

Legal Aid of Arkansas Board of Directors Meeting Saturday, September 8, 2018 9:00 A.M.



Legal Aid of Arkansas
1200 Henryetta Street
Springdale, Arkansas 72762



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Full Packet and updates are published at <http://arlegalaid.org/board-packet.html>

**TOLL FREE
1-800-967-9224**

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1-870-972-9224**

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870-910-5562 – Fax

Newport
202 Walnut Street
Newport, AR 72112
870-523-9892 – Fax

Springdale
1200 Henryetta
Springdale, AR 72762
479-751-0002 - Fax

West Memphis
310 Mid Continent Plaza
Suite 420
West Memphis, AR 72301
870-732-6373 – Fax

August 29, 2018

RE: Board of Directors Meeting

Dear Board Member:

The Legal Aid of Arkansas Board of Directors will meet at **9:00 a.m.** Saturday, September 8th at the Legal Aid of Arkansas Springdale office located at 1200 Henryetta Street, Springdale, AR 72762. Board members may also participate by conference call using the attached instructions. Lodging on Friday night is provided at the Quality Suites in Springdale for those that must travel an hour or more. Please contact me if you wish me to take care of lodging arrangements on your behalf.

In an effort to reduce the cost of postage and the amount of paper used to distribute materials for discussion at the Board meeting, the documents have been posted online and are being mailed only to Board members who might not have internet access or have requested they be mailed. To access the online documents, go to <http://arlegalaid.org/board-packet.html> .

If you have any questions or prefer to have a packet mailed to you, please contact me by phone at 1-800-967-9224, x4311, or by e-mail at eking@arlegalaid.org.

Sincerely,

Elizabeth King
Administrative Assistant/HR Manager

/eak
Encl.

PARTICIPATING BY CONFERENCE CALL/GO TO WEBINAR

Dial 1-866-625-9936

Enter Guest Pin 21154265#

Following are some guidelines to make a conference call run smoothly:

- **Call in/log in a little early.** Call in a few minutes prior to the scheduled conference call time to eliminate a last minute rush.
- **Identify yourself.** Make sure to state your name clearly before speaking or voting since the meeting minutes must identify speakers.
- **Speak loudly and clearly.** You will need to speak more loudly than you would in a regular person-to-person conversation.
- **Request the Board Chair's acknowledgement.** To ensure that you are heard when you have something to say, ask the Board Chair for the floor. After you are acknowledged, you can be sure that you are being heard.
- **If you can't hear someone, speak up and let the Board Chair know.**

The board packet has been posted online. To access the online documents, go to <http://arlegalaid.org/board-packet.html> .

Directions to the Quality Suites and Legal Aid of Arkansas Office

Accommodations for those spending Friday night will be at the Quality Suites located at 1099 Rieff Street in Springdale. To reach the hotel, take Exit 72 off of I-540 and travel East on U.S. 412 (Sunset Avenue) slightly less than 1 mile. The Quality Suites will be on the left.

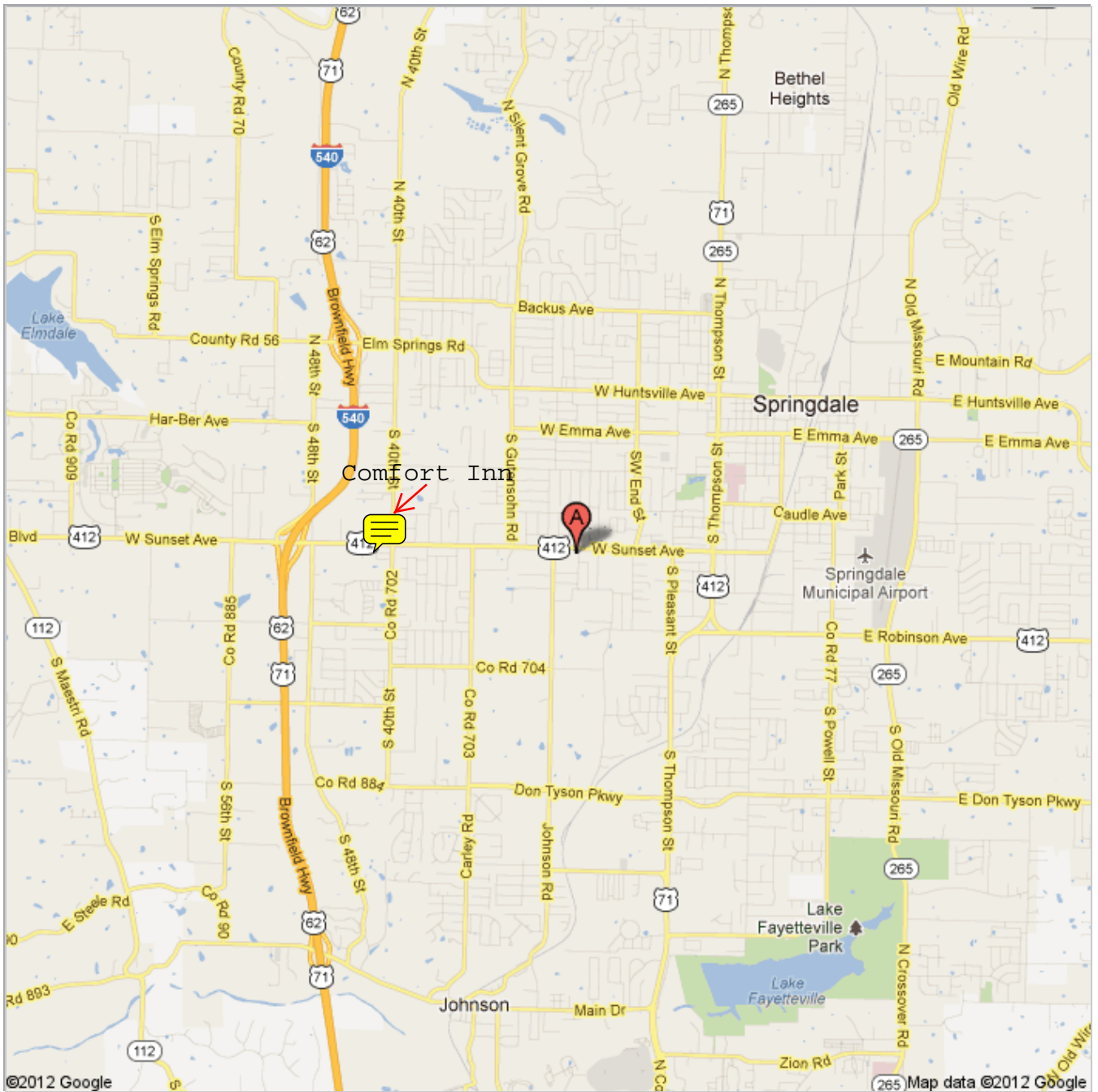

To reach the Legal Aid Office located at 1200 Henryetta, turn left on Sunset when you leave the hotel and travel approximately 1.5 miles. You will then turn right on Henryetta, at the Domino's Pizza. The office will be on your immediate right.

For further reference, please see the maps attached. The arrow on the first map points to the location of the Quality Suites while the "A" indicates the location of the office.



Address 1200 Henryetta St
Springdale, AR 72762

