
16 say he can do it on his own time--again, you are over-
17 looking a very specific canon and opinion of the American
18 Bar Association, which the lawyers are bound to abide
19 by, but it is not, quote, the "individual lawyer's
20 sole responsibility for that client." It is the recipient's
21 responsibility.

22 That recipient is treated as a ^{Law firm} "loffer", and
23 the entire firm is responsible for that client, and
24 you can't tell that individual lawyer, that he should
25 go off by himself, and work for himself, passing the

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1 question as to whether you are not violating his requirement
2 that he give the best possible service that he can,
3 and you say that he doesn't even get anything but minimal
4 support. The entire recipient is responsible, and you
5 can't discharge the supervising attorneys, the paralegals,
6 the whole staff, from helping that client's case, if
7 that is the situation.

8 Realistically, I don't think you can possibly
9 put a lawyer in the position that you're putting him
10 in by these regulations, and you don't have to. You
11 can look at 10006(b) and say, "We are not required,
12 indeed, we are not permitted, to tell a lawyer what
13 he is supposed to do when he has a client. That's not
14 our job."

15 The opinions of the ABA have made that pretty
16 clear, again, in connection with Legal Services work.
17 It is not the responsibility of the Corporation to
18 tell the lawyer what to do. Indeed, it is forbidden
19 for the association, for the Corporation, to tell the
20 lawyer what to do, and yet you're doing it in this
21 case. And I suggest to you, that the real answer is
22 to ask, as in the past, if the -- make an effort. If
23 he can withdraw without prejudice to the client, in
24 his own judgment it is not prejudicial to the client
25 for him to withdraw, he should make a good faith effort

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1 to do so. If he can't, he carries on with the work,
2 just as he did before. That was the solution in 1974.
3 That was the solution in 1977. It was not criticized
4 by Congress, and I don't think you would find any criticism
5 by Congress of that solution now.

6 Congress appreciates this problem, and certainly
7 did not expect to put lawyers in the position where
8 they either violated the canon or violated the regulation.
9 Thank you.

10 CHAIRMAN MCCARTHY: Thank you very much. Your
11 comments are well-taken, they're ones that were considered
12 by the staff, and by the individual Board members at
13 length, and the same concerns were discussed. The practi-
14 calities of the situation seem to weigh such that the
15 proposed draft was recommended by the staff, and that
16 there are few differences, Charles, in the fact that
17 here, we have a situation where the representation,
18 because of the continuing resolution, is now unauthorized--
19 I won't say illegal--and the fact that this situation
20 should be a very temporary situation, because those
21 representations of aliens, that will not be accepted,
22 from here on, and, I think that the practicalities
23 are such that it is one of those things that a lawyer
24 faces and must make a decision. And I believe that
25 the staff recommendations have taken that in to consideration,

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1 and with the Catch-22 situation, I think this should
2 be, not a satisfactory solution, but I think the
3 best available, under the continuing resolution,
4 which is a mandate to us. And I think there is a
5 difference there, from the prior years, that you
6 have referenced correctly, but I think there is a
7 difference in facts.

8 MR. HORSKY: Well, what you're saying is, that
9 a lawyer can be put in a Catch-22. Maybe there aren't
10 very many cases like this, but do you really believe
11 that Congress intended to put lawyers in this position
12 by this continuing resolution? I'm sure they did
13 not. I'm sure they did not. They have passed Section
14 1006 (b). They said don't interfere with the lawyer's
15 representation, and you can't make me believe, that
16 there's nothing in the legislative history, that
17 would suggest that Congress intended to put a lawyer
18 in the position where he had to violate your regulations,
19 or violate his professional responsibility. And you
20 don't have to make that lawyer make that decision.
21 There's a very simple way out.

22 You say there aren't very many cases. Probably
23 there aren't. Nobody's going to raise an eyebrow,
24 if these cases are continued to conclusion by lawyers
25 who already properly took on the client, and you're

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1 saying we can't do that. We can put the lawyer in
2 this position. It's just too bad. But you just can
3 not believe that Congress intended to do that. I'm
4 sure that's right.

5 CHAIRMAN McCARTHY: Thank you.

6 MR. VENEY: My name is Bernie Veney. I'm the Executive
7 Director of the National Client's Council. I'd like
8 to start by congratulating your Office of General
9 Counsel on its sensitivity and the speed with which
10 it has acted on this.

11 I think that it is a good sign to see that the
12 comments have been considered. I would like to mention
13 the fact that there were some things that Client
14 Council asked be considered but were not, and I would
15 now bring these to your attention.

16 One is the inclusion in the body of the regulation
17 certain of the language that is contained in the
18 background portion of the regulation. I refer specifi-
19 cally to the sentence, "The Corporation expects that
20 the recipients will not rely on factors such as a
21 person's appearance, race, or national origin, or
22 limited ability to speak English, to justify requiring
23 documentation of citizenship, as recipients are required
24 by law to provide legal services in a non-discriminatory
25 manner." We find quite often, that unfortunately,

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1 good background statements get lost over time. We
2 would hope that this language could in fact be included
3 in the regulation itself, so that it would be enshrined
4 for all time, and the Corporation's intent made known
5 on that particular point.

6 Secondly, we think that this is a matter that
7 would require some additional restatement of the existing
8 regulation on client grievance procedures. You do
9 have a client grievance procedure regulation. That
10 regulation does require certain actions on the part
11 of the staff, and, in some instances, on the part
12 of the local boards.

13 We think that reference should be made to that
14 client grievance procedure in this proposed regulation,
15 and that there should be an additional special require-
16 ment.

17 We think that any grievance of a client for a
18 program's failure to represent the client under the
19 proposed 1626, should be heard by someone who has
20 a particular expertise in immigration matters.

21 We think that it is not sufficient that just
22 anyone in the program in fact be allowed to hear such
23 grievances.

24 We congratulate the staff, and we hope the Board
25 gives serious consideration to the inclusion of the

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1 language dealing with emergency cases, because in
2 fact it is a real, it is a reality of the client commu-
3 nity, that very often we wait until the very last
4 instant before appearing at the local legal services
5 program, not unlike all of you who would go to a pharma-
6 cist before you go to a doctor, or put off until the
7 very last minute going to an attorney, hoping that
8 the situation would resolve itself, or you'd be able
9 to handle it in some other way.

10 Given the propensity to wait until the last moment,
11 we would encourage the inclusion of the emergency
12 provision.

13 Our primary concern, of course, is as the two
14 previous speakers have indicated, the ethical considera-
15 tions.

16 We have no question as to the fact that you must
17 enforce the continuing resolution as it relates to
18 new cases.

19 We do, however, think, that you do not have to
20 go as far as you have gone, in relationship to cases
21 that are currently pending.

22 Mr. Horsky has, I think, correctly identified
23 Section 1006(b), which gives you the authority. I
24 would like to read it, to make sure that it is included
25 in its entirety in your minutes. It's very brief.

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1 It says, "The Corporation shall not, under any provision
2 of this Title, interfere with any attorney in carrying
3 out his professional responsibilities to his clients,
4 as established in the canons of ethics and the Code
5 of Professional Responsibility of the American Bar
6 Association", referred to collectively in this Title
7 as "professional responsibilities", or, "abrogate
8 as to attorneys in programs assisted under this Title,
9 the authority of a state or other jurisdiction to
10 enforce the standards of professional responsibility
11 generally applicable to the attorneys in such jurisdic-
12 tions."

13 The one point my dear friend, Charles Horsky,
14 did not bring to your attention, that I would like
15 to bring to your attention, is that you may, through
16 this regulation, subject attorneys in the programs
17 to actions by their state or other bar associations.
18 So it is not simply what you are doing directly as
19 the Corporation, but what may happen as a result of
20 this regulation, in relationship to state and local
21 bar associations.

22 Two other points and then I will finish. One
23 is typical of the problems that you will find as Board
24 members in dealing with the Legal Services Corporation,
25 its grantees, its regulations, and the Act. And that

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1 is, everything is so interrelated. I find it interest-
2 ing, that you are willing to have an individual attorney
3 continue representation using carryover fund balances.
4 Later, in this same meeting, you will consider a resolu-
5 tion on fund balances, because you have limited, sharply,
6 the amount of money that a program may carry over,
7 not because of anything the Congress has mandated,
8 but because there is a new policy direction to be
9 exhibited by this Corporation.

10 I would hope, when you consider that fund balance
11 resolution, you keep that in mind. The last point
12 is clearly something that I do not understand, and
13 I would hope that this Board acts on it very quickly.
14 It is within your purview.

15 And that is allowing, or indicating in the regulation,
16 that the Congress has any right to directly go to
17 a local program, and demand that that program provide
18 any information.

19 If we are talking about statistical information,
20 that's one thing, but I suspect that that is not what
21 is intended by this regulation.

22 There is nothing in the continuing resolution
23 that requires it. There is nothing in any act of
24 the Congress that would even hint at direct Congressional
25 access to local programs. The Congress has always

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1 come to this Corporation for any information that
2 it chose to get, and I would hope that in fact you
3 would continue that process.

4 The last comment is, I don't know what the status
5 of this proposed regulation is. I would hope that
6 your intention is to republish. I will never appear
7 before you in an area where I have less substantive
8 information. The immigration field is too complex.
9 It is much, much too arcane. But I would hope that
10 you would give those in the field who have an opportunity
11 to -- I'm sorry -- who have the best expertise, the
12 opportunity to in fact go over this regulation again.

13 I would remind you that every program has been
14 guided by this, since January 1st, 1983. Every program
15 has taken some steps to make sure that they are not
16 out of compliance with Public Law 97.377. Therefore,
17 I do not know that there is a need to rush the judgment
18 on the part of this Corporation, to codify universally,
19 you know, across the country, what is already in place,
20 I am sure, on the local and individual levels. Thank
21 you.

22 CHAIRMAN McCARTHY: Thank you very much.

23 MRS. VARGAS: My name is Ellen Vargas. I'm here
24 today speaking on behalf of the Coalition For Legal
25 Services. I would like to associate myself with the

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1 statements of the previous speakers, and to suggest
2 in the strongest possible terms, that the regulations,
3 as they exist, on ethical responsibilities, will put
4 the Corporation in direct violation of Section 1006 (b)
5 of the Act.

6 Mr. Horsky outlined in eloquent detail the problems
7 and I don't think it's necessary to repeat them, except
8 to say, the Congress has made it eminently clear,
9 in the Legal Services Corporation Act, that above
10 all, the ethical requirements, the code of professional
11 responsibility, at both the state and Federal levels,
12 are to be respected. The situation is not without
13 precedent.

14 Contrary to what Mr. McCarthy suggested, the
15 continuing resolution is not different from the changes
16 in the law in 1974 and 1977.

17 Especially because the changes in the law in
18 '74 and '77, were changes in the organic statute,
19 prohibiting theretofore permitted representation.
20 One would think that those changes were of a more
21 longstanding and significant nature to the quality
22 of representation or the representation which might
23 be permitted, at both of those times, and I think
24 that this bears repeating. The Corporation took a
25 tack which conformed with the requirements of the

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1 Act. The Act's new prohibitions, and, above all, the
2 Act's requirement that the code of professional responsi-
3 bility not be abrogated, and at that time, the Corporation
4 said, "If consistent with ethical responsibilities,"
5 representation should be terminated, it should either
6 be--you should look for another attorney, you should
7 seek to withdraw. But if it was not consistent with
8 ethical representation, and the Corporation, at that
9 time understood, as apparently it may not now, that
10 that decision is with the local program, and the local
11 attorney, who hold the attorney-client relationship,
12 this Board of Directors, this Corporation does not
13 hold the attorney-client relationship, and that's
14 quite clear.

15 It is the local program and the local attorney
16 who is to make that decision. Anything else will put
17 that local attorney in violation of their ethical
18 responsibilities, will subject them to liability for
19 disciplinary proceedings, and may well subject them
20 to liability for malpractice proceedings by their
21 clients.

22 I suggest that this is an extremely serious step.
23 I don't know. I'm a little concerned with this whiteout
24 and the debates going back and forth. I'm also quite
25 concerned that these regulations were published,

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1 that comments were not due until last Wednesday, that
2 this Board is meeting today, that the new regulations--
3 and there are significant changes in other parts,
4 by and large, which we are pleased with--were not
5 available to the public until about 15 minutes before
6 you started meeting.

7 I would repeat what Mr. Veney said, that there
8 is no need to proceed on this breakneck pace, which,
9 I think you have ample reason to believe there is
10 a very serious likelihood that you may be in violation
11 of the Act.

12 I think it is of utmost importance that these
13 regulations be republished. I can't believe that
14 in two business days, there was substantial or signifi-
15 cant opportunity to go over the comments, for this
16 Board to review them, for this Board to look at the
17 very difficult questions, especially the two members
18 sitting here on the Board who are not attorneys, and
19 who do not have prior experience with what are very technical
20 and complicated matters.

21 I believe that these regulations must be repub-
22 lished. I believe that this Board has an obligation
23 to look, in far more detail, at what it is asking
24 local programs, and local attorneys to do, because
25 what you're asking, make no mistake about it, is

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1 an extraordinarily serious problem. You're asking
2 attorneys to violate the law. I think you have ample
3 precedent to believe, or to act on, that you don't
4 have to do that, and the most recent precedent is
5 a specific statement in the House Judiciary Committee
6 report, just published, to the new Reauthorization
7 of Legal Services Act, which strongly suggests that
8 the House Judiciary Committee, the authorizing committee
9 for this legislation, does not approve of the ethical
10 provisions in the regulations, as published.

11 I would ask that you consider all of this, that
12 you recognize what you're asking attorneys to do,
13 and that you hold back, that you republish, that you
14 consider this in further detail. Thank you very much.

15 CHAIRMAN MCCARTHY: Thank you.

16 MR. BOGARD: If I may make just a couple of comments.
17 These comments came in over the thirty day period.
18 They were promptly sent out to the Board members at
19 the time that they were received, and so there was
20 an ongoing attempt, and an ongoing effort by the Board
21 members to evaluate the comments. We have had four
22 people on the General Counsel's staff, that have spent
23 a considerable amount of time reviewing all the comments,
24 and we were not limited to two business days. We've
25 had a weekend, and there's been an extreme amount

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1 of concern by the members of the General Counsel's
2 staff, and we have had significant, and prolonged debate
3 over these regulations, and the comments that have
4 come in, and quite an extensive dialog on them.

5 We have made significant changes, I think, based
6 upon the comments that were received. There were a
7 lot of excellent comments. We adopted a great number
8 of those.

9 But just because we didn't change one section
10 doesn't mean that it was not something that wasn't
11 addressed. It was addressed significantly, and, in
12 fact, I'm sure that that one section received more
13 attention from the staff, from myself, and from the
14 Board members, than all the others combined.

15 There was an extreme amount of time that we spent
16 on that. So we appreciate all the comments that have
17 been made, but I want you to know, that this is not
18 something that just came in, and we decided we'd fly
19 with it. We made an extensive effort to review and
20 evaluate it.

21 I don't know if Alan has any comments he'd like
22 to make, in response to any of the comments that were
23 made from the public.

24 MR. SWENDIMAN: You already stated what I was
25 going to say.

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1 MR. BOGARD: O.K.

2 MR. DONATELLI: Can I just make two very brief
3 comments. The first would be--and I think this once
4 again, shows the unwise--the unwisdom, if you will,
5 of attempting to legislate basic law through the appro-
6 priations process, and every Federal agency has this
7 problem.

8 These kinds of things really should be dealt
9 with by the authorizing committees. Unfortunately,
10 this was a rider, and the difference, of course, is
11 that when the basic statute, or the basic authorizing
12 legislation is considered, that's the committee that
13 really should be able to write substantive rules and
14 regulations that we interpret, under which the Corporation
15 acts, and under which we're supposed to fund various
16 programs.

17 This was an appropriations rider. As such, it
18 only has jurisdiction over those monies, for fiscal
19 1983, that they're responsible for appropriating. They
20 say no funds shall be made available. I take no funds
21 to mean no funds. That's the difference between the
22 change to the authorizing statute, as I would interpret
23 it, and a change in appropriation rider, as we're faced
24 with here.

25 The other comment would be regarding the

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1 breakneck speed that we're moving to implement these
2 regulations. These refer to fiscal 1983 funds. Fiscal
3 1983 ends on September the 30th. The earliest that
4 this particular provision could take effect is, I believe,
5 thirty days after adoption, which is the middle of
6 July.

7 So we're talking, in our breakneck speed, about
8 approving legislation, or a rule, that at most is going
9 to last for two and a half months. One and a half months.
10 So it seems to me, that if we wait any longer, the
11 fiscal year is going to be over.

12 MR. BOGARD: The fiscal year will be over, but
13 the funds will be for the grant period through December.

14 MR. DONATELLI: For the grant period.

15 MR. BOGARD: Yes, sir?

16 MR. VENEY: The question then becomes why --
17 if each grantee is required, under the regulations,
18 to follow the continuing resolution, there is no reason
19 for the Corporation to in fact enact a resolution which
20 will have effect for two and a half months.

21 MR. DONATELLI: Well, as the president quite
22 rightly points out, two and half months, or the entire
23 period the fiscal 1983 funds are involved, and that
24 will be spent, some, in to 1984. Well, I think that
25 the answer from my perspective is, that we're under

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1 a duty to do something. I mean, the Congress has asked
2 that we enforce this prohibition, and, to say, well,
3 there's only two months left, there's nothing we should
4 do about it, I don't think is an honorable response
5 on our part.

6 CHAIRMAN McCARTHY: I think a response to your
7 very valid question, as to our concern with this, is
8 that we are appointed, and we have a strict fiduciary
9 duty to carry out the directions of the continuing
10 resolution, and I see that as a very, very serious
11 ethical question, too.

12 So I think we come back to one of the things
13 that you so, all of your speakers so very, very ably
14 discussed. And I might mention, I think each one of
15 your suggestions were extremely valid, extremely well
16 thought and, were well presented.

17 But all of those have been seriously considered
18 by the staff, presented to the Board, and we are fully,
19 fully aware, and have concerns, and it's the opinion
20 of the staff, that under the continuing resolution,
21 that we under our fiduciary duty to do something, have
22 done what is best for all.

23 Excuse me. You had another comment here?

24 MRS. VARGAS: Mr. McCarthy, I'm just a little
25 concerned. I mean, you're saying that the Board has

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1 discussed all of these issues, but we're raising grave,
2 grave concerns --

3 CHAIRMAN McCARTHY: Excuse me. I think that you're
4 addressing a procedural question. Again, I want to
5 assure you, that we have had from the staff, input
6 of all of the suggestions made by the public during
7 the period after publication. That is what I am addressing
8 it to. There have been no formal Board meetings, I
9 want to assure you. As a matter of fact, we couldn't
10 even get one yesterday. But we do appreciate very,
11 very much the work and effort, and your comment, but
12 I do think that the staff has taken each and every
13 one of those items, and factual situations, and legal
14 situations, in to its consideration in its recommendation.

15 Do you have any further comments? Are there any
16 further comments from the public, from the audience?

17 (No response)

18 Is there any discussion by the Board as to this
19 proposed --

20 (No response)

21 Then may we entertain a motion to adopt the regulations
22 as modified.

23 MR. MASSON: So moved.

24 MR. DONATELLI: Seconded.

25 CHAIRMAN McCARTHY: May I have a voice vote on

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1 this.

2 (Chorus of ayes.)

3 CHAIRMAN McCARTHY: So carried.

4 I think we can continue on with agenda item number
5 five, the next to be considered -- oh, I beg your pardon.

6 Excuse me. Referring again to the tentative agenda
7 which has been adopted, item eight, subcapital B, Limita-
8 tions on Transfer, and I think, Alan, if you would
9 be good enough to comment on that.

10 MR. SWENDIMAN: All right. Let me, if I may, just
11 take this slightly out of order, and, what I'm going
12 to do is, on the transfer of funds, have John Meyer,
13 who's the Deputy General Counsel, address this, since
14 he has been working on it.

15 As to the third item, I would just call to the
16 Board's attention that the provision as to "governed
17 bodies" is a draft to be submitted for your reference
18 and review. It reflects the discussions on the staff.
19 This matter is going to be carefully reviewed over
20 the next days and weeks or so. So I just wanted to
21 let you know of that, on that particular item.

22 On the other matter, let me turn it over to John
23 Meyer.

24 MR. MEYER: Thank you, Al. Can everybody hear
25 me? All right. This is a draft proposed regulation.

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1 If it is passed here, it will then be published in
2 the Federal Register for comment. A normal comment
3 procedure, and another meeting will be required to
4 adopt it.

5 This regulation comes out of what some people
6 probably know as the Hartley memorandum, which had
7 covered several issues, and one of those was fees and
8 dues, and we made the determination that this needed
9 to go through the regulatory process, and that this
10 is the beginning of the formal regulatory process.

11 In considering this issue, we discovered that
12 it's really part of a broader issue, which is the question,
13 to what degree recipients should transfer funds back
14 and forth between themselves and two other agencies,
15 without a further check by the Corporation on where
16 the funds go.

17 Now, the question is -- this is a basic overview
18 before I go through the section -- is the funds are
19 granted to recipients for certain purposes. The
20 Corporation still has a responsibility for their expen-
21 diture, and we need some mechanisms of accountability.
22 And this regulation, this proposed regulation, is intended
23 to provide these mechanisms. That's essentially what
24 the purpose section says. Then the definition section,
25 which is 1627.2, deals with certain terms which are

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1 used a little bit differently than they are in other
2 sections. Recipient is defined more broadly than it
3 is technically. It really includes anyone who gets
4 funds from the Corporation, because transfers of funds
5 can just as easily be made by organizations that are
6 not directly delivering legal services but doing something
7 else. That there's no reason for the distinction that
8 exists in the Act. So for the purpose of this section,
9 recipient is defined essentially as any organization
10 that receives funds from the Corporation.

11 Then we have a definition of subgrant and subgrantee,
12 and we're including subgrants and subcontracts under
13 the same category, since, again, there's really no
14 reason for differentiation, and the intent is to include,
15 in subgrant, any situation where funds are transferred
16 to another, to do part of the program.

17 We obviously don't mean to include, and if said,
18 we don't mean to include a case where, well, like contracts
19 for a specific service. That would be ridiculous. There's
20 no reason for the Corporation to review when you contract
21 for papers and pencils, or whatever you may contract
22 for.

23 And then membership fees and dues is the third
24 thing that is defined in the definition section, and
25 the definition there I will read. "Membership fees

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1 and dues, as used in this part, shall not include one-
2 time fees or expenses for programs, or individuals
3 participating in routine training or education activities."
4 We don't want all the paper on that to go through the
5 Corporation.

6 The term shall apply to fees or dues paid to
7 an organization on behalf of a program or individual
8 to be a member of an organization, or, acquire voting
9 or participatory rights in an organization.

10 Now that -- we will go out for comment, and I
11 suspect this may need some perfection. I think the
12 purpose is clear but the terminology is going to go
13 through the comment process, which I think will be
14 very useful on that, probably on subgrants also.

15 MR. BOGARD: John, may I interrupt for a second.

16 MR. MEYER: Yes.

17 MR. BOGARD: Under subgrant, (b)(1), that is
18 not intended to include any contract for pro bono service,
19 or compensated service from a private attorney, is
20 it?

21 MR. MEYER: No, we don't intend that, and in fact,
22 just recently there was--you know--after this was put
23 in the book and everything, there was discussion of
24 that, and I think some language may even have been
25 worked out, which I don't have with me at the moment.

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1 MR. BOGARD: I would suggest that prior to publica-
2 tion, you address that issue, and come up with some
3 sort of a simple statement, to say that that is not
4 to include a contract for services with a private firm
5 or private attorney.

6 MR. MEYER: Right. To continue, on 1627.3. This
7 section deals with the requirements for subgrants.
8 The essential idea is that subgrants may be submitted
9 in writing for prior written approval by the Corporation.
10 That way, the Corporation knows and approves where
11 funds, which are granted to one organization, are trans-
12 ferred to another, in order to carry out the purpose
13 of the grant, and the Corporation has 45 days to approve
14 the go-ahead, disapprove, or suggest modifications.
15 And if something is disapproved, or whatever, then
16 it's resubmitted for approval. If the Corporation should
17 fail to respond, the recipient can notify the Corporation,
18 and then proceed within seven days, having implicit
19 approval.

20 Subgrants are allowed to be for a period of no
21 longer than a year, and there's provision that each
22 subgrant should contain a provision to terminate itself,
23 like a contractual termination provision, if the grant
24 should be terminated for some reason before the subgrant
25 is over. Then there's a definition of a substantial

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1 change in the subgrant if there's a substantial change
2 in the work program, or an increase or decrease of
3 more than ten percent should come back to the Corporation
4 for approval. Minor changes can go on between the two
5 contracting parties.

6 Then Section C states, "The responsibility for
7 sharing proper expenditure of funds remains with the
8 recipient." If you receive funds, you're responsible
9 for their being approved. If they're not spent properly,
10 the audit questions come to the recipient. The recipient
11 should be prepared to deal with any problems with the
12 subgrantee.

13 Then 1627.4 deals with membership fees and dues,
14 which was the original subject that sparked all this,
15 and it states that "No Corporation funds shall be used
16 for such fees and dues without prior written approval,
17 except--and there are four instances listed, and one
18 is a de minimis exception, anything under \$25.00; one
19 is fees and dues paid through an organization or to
20 qualify for professional liability insurance; one is
21 mandatory fees and dues to a bar association; and then
22 another is fees paid to a health insurance provider.

23 We don't want to run those things through specific
24 approval, but, in general, for other things, we want
25 the approval, and the basic rationale behind this is

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1 that grant money is given out for the provision of
2 legal services, and it is possible for a lot of it
3 to end up in other purposes, which may be worthy, but
4 are not the purpose for which the funds are originally
5 granted, and therefore we have this approval procedure.

6 MR. BOGARD: If I may interrupt again, John. (a) (2),
7 mandatory fees or dues to a bar association. In Indiana,
8 we have a requirement to pay \$25 to the Supreme Court
9 disciplinary fund. That's mandatory in order to practice
10 and you have to do that each year. I assume other states
11 have that sort of requirement, and I would think that
12 we ought to include that as an allowable expense.

13 MR. MEYER: Yes. Actually I even have a little
14 note written on my copy. I was just trying to go with
15 the original, since that's what everybody else has,
16 and --

17 MR. BOGARD: Well, if we're going to make an amend-
18 ment to that, we wouldn't want to invite 2700 comments
19 on that provision. We might as well take care of it
20 now.

21 MR. MEYER: O.K. The Section B states that, "There
22 shall normally be a ceiling for fees and dues, other
23 than those in categories 1 and 3 and Section A, which
24 are the professional liability insurance and health
25 insurance." "No more than either one-half of one percent

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1 of the recipient's annualized funding, or \$750.00,
2 whichever is greater." That is simply further along
3 the lines of indicating that these expenses should be
4 limited. Most of the money given out should go for
5 provision of legal services.

6 Then the Section C sets out some preferences
7 of guiding approval. You know, there are several types
8 of requests, and which ones we would first be inclined
9 to approve.

10 And then Section D says that, "No request for
11 payment of fees or dues shall be approved if the effect
12 of that payment would be essentially to allow the use
13 of Corporation funds indirectly, in areas where they
14 couldn't be spent directly." So to say, fees and dues
15 to an organization which may not give you voter registra-
16 tion would simply not be allowed, just for example.

17 1627.5, under contributions, simply says that
18 if you make a contribution to an organization, instead
19 of fees or dues, it should be treated the same way.

20 1627.6, transfers to other recipients, deals
21 specifically with a case where one recipient transfers
22 funds to another. (a) simply says that the requirements
23 of 1627.3 on subgrants shall apply to all subgrants,
24 by one recipient to another. (b) deals with the auditing
25 procedure, and states that the subgrantee shall, the

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1 receiving one shall audit any funds subgranted to it
2 in its annual audit, and supply a copy of that to the
3 subgrantor. Then the subgrantor either includes the
4 relevant part of this audit in its next audit, or,
5 if it applies to a recently submitted audit, submit
6 it as an addendum.

7 (c) allows essentially joint and several liability
8 in a subgrant from one recipient to another, if some of
9 the funds are spent for a purpose that is disallowed.

10 The reason for this is that there are situations
11 where a recipient subgrants to another one, and essentially
12 really doesn't have much continuing connection with
13 the funds, and if it seems unfair to hold them responsible,
14 we'll hold the receiving organization responsible instead,
15 set up its joint and several liability, the Corporation
16 can collect from either or both, or can split the collection,
17 but of course cannot collect back more than the original
18 disallowable expenditure.

19 And Section (d) says that if a recipient receives
20 fees and dues from another recipient, that shall all
21 be accounted for in the annual audit of the recipient.

22 1627.7, training and educational activities, allows
23 these activities, without going through the fees and
24 dues process, routine training activities, and, Section
25 (b) is the same thing as the section discussed before

1 under fees and dues, that the recipient should not
2 expend Corporation funds for training or educational
3 activities, essentially to accomplish indirectly what
4 cannot be done directly. For example, training of people
5 in voter registration, since that's a prohibited purpose,
6 would not be allowed.

7 And at this point, I will be ready to answer
8 questions.

9 CHAIRMAN McCARTHY: Does the Board have any questions?

10 (No response)

11 CHAIRMAN McCARTHY: Does the public have any questions
12 or comments? We would solicit those at this time.

13 Mr. Cook.

14 MR. COOK: Mr. McCarthy, I'm Willie Cook, the
15 Executive Director in D.C., Washington, D.C. I'd like
16 to say that on this particular regulation, there is
17 one and only one useful purpose served by the proposal,
18 and that is that it at least seems that the General
19 Counsel's Office, or somebody in the Corporation, recognizes
20 that the lawlessness of the Hartley April 15th memo--
21 there is a formal recognition of the lawlessness of
22 the Hartley April 15th memo. That memo deals, as you
23 know, not only with membership fees and dues, but a
24 whole host of areas in which Mr. Hartley has arrogated
25 on to himself, the authority to violate all types of

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1 recognized procedures dealing with guidelines, regulations,
2 instructions, et cetera.

3 So I simply say that the only positive thing
4 that I see here is, that somebody on your staff recognizes
5 that the lawlessness does exist.

6 But more to the point, in terms of this particular
7 regulation, and really, this regulation just points
8 out a number of problems that I, as a project director,
9 that a number of people in the field have with Mr.
10 Bogard and his staff.

11 Let us all understand. Mr. Meyer is giving a
12 very low-key reasoned explanation of the sections.
13 We are not fooled about what is going on here. It is
14 a bald attempt by your president, your director of
15 Office of Field Services, your General Counsel's Office,
16 to intrude itself politically in the operations of
17 local legal services programs, and to impose on us
18 your views or your staff's views, which are opposed
19 to ours when it comes to representing clients, freedom
20 of association, a lot of issues. So we are not fooled
21 by the regulation process, by this regulation, and
22 others, that undoubtedly will be proposed today, and
23 throughout your tenure. You know, I view it as a bald
24 attempt on your part, Mr. Bogard, and your staff, to
25 politically interfere in the operation of our program.

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1 Now if Congress meant for you, Mr. McCarthy, and you,
2 Mr. Bogard, to run the legal services program in the
3 District of Columbia, and throughout the country, they
4 would have said so. I don't need John Meyer, or Donald
5 Bogard. I don't need Greg Hartley to run the program
6 in the District of Columbia.

7 We are sick and tired of what I view as bald
8 political interference in this national program.

9 CHAIRMAN McCARTHY: Excuse me, sir. Was that a
10 personal reference?

11 MR. COOK: I am talking about if you, Mr. McCarthy--
12 I'm addressing my question to you as Chairman of the
13 Board, to the other members of the Board who have policy
14 direction for this Board, and I am also addressing
15 my question, or my remarks, to Mr. Bogard and his staff.
16 I'm simply saying that you, as the steward -- responsibility
17 for the stewardship of this national program, have
18 some responsibility for some of the things that are
19 coming out of that Legal Services Corporation staff.
20 So yes, to the extent that you agree and condone some
21 of the actions of this staff, yes, I am speaking to
22 you as the Chairman of the Board, and to all of the
23 other members of the Board, because I think you have
24 responsibility, and I think you need to understand
25 the kinds of problems that we are having with that,

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1 some of the stuff that's coming out. I mean, just as
 2 an example of some of the garbage and nonsense that
 3 we are being hit with every day. We get requests from
 4 various members of the staff. One never knows who is
 5 in charge down there, or who is responsible for forcing
 6 us to respond almost weekly from different sources.
 7 You know, there are comments for instance about complaints
 8 that have come from people in the District of Columbia.
 9 There is no attention at all to the substance of those
 10 complaints.

11 You know, are we to assume that every complaint
 12 that comes in to the Corporation about neighborhood
 13 legal services in the District of Columbia, is to be
 14 construed as something that, I have to respond to as
 15 a project director?

16 I mean, you know, you need to understand, people
 17 on your staff need to understand, there are people
 18 out there, particularly our adversaries, who do not
 19 like neighborhood legal services in the District of
 20 Columbia, don't like the aggressiveness of our attorneys.

21 One such person suggested to Mr. Bogard, as far
 22 as my program, that Mr. Bogard should force me to force
 23 one of my attorneys to settle a case. Now I have not
 24 yet heard from Mr. Bogard in terms of that direction,
 25 but I can tell you if it comes, I will tell Mr. Bogard

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1 to go to hell, because he has no business telling me
2 what to tell my staff attorney. Now, if we are to get
3 out of a case, or settle a case, that is between the
4 attorney in that program and that client. LSC has no
5 damn business in that kind of work, and the problem
6 that I have is, there is a perception out there, Mr.
7 Bogard, whether you like it or not, of enemies of ours,
8 that they feel that they can get away with that kind
9 of stuff. They think that you will entertain those
10 kind of notions.

11 I'm going to stop here, because I tell you, I've
12 sat at every Board meeting, and there is a constant
13 flow of nonsense between Board meetings, that continues
14 to upset me, that continues to frustrate our efforts
15 in the field, and to make us only conclude that the
16 only purpose of this Corporation, and the present people
17 who are running it on a day to day basis, is simply
18 to try to intimidate, to simply try to get people to
19 knuckle under, with people who have particular political
20 views that are antithetical to what I consider to be
21 the effective delivery of services on behalf of poor
22 people in this country. And I just want to close with
23 a note, that you may, you can continue to come out
24 with your regulations, you can continue to come out
25 with April 15th memos that Hartley comes out with,

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1 which is all the more reason why you should have had
2 a lawyer to head that division in the first place.

3 But just remember, Mr. Bogard, and I told you
4 in my letter that I sent to the Board. You know, I
5 understand where you're coming from, but I also want
6 to let you know publicly, that I, for one, (1), am
7 not fooled, (2), am not intimidated. And you know,
8 I know that you move, and have moved on a number of
9 people since you've been here, but I just want to let
10 you know, that your intimidating kind of actions are
11 not going to intimidate me. So I just want you, and
12 the members of this Board, and everybody sitting in
13 this row, to understand, that there are those of us
14 out here who are not going to knuckle under and who
15 are not afraid of you.

16 MR. MASSON: Mr. Chairman. Willie, I can appreciate
17 your frustrations and your concern, but I feel as a
18 Board member, you know, a temporary Board member, and
19 I must make two comments.

20 No. 1, speaking personally as a Board member,
21 I have no intention of trying to intimidate you, or
22 anyone else, or to permit any of the staff to do so.
23 I think there's a lot of room for differences of opinion
24 and concern and I hope they're aired in a manner in
25 which we can take them in to consideration, but this

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1 is not necessarily addressed to you, but just for the
2 public record. I don't think that these kinds of public
3 meetings, or this Board, are places for character assassi-
4 nations or personalities, and I only say that for this
5 reason.

6 I think I am a reasonable person, and I will
7 listen to reason, and I think some of you made some
8 very compelling arguments today, but I'm not going
9 to sit on this board, or any other board, and let it
10 degenerate in to a personality contest.

11 I don't think that's what we're here for, Mr.
12 Chairman, and I don't care to participate. Thank you.

13 CHAIRMAN McCARTHY: Thank you. At this time we
14 will temporarily adjourn the meeting. It's now 11:30.
15 We will -- oh, I beg your pardon. Did you want to speak,
16 sir?

17 MR. JOHNSON: Yes.

18 CHAIRMAN McCARTHY: Could you do it in --

19 MR. JOHNSON: I have just one question.

20 CHAIRMAN McCARTHY: All right, sir.

21 MR. JOHNSON: I'm Dale Johnson. I wanted to know
22 from John, whether it's intended for the subgrant clause
23 to apply to my situation. I am the Director of Community
24 Action for Legal Servies. My corporation is a grantee.

25 I have my delegate corporations which have been in

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1 existence since the beginning of this organization.
2 We all have one audit which is submitted to LSC. We
3 follow the rules and regulations. They all have boards
4 of directors, and from a reading of this, it would
5 appear that it very well may apply to my situation.
6 So I would like to know, in answer to my first question,
7 whether it does apply to my situation.

8 MR. MEYER: O.K. Let's see. As far as the auditing
9 is concerned, if you submit a consolidated audit that
10 would clearly cover the question. As far as the approval
11 of the delegate structure, that's something we can
12 consider. As written it would apply.

13 MR. JOHNSON: This is precisely my concern. The
14 fact that a great deal of discretion is left under
15 this type of guideline or instruction. My problem is,
16 is that these organizations have been in existence
17 for a long time. There's a 45 day approval period here
18 that's going to cause a great deal of disruption in
19 the planning of my program, and the way New York City
20 operates, it's going to have a great deal of discretion
21 within the regional office, and the Legal Services
22 offices here, probably discretion that they will not
23 have over other grantees throughout the nation. My
24 other corporations are probably as large, if not larger,
25 than most of the other organizations in existence right

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1 now, and to put them through a procedure where the
2 terms of a contract between my organization and them
3 have to be modified, or have to be approved by the
4 regional office, or the Corporation, is going to create,
5 from past experience, many problems for me.

6 We're going to get in to a situation where I
7 basically want them to comply with the act and regulations
8 in terms of delivering services to clients. Plain
9 and simply, in New York City it will lead to a substitu-
10 tion of the judgment of the Corporation, particularly
11 at the regional level, substitution of their judgment
12 for our judgment, in a system that has worked for a
13 long period of time.

14 If they do not approve those contracts or suggest
15 some modifications to those contracts, then I think
16 we're very close to a denial of refunding situation,
17 which is totally separate and apart from this particular
18 section of the Act and regulations, and this certainly
19 does not afford the protection to those organizations,
20 that are afforded in other parts of the Act and regulations.

21 I think it's a hybrid situation, one that has
22 to be considered, that's basically what I have to say
23 at this point.

24 CHAIRMAN McCARTHY: Thank you very much, that's
25 an excellent point, and I'm sure that John will take

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1 a very close look at that before publication. Yes,
2 sir?

3 MR. GREEN: I'm Bob Green with the Coalition of
4 Legal Services. Mr. McCarthy, we do have a few comments,
5 if you'd like to take them now, on fees and dues, or
6 carry them over till after lunch, whichever is your
7 preference.

8 CHAIRMAN McCARTHY: I think at this time, I would
9 appreciate, if you wouldn't mind, if we carried them
10 over. I think we'll now have the closed session. We'll
11 resume the open session at 1:30. Thank you. We'll look
12 forward to hearing from you then.

13 (Whereupon, at 11:34 a.m., the meeting recessed
14 for Executive Session, the open session to reconvene
15 at 1:30 p.m., the same day.)
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A F T E R N O O N S E S S I O N

T2/S1
1
2 CHAIRMAN McCARTHY: The resumed meeting of the
3 Legal Services Corporation Board is now in session.
4 It's now 1:20, and we'll proceed to -- there was one
5 gentleman who I cut off, but we would enjoy hearing
6 from you now.

7 MR. RHUDY: Mr. Bogard, Legal Services Corporation
8 Board. I'm Robert Rhudy, Director of the Coalition
9 For Legal Services.

10 The Coalition For Legal Services was created
11 in 1981. It's members include ten national legal services
12 organizations, and in a sense, I think we represent --

13 CHAIRMAN McCARTHY: Excuse me, sir. I can't hear
14 you very well. Is that mike on? Yes, it is on. If you
15 could speak a little louder.

16 MR. RHUDY: I'll speak up a little bit louder.

17 The Coalition represents ten national legal services
18 organizations, and in a sense, the constituency that
19 they represent constitutes thousands of legal services'
20 attorneys, workers, clients, and alumni of legal services
21 programs across the United States.

22 It was created in 1981 to do research, surveys,
23 provide information, and serve as a clearinghouse for
24 information regarding the law and policies that affect
25 the legal services programs for low income people

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1 throughout the country.

2 As you may know, I sent copies to Mr. Bogard
3 about two weeks ago, and to the members of the Board
4 this past week.

5 The Coalition responded to the original draft
6 guidelines adopted by, or promulgated somewhat by the
7 Office of Field Services back on April 15th of this
8 year, that contain provisions regarding Board composition,
9 interpretive provisions regarding Board composition
10 of legal service program boards.

11 In those materials, which I would ask be a part
12 of the record of the meeting today, we raised a number
13 of objections to the substance of what was attempted
14 to be promulgated by Mr. Hartley as guidelines.

15 We objected, as you may know, to the form of
16 promulgation, and I do note today, that you have, are
17 proposing and are publishing, have published a regulation
18 that identifies the publication requirements for guidelines,
19 instructions by the Legal Services Corporation. I'd
20 like to go through our objections to the Board composition
21 guidelines, which are discussed, I understand, as a
22 draft today, were presented in your materials as a
23 draft.

24 I'm assuming that you're not intending, is that
25

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1 correct, to publish them at this time?

2 MR. BOGARD: As final regulations?

3 MR. RHUDY: They're simply accepted as a draft
4 at this point?

5 MR. BOGARD: Draft form.

6 MR. RHUDY: So for discussion purposes of -- thank
7 you.

8 We feel like, that the Board composition guidelines,
9 that this whole issue is a very critical issue for
10 the Legal Services Corporation, for field programs
11 operating through funding of the Legal Services
12 Corporation, one that requires a great deal of scrutiny.
13 We're aware of the continuing regulation, continuing
14 resolution requirements for the composition of the
15 governing boards, and the regulations that were adopted
16 previously.

17 The guidelines though, we feel, go far beyond
18 the continuing resolution requirements, and the regula-
19 tions that have been adopted by the Legal Services
20 Corporation.

21 And I think, in summary, of our primary overriding
22 objections to them, there's--I think there's something
23 of a distortion, subtly, or inadvertently perhaps,
24 or not, to--of the relationship between the Legal
25 Services Corporation and the governing boards that

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1 are responsible for the programs, the 326 field programs
2 of Legal Services throughout the country.

3 I think the Act, and regulations, to this time,
4 have consistently identified that the responsibility
5 for compliance with the law, with the Legal Services
6 Corporation Act, is on the local board for that local
7 area under certainly, contracts for services, grant
8 awards from the Legal Services Corporation. Just as
9 an overview to our objections overall, I think that
10 the draft guidelines that you have before you, seem
11 to indicate that the responsibility for assuring that
12 Board composition is adopted in compliance with the
13 Corporation Act, and with your regulations, rests with
14 the National Legal Services Corporation alone.

15 Each of the organizations throughout the country,
16 in the 326 field programs, is a private, nonprofit
17 corporation, with a governing board, as you know, and
18 under the state law, certainly, that they were created,
19 that they operate under, under the Federal Nonprofit
20 Corporation Acts that they operate under, they too
21 have a fiduciary responsibility to assure that the
22 law is complied with, and the, our objections rest
23 largely on the fact that, if the guidelines were adopted,
24 somewhere down the road in their present form, it would
25 seem to violate the fiduciary responsibility that

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1 the boards have.

2 We've got objections to the draft guidelines
3 based upon their abdication, as well, or the denial,
4 as well, of the participation by women and minorities.
5 Section 1607 of the regulation on Board composition
6 requires that appointments to the Board be made, so
7 as to "ensure that the attorney Board members include
8 women and minorities, and reasonably reflect the popula-
9 tion of the area served."

10 I think the instruction, the guideline, as sent
11 around to programs back on March 15th, to the regional
12 offices, and then through the regional offices to
13 programs, significantly dilutes that requirement that
14 women and minorities have adequate participation and
15 membership on the Board.

16 We have a number of problems with the definition
17 of bar associations, that would deny the role of other
18 than what you're defining as the majority state and
19 local bar associations.

20 The regulation, we believe, as I had indicated
21 in the material which I asked to be accepted as a part
22 of the record, do clearly show that there -- in our
23 opinion, and in the legislative history as well, that
24 there are other associations that may properly, under
25 the Act, and under the previous regulation, the current

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1 regulation, participate in the appointment process.

2 The Office of Field Service memo also discourages state
3 bar appointments and encourages county bar association
4 appointments to programs with multi-county service
5 areas, which don't encompass the entire state.

6 It's our feeling again, that this statement of
7 priority is not required, and is not justified by the
8 continuing resolution, or by the regulation in effect.
9 The Office of Field Service memo, and the draft guidelines
10 that you have before you today, suggests that other
11 bar associations and organizations, quote, "composed
12 primarily of attorneys," unquote, may have the right
13 to appoint the remaining attorney slots, the nine percent
14 in addition to 51 percent Board composition attorney
15 requirement.

16 It would prevent clients, or client groups from
17 choosing those positions reserved for attorneys. The
18 Legal Services Corporation regulation provides that
19 any additional attorney members of the Board may be
20 appointed, or selected by other, selected from other
21 bar associations, or legal organizations with an interest
22 in delivery of legal services to the poor.

23 The continuing resolution did not address the
24 issue, and it's obvious that the regulation permits
25 selection of the other attorneys on the Board, including

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1 selection by clients or client groups. The Office of
2 Field Service memo, and the draft guidelines which
3 are before you today, would thus preclude client selection,
4 and it's directly inconsistent, in our opinion, with
5 the new regulation and with the Act.

6 The guidelines, in summary, would attempt to
7 impermissibly limit who can be appointed to the remaining
8 attorney slots, and who can help select the remaining
9 attorney members on the governing Board.

10 The draft guidelines prohibit local programs
11 from requiring that bar associations consult with speci-
12 fic client groups or other legal groups before making
13 appointments.

14 There's nothing in the regulation or the Act
15 that would justify that.

16 The draft guidelines also state categorically,
17 that the bar associations cannot have a nominating
18 role in the appointing of attorneys.

19 There's no basis for this restriction in either
20 the continuing resolution, or the Legal Services
21 Corporation regulation on board composition.

22 As long as bar associations ultimately appoint
23 the majority of Board members, establishing a process
24 which involves nomination of attorney members by some
25 bar associations, it's perfectly appropriate in our

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1 opinion. The guidelines also contain a standard for
2 waivers of the Board composition requirement. As you
3 know, I'm sure, governing boards' program across the
4 country were required to, by March 1, I believe, send
5 in plans for compliance with the Board composition
6 regulation, which states, in the regulation, stating
7 that waivers may be granted for coming in to full compli-
8 ance by September 15, as is required, if necessary.

9 The new guidelines state, the draft guidelines
10 state, that these waivers would only be granted for
11 some, quote, "unusual, extraordinary reason", and when
12 compliance, quote, "would be unduly burdensome or impossi-
13 ble to achieve."

14 And again, I think that creates a very, very
15 hard, heavy burdensome standard, and some more flexibility
16 needs to be built in to the way these plans for compliance
17 and final compliance will be granted.

18 There's no flexibility to, for instance, it would
19 appear, to look at the need to stagger the members
20 of Board composition, the members on the governing
21 Board in their terms. You're asking for an entire turnover
22 of the attorney members in some instances. That would
23 come about in many instances throughout the country,
24 and would not provide any continuity of experience.
25 For attorney members who have been on the Board for

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1 many years, who have worked up relationships with the
2 bar associations which they are members of, which they
3 work with on the various committees they work with.

4 In many instances that type of experience and continuity
5 could be wiped out, and that we believe is a significant
6 reason, in many instances, to grant waivers.

7 It would appear under the standards in the draft
8 guidelines, that that kind of flexibility would not
9 be permitted.

10 I've talked with a number of programs, a large
11 number of programs throughout the country, with members
12 of the governing boards, the programs that have called
13 to ask about the draft guidelines which through the
14 mailing of the memorandum containing these provisions,
15 back in March, are well-known through the field. We're
16 talking about them, these draft guidelines at this
17 point, and yet there's an appearance that this is the
18 criteria currently being used by the Corporation in
19 reviewing plans for compliance, in reviews done by
20 regional offices, and, in some instances by the Office
21 of Field Service.

22 It's creating chaos throughout the field. It
23 is our opinion, and I think the opinion of many people
24 in the field, that as stated, they clearly exceed what
25 is permitted by the continuing resolution, and

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1 certainly what was included under the regulation to
2 date. I think there's confusion. There's been mailings
3 done by the Corporation to bar associations throughout
4 the country, interpreting to some degree the continuing
5 resolution provision, and the regulation regarding
6 Board composition, because I think bar associations
7 will be under a great deal of confusion as well, and
8 probably already are so.

9 You may be aware, you may have seen, the letter
10 sent by Robert Graven, the Chairman of the Standing
11 Committee on Legal Aid and Indigent Defendants, to
12 bar leaders throughout the country, reminding them
13 of the, also of the provisions of the Act regarding
14 the Board composition, but indicating to them that
15 in making appointments, there are the obligations to
16 assure that the criteria contained in the continuing
17 resolution for Board membership are complied with.

18 (1). Does the individual support the principles
19 of the Legal Services Corporation, and have an interest
20 and knowledge of the delivery of legal services in
21 the country?

22 (2). Is the individual admitted to the programs
23 free from political control?

24 (3). Does the individual understand, and is he
25 or she fully committed to the role of legal services

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1 attorneys in ensuring that the poor have full access
2 to comprehensive and effective legal services?

3 (4). Has the individual, by virtue of the nature
4 of his or her practice, or prior commitments, been
5 so regularly in an adversarial position to Legal Services
6 attorneys, as to raise questions about his or her ability
7 to service on the local Board with fairness and objecti-
8 vity?

9 (5). Does the individual support the continuation
10 of the legal services program, as is required by the
11 Legal Services Corporation Act, for sitting on the
12 Legal Services Corporation Board, for being appointed
13 by the bar association?

14 Those are serious, weighty, substantive criteria,
15 that must be complied with, to be appointed to a govern-
16 ing board of the programs throughout the country, and
17 under the fiduciary responsibility, that the nonprofit
18 corporation, the legal service field program has, it
19 has the obligation to assure that these criteria are
20 complied with as well, and by establishing either draft
21 guidelines, or confusion, it creates problems with
22 maintaining and assuring that the law is going to be
23 complied with.

24 It's ironic, I think, that it appears to me,
25 that the Corporation, in this kind of area, would

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1 seem to want to or would at least appear to be, perhaps
2 inadvertently, changing around the relationship from
3 a Federal agency, to try to so directly govern 326-
4 community based, nonprofit corporations with local
5 governing boards throughout the country, and take away
6 their responsibilities in this area. I don't think
7 legally you can do so, under our analysis to date,
8 and I wouldn't see why you would want to do so.

9 The responsibility rests on the governing boards
10 that have been in place for years and years, to assure
11 that the law is complied with.

12 They share the responsibility, clearly, with
13 Legal Services Corporation in many areas, but this
14 draft guidelines exceeds that balance of responsibility.
15 That's the way, ultimately, that we analyze it.

16 It's an important issue, it's a sensitive issue,
17 and it's based on the history of Legal Services
18 Corporation. It's based on the history of individual
19 programs that have been in existence for years and
20 years throughout the country, in trying to set up rela-
21 tionships with bar associations, with clients, the
22 clients they serve, with the organizations in the community,
23 with the attorneys, with the staffs, and to try, in
24 a fairly short period -- I recognize and appreciate
25 that these are draft materials at this point, although

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1 that perception is not, I think, clearly recognized
2 out in the field.

3 That's why I'm trying to convey the chaos, and
4 I have talked with lots of programs, and other people,
5 and bar association members as well as I know you have.

6 To try to, too quickly, change around that relation-
7 ship, I think is going to have a negative effect that
8 I don't think you would want. It's going to create
9 a lot of chaos throughout the country on the grassroots
10 level, and I think you need to give serious consideration
11 to it for that reason.

12 I would recommend, that it would be helpful,
13 in conclusion, if -- to overcome the confusion as to
14 how these guidelines, I believe, are perceived in the
15 field. If there would be a clear instruction from the
16 Corporation, that these are not guidelines in effect
17 at this time. They were not promulgated in the past.
18 They may be in the future in some form. But that these
19 are not the standards that are to be applied in reviewing
20 Board composition plans.

21 They have been reviewed across the country. They've
22 been returned to programs. They've already sent them
23 in. Many programs have gotten their plans back, saying
24 that they're not acceptable, that they are somewhat
25 acceptable, conditionally acceptable. There's no clear

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1 understanding, in any way, as to -- there's an appearance
2 that the plans committed by one program are found to
3 be acceptable, and from another program, with what
4 would appear objectively, as far as can be told,
5 to be very similar circumstances, those are turned
6 down.

7 That's one of the problems you have with a number
8 of regional offices who would review, and that sort
9 of problem. But there's a lot of confusion, and I think
10 that there needs to be some clear communication, and
11 perhaps you've done it. There may be something more
12 that would suffice. So these aren't the guidelines
13 in effect at this time, and certainly, you will need
14 guidelines, in the near future, that provide more uniformity
15 and understandability of what you're doing, after,
16 I'm sure, you've had an opportunity to study and evaluate,
17 and look at them more.

18 I would also suggest that you give consideration
19 to --

20 CHAIRMAN McCARTHY: Excuse me. You have one more
21 minute, sir.

22 MR. RHUDY: I appreciate that. I'm in conclusion
23 right now, sir. I would suggest that you grant a waiver
24 to all programs beyond the September 15th date, for
25 a couple of months, to provide an opportunity to not

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1 only look at the problems I'm raising, and get more
2 information, perhaps, if that's felt to be needed,
3 but, to allow these relationships that have been in
4 existence, and will continue to be in existence in
5 some form, to have a chance to be worked out between
6 the bar associations at the county, the state and national
7 level throughout the country, and the legal services
8 community throughout the country as well.

9 You're aware that the the judiciary committees
10 of the House of Representatives have substantially
11 changed--would substantially change, if enacted in
12 to law --

13 CHAIRMAN McCARTHY: I thank you very much for
14 a most excellent presentation and see that you have
15 a tremendous amount of work in there, and we will please
16 accept your papers as part of the record. They will
17 be considered, the transcript will be reviewed, and
18 I want to thank you. I am sorry that I have to move
19 on but we must conclude by 3:00 o'clock.

20 MR. RHUDY: I thank you very much for the time
21 that you've given me.

22 CHAIRMAN McCARTHY: All right. And any papers
23 you wish to submit, please submit them to our secretary
24 and they will be part of the record. Thank you very
25 much. Next on the agenda is the Report of the President

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1 on the Generic Terms of the Closed Meeting, which we
2 have just concluded at 1:30.

3 MR. BOGARD: The Executive Session was held, and
4 there was a report made to the Board from the General
5 Counsel regarding pending litigation, the McCalpin
6 v. Dana suit. Also discussion from the General Counsel
7 on other personnel matters that are pending review
8 and investigation before the Corporation.

9 There was a report from the Director of Government
10 Relations, the Acting Director, on the status of the
11 General Accounting Office investigation and report,
12 which we are under the impression, that there will
13 be a report generated by GAO some time within the next
14 week.

15 However, that is not definite, and we don't know
16 when the report will be issued, but we're led to believe
17 it will be within the next week, after which there
18 will be a thirty day comment time by the Corporation,
19 and then the report will become a final report.

20 There was also a discussion regarding other personnel
21 matters, the decision as to whether or not to fill
22 the position of Inspector General was discussed, and
23 no action was taken by the Board regarding that position
24 at this time. And basically, that was the status of
25 and the content of the meeting.

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1 CHAIRMAN McCARTHY: Thank you, Don. Do you want
2 to continue with your report, as president?

3 MR. BOGARD: Yes, sir. We had the opportunity
4 to appear before the Senate Labor & Human Resources
5 Committee on May 4th for testimony regarding reauthoriza-
6 tion of the Corporation.

7 That hearing was originally scheduled for May
8 3rd. On May 2nd, we received a five-page single-spaced
9 letter from Senator Hatch, with a series of requests
10 for information.

11 Most of that information was not information
12 contained within the Corporation headquarters, so accordingly
13 that has been forwarded on to the field programs.

14 It was forwarded verbatim, exactly as we received
15 it. The period of time has elapsed, I believe, for
16 the response to those. We will be supplying the information
17 to Senator Hatch and fully expect that there will be
18 additional days of hearing following his receipt and
19 evaluation of that information.

20 Since the last Board meeting, I have made a number
21 of attempts to get out and visit programs around the
22 country. I've been accompanied by various members of
23 the staff, have visited programs in Minnesota, and
24 in New York and Connecticut, Tennessee and Indiana.
25 I've had, I think, a very good opportunity to meet

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1 with the people in the programs, to meet with project
2 directors. We attended a project directors meeting
3 in Connecticut with the Boston Regional people, and
4 had a very good discussion, I think, over a period
5 of three hours, and look forward to doing that on a
6 number of occasions.

7 The Corporation has issued a \$200,000 grant to
8 the Florida Justice Institute for purposes of establish-
9 ing the National IOLTA Clearinghouse which we have
10 discussed previously. That program is underway and
11 the Corporation will be coming more and more active
12 in the IOLTA programs, hoping to generate substantial
13 amounts of supplemental funds for the delivery of legal
14 services.

15 Also, since the last Board meeting, there have
16 been a number of permanent positions filled within
17 the Corporation on a personnel basis.

18 Robert Washington has become the Director of
19 the Equal Opportunity Office. Joshoua Brooks was named
20 as the Deputy Director of the Office of Field Services.

21 Gail Francis has taken the Acting Directorship
22 of the Office of Information Management. That position
23 has been posted, I believe, and we'll have the review
24 of all the resumes after the 30-day period, and hopefully,
25 we'll name someone to that position within the next

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1 sixty days.

2 LeaAnne Bernstein who is the Secretary to the
3 Corporation, and my assistant, has taken over the additional
4 responsibility of heading up the newly-established
5 Office of Program Development, the office that we hope
6 will assist in generating new ideas, and new programs
7 whereby we can leverage the money that's available
8 to the Corporation to assist in the delivery of legal
9 services. So LeaAnne is running that operation.

10 The position announcements are now in a process
11 of being drafted and established. Hopefully, they'll
12 be posted next week. It will be for the 30-day period.
13 Again, we will evaluate those people who apply, and
14 would like to have that position filled within sixty
15 days also.

16 The last permanent announcement that has been
17 made was John Meyer was named Deputy General Counsel.
18 Those five people are all on the staff, functioning
19 well, and I'm pleased to have gotten the quality and
20 caliber of people that we've been able to recruit in
21 the last few months.

22 Essentially, that's my report.

23 CHAIRMAN McCARTHY: Thank you, Don.

24 MR. MASSON: Mr. Chairman.

25 CHAIRMAN McCARTHY: Yes, sir.

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1 MR. MASSON: I'd like to go back one step,
 2 and would like, if it's in order, and move that we
 3 instruct Don Bogard to publish the regulations on the
 4 transfer of corporate funds, and the proposed guidelines,
 5 incorporating the comments that we've had today, and
 6 some of the written comments that may come in, and
 7 then go ahead and publish those.

8 CHAIRMAN McCARTHY: Very good. Is that a motion?

9 MR. MASSON: That is a motion.

10 CHAIRMAN McCARTHY: Is there a second?

11 MR. RATHBUN: Second.

12 CHAIRMAN McCARTHY: Is there any discussion?

13 The question?

14 MS. HOLLY: Is this including the Board composi-
 15 tion question?

16 MR. MASSON: Yes, ma'am.

17 MS. HOLLY: I have a comment that I would
 18 like to make on this issue.

19 CHAIRMAN McCARTHY: Yes, please do, but we
 20 would appreciate if you could limit yours to just the
 21 issue before us, because we are running out of time,
 22 unfortunately. Would three minutes be sufficient?

23 MS. HOLLY: No.

24 CHAIRMAN McCARTHY: How long do you expect
 25 to take?

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1 MS. HOLLY: Maybe five.

2 CHAIRMAN MCCARTHY: O.K.

3 MS. HOLLY: My name is Nell Holly. I'm the
4 President of the National Client's Council. I'm a client
5 board member with the Central Minnesota Legal Services
6 Program in Minneapolis.

7 I'd like to bring to the attention of the
8 Board--I've lost my page here--on page 64, Section
9 3. I have a particular concern with the last sentence
10 in that paragraph.

11 I'd like to bring to the Board's attention
12 some of the reasons why clients serve on Legal Services
13 Program boards. It has not always been that way, and
14 it was not accepted with open arms by many Legal Services
15 programs.

16 The clients have worked very hard over the
17 years to gain credibility and acceptance from the program
18 and within their boards, and one of the mechanisms
19 that was used by the program to facilitate this process
20 was to allow client board members, through their bylaw
21 process, or client groups within the community, the
22 access to--in some cases more than one--but at least
23 one attorney member to be selected by clients who were
24 serving on the Board in consultation with other clients.

25 This is a very, very critical issue that, for no apparent

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1 reason, is just being thrown out. Our research has
 2 not shown any place in the regulation, in the Act,
 3 in the legislative history, or any place else, why,
 4 and I have not been able to get a justifiable reason,
 5 why this particular action is being taken.

6 Particularly in light of the fact that the
 7 boards are going to have, for the most part, entirely
 8 new attorney members. So, the ability, again, to have
 9 an attorney who has been selected by clients, who
 10 will be able to address on a more peer relationship,
 11 some of their concerns with the other attorneys, is
 12 absolutely essential.

13 One of the things that happened in Minneapolis.
 14 Our program, our attorney members were not happy with
 15 having to have one-third of the Board client, and,
 16 at the outset, there were obstacles thrown up. I can
 17 recall any resolution, or any motion that was made
 18 by a client at our board meetings, were automatically
 19 not passed, until it reached the point, that some
 20 of the attorney members took an interest in concerns
 21 that we were bringing from the communities that we
 22 lived in, issues that were critical that the program
 23 address.

24 At that point other attorneys began to listen
 25 to them, and they worked us, and walked us through

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1 the process, and many programs have seen the benefit
 2 to allow in their bylaws, clients appoint at least
 3 one attorney, and I don't think that that's too much
 4 to ask. And I am very, very seriously concerned. I
 5 mean, we listened last year about the concern of the
 6 Board around client involvement, and client participation
 7 in the program, and then just categorically, for no
 8 apparent reason, include something like this, is certainly
 9 not understandable by a client.

10 But our office has been getting calls right
 11 and left wanting to know what is going on, and I guess
 12 I would ask the Board for a response to that. I mean,
 13 do any of you have any understanding of why this is
 14 here, and why this is being taken away from clients?

15 MR. BOGARD: We can have a discussion by Field
 16 Services people and the General Counsel's Office,
 17 if that would be of benefit. I don't think it's of
 18 benefit right at this time because of needing to get
 19 the budget matters resolved. But that can happen at
 20 a later point, if you'd like to do it.

21 MS. HOLLY: Well, will you take, you know,
 22 the real responsibility to make sure that happens,
 23 because we've tried to get in to that process, we've
 24 written letters and raised the question, and the kinds
 25 of responses we are getting are, quite frankly, very

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1 negative.

2 MR. BOGARD: We'll be glad to get you a response
3 on that.

4 MS. HOLLY: O.K. Well, I guess the next question
5 that I have is, if the Board adopts this and publishes
6 this, does that mean it's going to come back to be
7 revisited, to make a final, and at that point in time --

8 MR. BOGARD: Yes. The motion is to publish
9 for comments, so it will be for a 30-day period, as
10 I understand it, and then it would, we'd have the
11 opportunity to reassemble, and hear comments, and
12 the Board would have to take final action on it at
13 that time.

14 MS. HOLLY: O.K.

15 MR. BOGARD: So this is just for a comment
16 publication, not for final adoption.

17 MS. HOLLY: O.K. Well, see, I would just like
18 it not to even go out for comment, because it really
19 just sends a bad message out. It really does. Thank
20 you very much.

21 CHAIRMAN McCARTHY: Thank you.

22 MR. DONATELLI: Excuse me, for just a quick
23 point of inquiry. Isn't it true that this regulation
24 just discusses the selection of the attorney Board
25 members, that there's nothing in this regulation,

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1 or anything in any of the corporation regulations
2 that precludes clients from being nominated and serving
3 on Boards of Directors? But the regulation here though
4 is limited simply to the method of selection of that
5 percentage of attorneys that, under the law, are required
6 now to be on individual boards. That's by way of a
7 partial explanation.

8 MR. VENNEY: That's not the point.

9 The point is that the Corporation's regulations do
10 fulfill that commitment of client board members to
11 name attorney board members. There is nothing in the
12 continuing resolution history that would preclude
13 it. The problem is that a number of staff, members
14 of staff, if you will, have decided to remove from
15 the local option, removing to have client groups name
16 an attorney board member. Clearly, all the legislative
17 history goes to the fact that the bar associations
18 should be able to name fifty-one percent of the members
19 of the board. There is nothing that we can find, in
20 the legislative history, or in the statute, that would
21 preclude the continued ability, at local option, to
22 have clients name attorneys, and as Nell has said,
23 can serve as a bridge between the client board members
24 and attorney board members. I'd rather have attorney
25 members on this board make a decision, freeing the

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1 clients, if you will, from dependence upon a project
2 director.

3 MR. DONATELLI: Well, we can discuss it. The
4 point is, the Client's Council doesn't name Mr. Acton
5 or anyone else on the Board. They're all appointed
6 by the president. That's what the current practice
7 is.

8 The current practice, as I understand it,
9 in many local jurisdictions is, for the local client's
10 council, if you want to use that term, to name attorney
11 representatives.

12 MR. VENEY: Whether it's client councils,
13 or -- in order to save time -- whether it's client
14 councils or other client groups is not in issue. They
15 have the local option, that decision of the local
16 governing body, there is something that was previously
17 permitted by the Corporation. Suddenly it is gone,
18 and the question is, why is it being eliminated?

19 MR. BOGARD: Bernie, we'll look at it at the
20 same time this thing is out for public comment, and
21 we'll give you full time to make your pitch again.
22 Al, would you wish to address it?

23 MR. SWENDIMAN: Let me just make sure that
24 we've, or the Board, has the options available to
25 it. You've got two things before you. You've got the

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1 fees and dues which is a proposed regulation. You have
2 the governing bodies which is a guideline. Generally,
3 my understanding has been the policy, obviously, that
4 the proposed regulation comes back to the Board for
5 final action after a period of comment.

6 A guideline, on the other hand, comes from
7 the Corporation itself. Now, if we published for comment,
8 and then, generally, would be depending upon the process
9 of review, would then be published for final. If the
10 Board wants to take action on the guideline, it seems
11 to me that that's its prerogative, but it's not required
12 to do so.

13 There is a distinction between regulations,
14 on one hand, and guidelines and instructions on the
15 other, from the standpoint of how they're adopted,
16 and, there's a distinction between regulations, guidelines,
17 on one hand, and instructions on the other, as to how
18 it's published, whether it's done once for comment,
19 and then published again for thirty days, or it's published
20 once. I think that that should be made clear to the
21 Board.

22 And I would suggest that you make two motions,
23 you have a separate motion for each one, depending
24 on what action you desire to take.

25 MR. VENEY: I just wanted to say that I withheld
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1 comment on a couple of these areas because I assumed
2 that this would be coming back.

3 VOICE: My name is -- Excuse me.

4 MR. BOGARD: Dale has been here, but please
5 allow him to continue.

6 MR. VENEY: Before you adopt something, I --

7 MR. BOGARD: We're not going to adopt anything
8 while Dale's talking.

9 MR. JOHNSON: My name is Dale Johnson. I'm
10 the Executive Director of Community Action for Legal
11 Services, also known as CALS.

12 I've been struggling with this particular
13 problem of Board composition for quite some time now,
14 and, after hearing that it's going to be published
15 for comment for a period of thirty days, I would like
16 to bring to the attention of the Board, that I believe
17 that we're being judged by these standards with now,
18 that the guidelines will be used to examine the plans
19 that have been submitted. I have a plan submitted right
20 now that's being considered, and I have every reason
21 to believe that it will be rejected, and I have difficulty
22 with that because of the way we developed our plan
23 in New York City.

24 Our particular corporation, prior to this
25 regulation, and prior to the continuing resolution,

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1 had representatives from nine bar associations on its
2 board, and when the proposed regulation came out, that
3 was voted on by the Board, I believe back in December,
4 there was very little comment from the field, because
5 it basically tracked the language of the continuing
6 resolution, and spoke about state, county, and municipal
7 bar having the authority to appoint fifty-one percent.
8 I believe that's basically all the regulation said
9 in substance.

10 However, the problem that we now have is with
11 the guideline further defining state, county, and municipi-
12 pal bar associations, having that second part of the
13 definition stating that it not be characterized by
14 race, sex, national origin, religion, or special interest.
15 This has caused me and people in New York City great
16 concern.

17 I think it can go a number of ways as a result
18 of this adoption. I would like for you to consider
19 the origin of that definition of state, county and
20 municipal, because I believe the intent is--and it's
21 clear, that they wanted to eliminate women and minority
22 bar associations from being within the category of
23 state, county, and municipal, and having appointment
24 power, where we initially viewed it as them being included
25 in that definition because they were open to all

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1 the practicing attorneys within that state, county
2 and municipality. I don't know what is meant by "charac-
3 terized by." If we get into a situation of merely
4 counting membership, then that is very well going to
5 exclude my larger bar associations, which are
6 predominantly white male. If we look at the substance
7 of the issues that they deal with, I think it gets
8 a bit more complex. I don't know what is meant by --
9 I can understand the intent behind it, but I think
10 it goes far beyond the regulation which was adopted,
11 and which basically received no comment in that regard.
12 Had it been submitted in this form, I am certain that
13 the Corporation would have received a number of comments
14 on the proposed definition.

15 I don't really wish to take up the time of
16 this Board to talk about my specific problems, but
17 I just want to point out that it has caused a great
18 deal of difficulty for me in New York City. We have
19 a number of bar associations, none of which constitute,
20 or have a membership representing the majority of the
21 attorneys practicing in New York City.

22 The two largest bar associations have endorsed
23 our plan, which includes a number of bar associations.
24 They do not have an interest in naming all of the members
25 to my board of directors. I think that on page 64,

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1 where it talks about that majority bar, or that combina-
2 tion of bars declining an offer, and then you can have
3 a coalition of state, county and municipal, this is
4 precisely what we did in New York, precisely what the
5 private bar, and my organization wants to do in New
6 York, but so long as that definition is in there, we
7 are prevented from doing that, because it again refers
8 to state, county and municipal, and again refers to
9 the restricted definition.

10 I'd like for some thought to be given to that ~~prior~~
11 prior to your instructing the senior staff to publish or
12 adopt this particular regulation, and look at the origin
13 of it, try to look at specific circumstances, and,
14 in my situation, I imagine in others, causes a great
15 many of practical problems, practical problems that
16 I think have an easy solution to it than my situation
17 and that it can be dealt with, and I ask for your consider-
18 ation in that regard.

19 CHAIRMAN McCARTHY: Thank you.

20 MR. CHAPMAN: My name is Randy Chapman. I'm
21 with the State Support Center in Pennsylvania, Law
22 Court National Center. I've been sitting quietly as
23 an observer here because I'm going to report back to
24 the program directors on Friday, basically, what type
25 of actions were taken by the Board at a regular project

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1 directors meeting. I got my book here when I came in
2 the room, and was not aware that this, by making this
3 an instruction, could be implemented by staff without
4 a comment procedure, and without this matter coming
5 back before the Board, as has just been raised. However,
6 I would suggest, as I -- from the initial Office of
7 Field Services' memo, there's been a whole can of worms
8 that has come up in terms of local implementation.
9 In my very own program, we wasted no time. We went --
10 we amended our bylaws in March based upon the regulations
11 that were adopted by this Board of Directors, and came
12 in to what we felt was in full compliance, and we submitted
13 the revised bylaws to the Regional Office, which included
14 the Pennsylvania bar association naming a majority
15 of the attorneys to my own board of directors.

16 I think there are some other issues, though,
17 and other issues that the twenty other Legal Services
18 programs in the Commonwealth have, and I suspect other
19 Legal Services programs throughout the country, that
20 should be brought back to this Board's attention.

21 You need some input to the type of difficulties
22 people are having, and this kind of checkoff memo was
23 sent out by the Office of Field Services, and I think
24 you should probably be getting back the results now,
25 in that a lot of people do not fit, because of the

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1 way programs are formed, and the differing ways that
 2 bar associations are formed, people simply do not fit
 3 those circles and square boxes, and that's what, unfor-
 4 tunately, is having the effect. I would suggest that
 5 the Board put this out for comment purposes, but not
 6 take action which will automatically implement something,
 7 until you've had a chance to look it over, and see
 8 what the comments from the field programs, including
 9 my own, will be. Thank you.

10 CHAIRMAN McCARTHY: Thank you.

11 MR. MASSON: Mr. Chairman.

12 CHAIRMAN McCARTHY: Yes, Mike.

13 MR. MASSON: We can -- and I agree, you know,
 14 we should deal with these two as two separate votes,
 15 and the Board may want to discuss somewhat the need
 16 to publish the guidelines. As it's been pointed out,
 17 it's not even necessary to do that. It is my intent
 18 that we give the public, in addition to this short
 19 period--which we know we're under pressure right now--
 20 but a formal 30-day period to respond to these, so
 21 that we can get this kind of a formal input. But I
 22 think that we should talk about it separately, and
 23 see whether there's a need to do it, and what the sense
 24 of the Board is. But it was my intent that we would
 25 give the same courtesies on the guidelines as we did

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1 on the regs.

2 CHAIRMAN McCARTHY: Mike, would you like to
3 amend your motion?

4 MR. MASSON: Yes. I would like to amend the
5 motion to make two -- I would like to -- I'm going
6 to make a second motion.

7 My first motion would be that we go ahead
8 and instruct the staff to publish for thirty days the
9 transfer of corporate funds by recipients, and deal
10 with them separately and individually.

11 CHAIRMAN McCARTHY: That is one motion?

12 MR. MASSON: That's right.

13 CHAIRMAN McCARTHY: Do I hear a second?

14 MR. DONATELLI: Second.

15 CHAIRMAN McCARTHY: Any discussion?

16 MR. BRAUDE: Allow me to interrupt you --

17 CHAIRMAN McCARTHY: Excuse me. Are your comments
18 applicable to this motion that Mike has just made?

19 MR. BRAUDE: I'm not sure what the motion --
20 the motion that you just passed before I had a chance
21 to speak?

22 CHAIRMAN McCARTHY: We have not passed it.
23 We have not voted on it. We're asking for your input.

24 MR. BRAUDE: I'll try to be brief, if I may.

25 My name is Jim Braude. I'm head of the National

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1 Organization of Legal Services Workers, District
2 65 of the UAW. I'm not only speaking as head of the
3 union, but I'm speaking as someone who has had nine
4 years of experience in Legal Services, which, I'm
5 embarrassed to say, is probably more, the more I
6 hear, than the Board, and most of the staff of Legal
7 Services Corporation combined.

8 I decided I would sit here today quiet. I
9 don't know why. I'm in my usual state of disbelief.
10 I'm developing my usual state of disgust, and I was
11 just making a few notes so that I can advise our
12 members tomorrow, and the next day, what went on
13 here, and I think you should just think for a second
14 about what's going on, and my comments will relate
15 to the two specific issues before you.

16 Mr. Masson made a proposal a moment ago that
17 I think was almost revolutionary, that there should
18 be discussion of this issue by the Board. You have
19 issues before you today--and frankly, this is primarily
20 addressed to Mr. McCarthy who has been concerned
21 about time, and I think time is terribly important.
22 You have a board meeting that you scheduled for a
23 grand total of three public hours. On some issues
24 that I think are so critical to the present and future
25 state of the Legal Services Corporation, that my

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1 sense is, if your quorum is a problem, that you meet
2 on Thursday, next Tuesday, whatever it is, to deal
3 with things intelligently and fully, sure as hell
4 not just expeditiously.

5 A note for discussion. This week, if Mr. Swendiman
6 had not taken the Chair, at the last moment before
7 a vote, and said, oh, by the way, there's a different
8 process for guideline versus regulations, my assumption
9 is, most of us would have left here with the notion
10 that there's a comment period, at the next Board
11 meeting you'll discuss it, and I assume you would
12 find out after the meeting there's no obligation
13 to discuss anything with us next time, because it
14 was purely a guideline.

15 Last time, we got half a report from the Office
16 of Government Relations, on the status of legislation.
17 This happens, (1), when either there is bad faith,
18 or, the concern is speed rather than substance. And
19 whatever the reason, whether it be good faith, and
20 a concern for speed, or bad faith, my suggestion
21 is that people slow down and discuss topics that
22 are critical to the future of this movement. Now,
23 as to the future of this movement, what are we talking
24 about here today?

25 We're talking about basically one by one

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1 destroying the basic links that Legal Services community
2 people have to one another, and to the clients in
3 those communities.

4 (1), we passed this position on the so-called
5 alien restriction this morning, you passed this position,
6 which I think is nothing less than scandalous. I
7 can't argue the ethical positions as eloquently as
8 some of my colleagues and friends did. I frankly
9 don't care as much about the ethics as I do about
10 the outrage, of this Board so quietly, with almost
11 no discussion, except private discussion or whatever
12 has gone on, pass something that I assume you hope
13 will undermine the basic trust relationship between
14 our clients and those of us that provide services,
15 not just people who are alleged aliens, to use a
16 term I'm not terribly crazy about. But it's any client
17 who walks through the door, who has a reason to believe
18 that the Legal Services lawyer or paralegal shouldn't
19 be trusted, just like the welfare worker shouldn't
20 be trusted. Just like the other purveyors of the
21 great social grace of this Administration should
22 not be trusted.

23 We then move to the disruption, or the attempted
24 disruption of some of the major organizations that
25 have allowed there to be communication in and out

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1 of the community on critical issues in Legal Services,
2 around these fees and dues questions. No other purpose.
3 I agree with Willie Cook. I don't understand why
4 you did it, unless it's to destroy that kind of link.

5 And finally we're talking now about disen-
6 franchising clients, when it comes to the selection
7 of attorneys on the Board, and I frankly, at the
8 moment, other than some other bar associations and
9 community people, can't think of anybody else who
10 is better able to do that, and at the same time,
11 while we've dealt with the Hispanic community and
12 a few others under the alien restriction, let's now
13 deal with women and Blacks and Hispanics, and other
14 minorities in the communities who would like to sit
15 on our boards.

16 If anybody, in good faith on this Board, is
17 laboring under the misconceptions, that our boards
18 are going to be anything except in color and sex,
19 very much like you are in the local programs, should
20 this thing be implemented, you're fooling yourself,
21 and if you're not fooling yourself, which I assume
22 you're not, frankly, it is nothing short of disgraceful!

23 Now the last thing I will say, and I'll let
24 you continue with your business. A lot of us talked
25 about the Harvey Olson Board, as it's referred to.

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1. I know that Mr. Donatelli and Mr. Rathbun were fortunate
2 enough to be part of that. The Harvey Olson Board
3 did us a great favor. It treated us like garbage.
4 It treated clients like garbage. It treated the tent
5 people at Board meetings like worse than garbage,
6 like, in essence, just obstacles that had to be overcome,
7 and frankly, in the time since Mr. Bogard has been
8 here, and you, Mr. McCarthy, the audience and people
9 who have dealt with you, at least superficially,
10 have been dealt with politely.

11 The one thing I would like to thank you for
12 today, is I've been given the clearest message, that
13 you five gentlemen, or four gentlemen, plus Mr. Bogard,
14 could give us on the true direction this Legal Services
15 Corporation is about to take. You've voted time and
16 again, and I assume will vote again in another thirty
17 seconds, to do whatever you can to destroy the basic
18 trust relationship and relationship of solidarity,
19 that it has taken some of us years and years to build,
20 between ourselves to begin with, the client community
21 and ourselves, and the client communities building
22 trust in the legal services movement. And the only
23 thing I will say other than thank you for that, is
24 I also thank God that all of us will be here much
25 longer than all of you. Thank you.

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1 CHAIRMAN McCARTHY: Thank you.

2 MS. LANIER: My name is Mary Lanier, and I'd
3 like to speak to you about what I see is happening
4 here. I feel that it is time --

5 CHAIRMAN McCARTHY: Excuse me. I wonder if
6 you could accept my admission that you have five minutes,
7 please, because we're under -- I respect Jim's comments,
8 but we do have a time limitation, and five minutes
9 will be your allotted time.

10 MS. LANIER: Well, I'll try to be within five
11 minutes.

12 CHAIRMAN McCARTHY: Thank you very much.

13 MS. LANIER: I'll leave out some. From what
14 I see here, you all are making decisions, and passing
15 on different issues, and all. What has been pertaining
16 to clients and the programs that are serving clients.
17 I think it's time that you all should have meetings
18 with clients in a cross section of the country, and
19 see what is coming from them, the way they feel about
20 certain things, and from what I see here, you said
21 five minutes, it's kind of hard to do that. It seems
22 as though you're trying to put clients, project directors
23 and lawyers, and all involved in a turmoil with each
24 other. You're sitting up there making decisions for
25 people across the country, and for the program that

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1 represents the people, but you're not really getting
2 to the roots of what is really pertaining to clients.
3 I can see, you know, look forward of what you all think
4 I'm seeing here, and I think before you make your decision,
5 vote on it, you said thrown out, and getting the views
6 of other people, I think first you should meet with
7 a cross section of the clients, and sit down and hear
8 what they have to say about some of these issues.

9 There's five of you all up there and you're
10 making decisions, and speaking, the way I gather, that
11 people at one another, and the part of women being
12 cut out, the Board itself is not structured to serve
13 the poor. And what I see coming from here is a roundabout
14 way of disguising, cutting out the help of the poor.
15 I mean the boards have been, the local boards have
16 been structured with client participation, clients
17 on the board, and making decisions, and then here I
18 see what you're saying about that, that's not right.

19 I mean, the example you all -- the four people --
20 you can see the handwriting on the wall, what you're
21 doing, and I mean if your intent is truly what you're
22 sitting there to represent, then you would get to the
23 bottom of the issue, to the roots of things, and start
24 from there. And there's not one thing that you all
25 are saying there that can really give a client confidence,

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1 and I'm speaking from the standpoint, because I'm a
 2 client myself, and I'm sure all the clients feel the
 3 same way that I feel. And before you make any decisions
 4 on these things, I think you should really open it
 5 up and get to the root of it, and talk with people
 6 that you need, to really get out there and talk. Not
 7 just go here and there. And as far as it stands, that
 8 clients have always been a part of the board, part
 9 of making decisions, and all, that what happens within
 10 their programs, and all. And I think you all should
 11 hear clients.

12 We have a client representative on our board.
 13 I asked him to meet with us and he didn't have time.
 14 He had time to go and prepare himself for exams, but
 15 later, I found out he was somewhere enjoying himself
 16 in a bar. Why he was doing that -- if he had the clients
 17 at heart, he would have met with the clients and got
 18 their feelings.

19 CHAIRMAN McCARTHY: Madam, you have one minute
 20 remaining.

21 MS. LANIER: And I'm saying, seriously, if
 22 you actually mean to do what you're supposed to do,
 23 then please show it, because I don't get it from what,
 24 the standpoint of it now. I'd rather you just come
 25 on out and let me know what's happening, and not do

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1 it in a blindabout way.

2 CHAIRMAN McCARTHY: Thank you very much. We
3 appreciate. Jody, I'm sorry. We're going to have to
4 cut off public discussion at this time.

5 No, I'm sorry, Jody. We're going to have to
6 do it at this time.

7 I appreciate your concern, and I know that --

8 MR. JAWARD LUMUMBA: My name for the record
9 is Jaward Lumumba. I'm the Civil Liberties Director
10 of NLADA, and there are two basic points that I'd like
11 to make. The point, first of all, is that, as I've
12 interacted with a number of you, you seem to have two
13 major parts to your philosophy. One is that we should
14 spend a lot of time in our day to day lawyer work negotia-
15 ting cases as opposed to wrestling with suits. I think
16 a fair analogy is to say that, in your actions as Board
17 members, you should take time to deliberate and to
18 discuss with us the point, in order to again avoid
19 law suits, which in fact are going to result in a use
20 of funds for reasons other than to direct the delivery
21 of legal services, which is another essential part
22 of your philosophy.

23 So if you truly believe in the notion of negotia-
24 tions, and the notion of giving to clients the best,
25 the most complete services by directly using funds

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1 for those purposes, then I would suggest to you, that
2 it'd be well worth your investment to slow down, as
3 a number of people have said, to give us time to not
4 control the Corporation, which is something that we've
5 never done, but to simply have input. As we sit here,
6 it is clear to me that there are a number of things
7 that you have not thought about, and that's not shocking
8 because you're only five human beings who do not know
9 everything. By the same token, we don't know everything,
10 but we know and we see a world that's somewhat different
11 than the world that you're apparently looking at.

12 And we're only asking for opportunity to reali-
13 stically sit down. I mean, there is a history of committees
14 operating, obviously, to do things that you can't do
15 as a full board, and I'll simply close, and again say,
16 that if you're really true to the philosophy that you
17 espouse, namely, or more specifically, negotiation,
18 deliberation, and try to reach some consensus, some
19 operating consensus on positions, then we're here,
20 we've been here, and instead of pointing out where
21 perhaps the only thing you can respond to are law suits,
22 which in my mind would be a real tragedy, if that's
23 where we have to go to, in order to fight these battles.
24 But if that's the way it is, then we'll have to go
25 there. Thank you.

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1 CHAIRMAN McCARTHY: Thank you, Jody, and I'm
2 sure that you have our concurrence. There is a motion
3 pending before the Board. Do you want to repeat that,
4 Mike.

5 MR. MASSON: Yes. To instruct the senior staff,
6 and Mr. Bogard, to issue the transfer of Corporate
7 funds, regulations for thirty days, public comment.

8 CHAIRMAN McCARTHY: Thank you. It has been
9 seconded.

10 Are you ready for the question? All in favor?

11 (Chorus of ayes.)

12 CHAIRMAN McCARTHY: The ayes have it.

13 Don, I think that we should have some suggestions
14 here --

15 MR. MASSON: Mr. Chairman, I'm not going to
16 move that we -- I'm going to withdraw that motion.
17 I think there's a lot of misunderstanding about what
18 it is intended to do. I'm not, no, I'm not withdrawing
19 anything. I'm not going to make a motion that we publish
20 these guidelines. I do think that good points have
21 been made, and I think that we have to discuss it further.
22 We should look into it further. I still think that,
23 in a public forum, that it would be good to publish
24 it, but most of you disagree. So we will study it,
25 and we will look into it further, but I'm not

1 going to make that motion, that we actually make public
2 an opportunity to respond to it.

3 CHAIRMAN McCARTHY: Thank you, Mike.

4 Item six, the report of the Vice President
5 of Finance.

6 MR. RITTER: The Internal Budget Review Committee
7 of the Corporation met in May to discuss the expenditures
8 of the Corporation through March 31, 1983, and also,
9 the projections for the remainder of fiscal '83. The
10 results of that meeting are reported in a memo from
11 me to Don Bogard, a copy of which I think all of you
12 have.

13 I'd like to take just a few moments to go
14 through the standard financial statements that we present
15 to the Board, and those statements begin on page 21.

16 The first statement is the statement of funds
17 available, and that statement reflects the fact that
18 the Corporation has \$243,800,000, approximately, available
19 to it for allocation purposes. Of that amount, only
20 \$543,000, approximately, has not been allocated, and
21 the bulk of that is investment income.

22 I'd like to direct your attention now to pages
23 22 and 23. That's the consolidated operating budget
24 as of March 31, 1983. You will note that in column
25 five, the staff will not be proposing any budget

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1 modifications that will cross the major budget categories.
2 And in fact, the proposed budget, as of March 31, 1983,
3 which is located in column six, is exactly the same
4 as the budget that you adopted at your last Board meeting,
5 which is in column two of the consolidated operating
6 budget.

7 On pages 24 through 26 is the consolidated
8 operating budget worksheet. I indicated just a moment
9 ago that we weren't proposing any budget modifications
10 that crossed major budget categories, but we do have
11 some modifications that are proposed, that take place
12 within the major budget categories.

13 And in accordance with the current operating
14 procedures for budget modification, the staff has the
15 authority to make these modifications but the Board
16 can certainly question these particular modifications
17 that we're proposing.

18 If you would look at Roman I.A.3., you will
19 note that the staff proposes to reprogram approximately
20 \$256,000 to line Roman I.A.1. This \$256,000 represents
21 18 months of an original 24 month allocation for two
22 migrant programs.

23 This 18 months has already elapsed, and the
24 staff has proposed to make this money available to
25 basic field programs, and add it to another \$54,000

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1 that it has in reserve in that particular line item,
2 to create a pool of approximately \$310,000 that will
3 be distributed to programs at a later point. The money's
4 supposed to go to current recipients for the direct
5 delivery of legal assistance.

6 I don't believe the plans have been finalized,
7 but I'm sure that OFS will be notifying programs as
8 to how they can compete for these funds once the plans
9 are final.

10 On page 26, in column five, you will note
11 that between the Executive Office, General Counsel,
12 and the Division of Administration, there's an aggregate
13 of approximately \$245,000 that is being added to these
14 particular line items within management and administration
15 to cover projected deficits.

16 These deficits are covered by surpluses projected
17 in the other components within that budget category.
18 For the most part, the deficit projected in the Executive
19 Office results from the cost relating to the Office
20 of Compliance and Review.

21 Within the General Counsel's Office, the deficit
22 results from the increased cost of litigation, and
23 within the Division of Administration, the deficit
24 results from some renovations, increased costs in the
25 Federal telephone system, and also, the possibility

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1 that we'll have to publish the complete text of the
2 audit guide in the Federal Register, and that should
3 cost us somewhere between fifteen and nineteen thousand
4 dollars, should we do that.

5 Finally, the only other thing I have is, that
6 we have not made any budget modification for, or budget
7 allocation--I'm sorry--for the studies for the National
8 State Support Centers, and the National Clients Council.
9 It is the staff's hope, that within the budget category,
10 support for the provision of legal assistance, that
11 we will save enough money in this next quarter so that
12 we can make an allocation from that particular budget
13 category.

14 If we don't save enough in that budget category,
15 we do have unallocated funds that we can use to cover
16 the cost of those studies. That's my report.

17 CHAIRMAN MCCARTHY: Thank you, Charlie. Does
18 the Board have any questions? Thank you, and your report
19 is accepted.

20 The next agenda item is the report from the
21 Vice President of Operations.

22 MR. DAUGHERTY: Thank you very much, Mr. Chairman.
23 It has been my pleasure, since your appointment, to
24 visit a number of our field programs, particularly
25 in the City of New York, and in New Orleans, to attend

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1 a meeting last week with project directors from the
2 Denver Region. It was extremely informative, and provided
3 us with a number of suggestions that I think were helpful
4 to the Corporation in considering the alien regulations
5 that you considered earlier today.

6 As President Bogard reported to you earlier,
7 we have made operational now the new Office of Program
8 Development, which is an office that will oversee our
9 grant process.

10 The other projects that we undertake under
11 the demonstration project category are projects of
12 new directions for the private bar; we'll take on the
13 delivery research functions previously vested in the
14 Office of Field Services; and we'll conduct special
15 studies, such as the studies that you have requested
16 of us with respect to national and state support, National
17 Clients Council, and legal needs.

18 The national and state support studies are
19 progressing. We are concluding negotiations this week
20 with a nationally-recognized survey firm, that we've
21 asked, according to an outline that we've furnished
22 you, and had available to the back of the auditorium,
23 to go out and do a survey of a sizeable number of our
24 staff attorneys, project directors, and the paralegals,
25 as well as pro bono ad judicare attorneys, to ascertain

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1 what they perceive to be their needs for outside support
2 and assistance, their experience with support services,
3 whether they be currently funded by the Corporation,
4 or other sources, and how we might better allocate
5 our resources in that area, to be responsive to the
6 states.

7 At the same time, we'll be commissioning studies
8 of the availability of support resources outside those
9 channels that we currently fund, so that we'll have
10 a good picture of alternatives, and so that we can
11 ascertain what is the gap that we need to fill, prior
12 to our recurring monitoring visits that occur every
13 year and a half, two years, to all of our programs.
14 We're anticipating doing a, launching evaluation visits
15 to the National Support Centers this fall, and to a
16 representative number of the State Support Centers,
17 probably about ten, at that time.

18 I've also been doing some work with the staff
19 of the Office of Information Management, and Field
20 Services, looking at the 1980 Census, and what it might
21 tell us about our current funding distribution, and
22 I have a brief analysis of that for you, and suggest
23 that this is perhaps an area that your Audit Appropriations
24 Committee may wish to look into further.

25 We have in the past allocated, this year,

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1 as we did last, \$6.20 per person, counted in the 1970
2 census, as having an income below one hundred percent
3 of the official poverty threshold. We've allocated
4 \$6.20 to each program for each of those persons, and
5 we've had an additional 16 and a half million that
6 we've allocated for other reasons, perhaps for program
7 for grandfather, and at their funding level, that they
8 had prior to the Corporation's creation.

9 There have been one-time special needs grants
10 that over the years have become annualized, and built
11 into the program's funding levels. Salary comparability,
12 rural cost adjustment, and a number of those factors.

13 The tables that I attach show that those non-
14 census, those factors that are not related to the count
15 of poor persons, have been very unevenly distributed
16 across our programs in the past, with 61 and a half
17 percent of our programs having grants, funds allocated
18 on those bases, less than five percent of the amount
19 of funds that we allocated to them according to the
20 census, whereas 29 programs received additional funding
21 above and beyond the \$6.20 per capita, amounting to
22 over 40 percent of their budget. I think that you may
23 want to -- the Corporation's staff will be looking
24 at those additional factors, to determine which of
25 those are relevant today, and which of those should

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1 be taken into account in future years. The last three
2 pages that you have, the tables you have attached there,
3 relate to the resulting per capita allotment, showing
4 the combined effect of a great shift of persons over
5 the last decade, between program service areas, as
6 well as the non-census funding. The result being, that
7 twenty-six of -- although we attempted to guarantee
8 each of our programs at least a minimum of \$6.20 per
9 poor person, in fact, we are allotting twenty-six of
10 our programs less than five dollars per person, with
11 an income below a hundred percent of the poverty threshold.
12 Sixty-four of our programs, between \$5.00 and \$5.99,
13 while at the same time, there are a few programs, eight
14 programs funded over \$12 per capita, seven between
15 ten and twelve dollars, nine between nine and ten dollars,
16 all considerably higher than the national average.

17 If we were to allot all of our funds strictly
18 on a population count, were to look at the 1980 census
19 count which is roughly a million persons more than
20 the '75 account, we would be funding each of our programs
21 at a level of \$6.61 per poor person. If you can see
22 the result of the shifting population, as well as the
23 funds that we've allocated due to other factors, that
24 is not the case. We have very few programs that are
25 anywhere near the national average. We have not --

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1 we do not have a proposal to put before you. In fact,
2 under the language of the current continuing resolution,
3 we do not have authority, this year, without a confirmed
4 Board of Directors, to make any changes with respect
5 to anyone's funding level from the level they received
6 in 1982.

7 But I think there's some serious questions
8 here that bear looking into. I'll be glad to respond
9 to any of your questions. I'll look forward to working
10 with you further.

11 CHAIRMAN McCARTHY: Thank you very much, Dennis.
12 Our next report is from the Office of Field Services.

13 VOICE: Mr. Chairman, is there time for about
14 a one minute question/response?

15 CHAIRMAN McCARTHY: Thank you. Could we see
16 how our time runs, finish our agenda, and then we'll
17 see if we have any time left. Thank you very much.

18 MR. HARTLEY: Mr. Chairman, members of the
19 Board, President Bogard. The request from the Office
20 of Field Services is very simple. Last year, the Board
21 adopted a new policy on excess fund balances retained
22 by programs. In implementing that regulation this year,
23 it appears that we are going to recover a substantial
24 amount of funds from programs under that policy. Somewhere
25 between three-quarters of a million and two million

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1 dollars of \$21 million now existing, that as fund balances
 2 and programs, will be recovered by the Corporation.
 3 The Office of Field Services recommends that the Board
 4 authorize the Corporation to make these funds available
 5 through one-time special grants to current recipients
 6 for the purposes of providing direct legal services.

7 MR. RATHBUN: Gregg, I have a question on that.
 8 In light of the comments we've received on the matter
 9 of professional responsibility concerning the disposition
 10 of the cases, of cases which, under the CR, would no
 11 longer be eligible for funding, I would want to make
 12 sure, or make clear, that the one-time grant mentioned
 13 in the conclusion of the draft resolution could be
 14 used for the proper disposition of those particular
 15 cases by the attorneys involved. I mean, under the
 16 language here, it would seem as though the attorneys
 17 involved in those cases would not have recourse to
 18 the '82 fund balances, and I think those should be
 19 made available.

20 MR. HARTLEY: Thank you. We have not established
 21 criteria but that's a good suggestion. We have no objection
 22 to that being a criteria that would be included in --

23 MR. DONATELLI: Can we make that a sense of
 24 the Board, that that indeed is one of -- so it doesn't
 25 require a formal motion, but it's the sense of the

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1 Directors, that we would like that definitely to be
2 included in the criteria used to distribute the grants.

3 MR. BOGARD: I would accept that, yes.

4 (Question from the audience.)

5 MR. BOGARD: Yes. One of the criteria for evalua-
6 ting the issuance of one-time grants, which are recovered,
7 or monies recovered under the fund balance policy,
8 should be used for the cases which can no longer represent
9 for aliens under the new regulations that have been
10 adopted. So that is one of the criteria that will be
11 considered for issuance of those grants.

12 MR. MASSON: Mr. Chairman, I move adoption
13 of the draft resolution.

14 MR. RATHBUN: Second.

15 CHAIRMAN McCARTHY: All those in favor, aye.

16 (A chorus of ayes.)

17 CHAIRMAN McCARTHY: It passes. Thank you very
18 much.

19 And our final agenda item is the report from
20 the Office of Government Relations.

21 MR. STREETER: Thank you, Mr. Chairman.

22 The House Judiciary Committee has reported
23 out H.R. 2909 which is a three-year reauthorization
24 bill for the Legal Services Corporation. It contains
25 a number of changes in the statute. It mandates the

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1 establishment of State Advisory Councils. It makes
2 recess appointments subject to limitations on, that
3 would apply to recess appointees to Federal agencies.
4 Specifically, those are that recess appointees can
5 be paid if a vacancy arose within thirty days before
6 the end of a session, or if a different nominee was
7 rejected within thirty days, or if a different nomination
8 was pending.

9 It authorizes compensation for Board members
10 for attendance at Board meetings or committee meetings,
11 and it authorizes expenses for committee meetings,
12 Board meetings, or visits to programs. It repeals Section
13 1011, the presumption funding section, and gives greater
14 flexibility -- I'll be brief since we're late -- it
15 gives greater flexibility in dealing with enforcement
16 of evolving programs.

17 It continues the prohibition on private club
18 membership. Lobbying is permitted under certain circum-
19 stances, that is, in response to a request from an
20 official, or if the matter affects an eligible client,
21 and is authorized by the client with project director
22 approval.

23 Class actions are also permitted with project
24 director approval, but they must be for the primary
25 benefit of an eligible client. In the award of attorney

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1 fees, the Corporation is liable. If the action brought
 2 had no reasonable basis in law or fact, then the
 3 Corporation is given power to recover these fees from
 4 the recipient that brought the action. It continues
 5 a restriction on funding of abortion-related activities,
 6 with the life of the mother exception, and the exception
 7 for legal advice only.

8 On Board composition, local board composition,
 9 a Morrison Amendment was adopted, which calls for local
 10 board composition to be sixty percent attorneys, a
 11 majority of whom are appointed by bar associations.
 12 That is to say, thirty percent of the local boards
 13 would be appointed by bar associations, not necessarily
 14 majority bar associations. It would be a proportionate,
 15 depending on the ratio of membership to the total bar
 16 that the local bar associations had.

17 This was a substitute amendment to the McCollum
 18 amendment which is in the--which was adopted in 3480,
 19 and the McCollum amendment is, a majority of the local
 20 boards would be appointed by the majority board in
 21 the area. So that the McCollum amendment will be reoffered
 22 when the bill is on the floor.

23 It allows representation for aliens that fall
 24 into fourteen categories. I will not try to summarize
 25 that. It authorizes \$296 million for fiscal year '84,

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1 and such sums as are necessary for the two future years.
2 There was an amendment offered by Congressman Glickman,
3 a Democrat from Kansas, to reduce that to two sixty-
4 eight for the first year. That was adopted by the Committee,
5 and then overnight, Congressman Hughes, who voted to
6 the Glickman amendment changed his vote, it was reconsi-
7 dered, and the two ninety-six figure was restored.
8 That was the amount that the subcommittee had given
9 to the full committee.

10 And no date has been scheduled for when the
11 bill will come to the Floor. Gail Fogarty, who's the
12 counsel to the Judiciary subcommittee, has said that
13 she hoped it would come up after the immigration bill,
14 but no date has been set on that.

15 The appropriations bill is also two ninety-
16 six in the House. It could come up very quickly. They
17 are seeking a rule from the Rules Committee. That may
18 have happened today while we were meeting, and there
19 is a desire by the leadership of the House to move
20 the appropriations bills very quickly over the next --
21 this week and next.

22 There are a lot of controversial provisions
23 in the appropriations bill, unrelated to Legal Services.
24 It contains -- we're in the State, Justice, and Commerce
25 appropriations bill, and there are a lot of controversies

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1 in that, and so it may be a difficult bill. In the
2 Senate, the Senate has really not taken any formal
3 action yet, except for the budget, which in the Senate
4 version of the budget is \$241 million. The House, on
5 each committee, it's 296. The House and Senate conferees
6 are meeting on a budget, but they're far apart, and
7 there's no way of predicting when they can agree on
8 a budget, and they're already well behind the normal
9 budget schedule for agreeing on a first concurrent
10 budget resolution. As I said, 296 is the House figure,
11 241 is the Senate figure, in their budget.

12 There was one day of hearing in the Senate
13 Labor Committee, in the full committee. President Bogard
14 has described some of the questions we got from Senator
15 Hatch. We also had some questions regarding personnel
16 practice from Senator Eagleton, and we are responding
17 this week with, to the questions that were submitted.
18 Some of the answers are going to be very extensive
19 because they involve questionnaires that we sent to
20 the local field programs. Nothing is definitely set
21 yet on followup on the information we provide, but
22 there is the possibility of several days more of hearing,
23 but they have not yet been scheduled.

24 Senator Hatch has not yet introduced a reauthori-
25 zation bill. Senator Eagleton has introduced a

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1 reauthorization bill. There is an agreement between
2 Senator Hatch and Senator Eagleton to try to report
3 out a bill by the end of July. And on the GAO report,
4 President Bogard discussed that. A draft has been
5 finished, is being reviewed by the officials of the
6 General Accounting Office, and when they have finished
7 that, which we hope will be this week or next, they
8 will submit it to us for comment.

9 Our comments will either appear in the report,
10 or, if they agree with our comments, will be incorporated
11 in the changes in the draft.

12 CHAIRMAN McCARTHY: With due concern to the
13 gentleman who wanted to make the remark, I'm now going
14 to ask for a motion to adjourn this meeting. Mr. Masson
15 has to catch a plane. He was held over from yesterday.
16 As you know, we had that difficulty yesterday, for
17 which we apologize to you all, but we had no control
18 over it. Then, the remaining Board, if you so wish,
19 will be glad to entertain your comments.

20 So I would be receptive to a motion to adjourn
21 this meeting.

22 MR. MASSON: So move.

23 CHAIRMAN McCARTHY: Second.

24 MR. RATHBUN: Second.

25 CHAIRMAN McCARTHY: All in favor.

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(Chorus of ayes.)

CHAIRMAN McCARTHY: The meeting is now adjourned.

(Whereupon, at 3:08 p.m., the meeting was
adjourned.)

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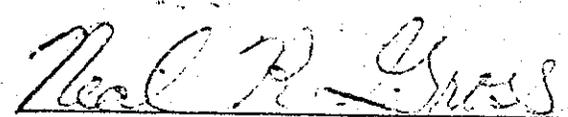
In the matter of : BOARD OF DIRECTORS MEETING

Before: LEGAL SERVICES CORPORATION

Date: JUNE 7, 1983

Place: GSA CENTRAL AUDITORIUM
18th & F STREETS, N.W.
WASHINGTON, D.C.

represents the full and complete proceedings of the
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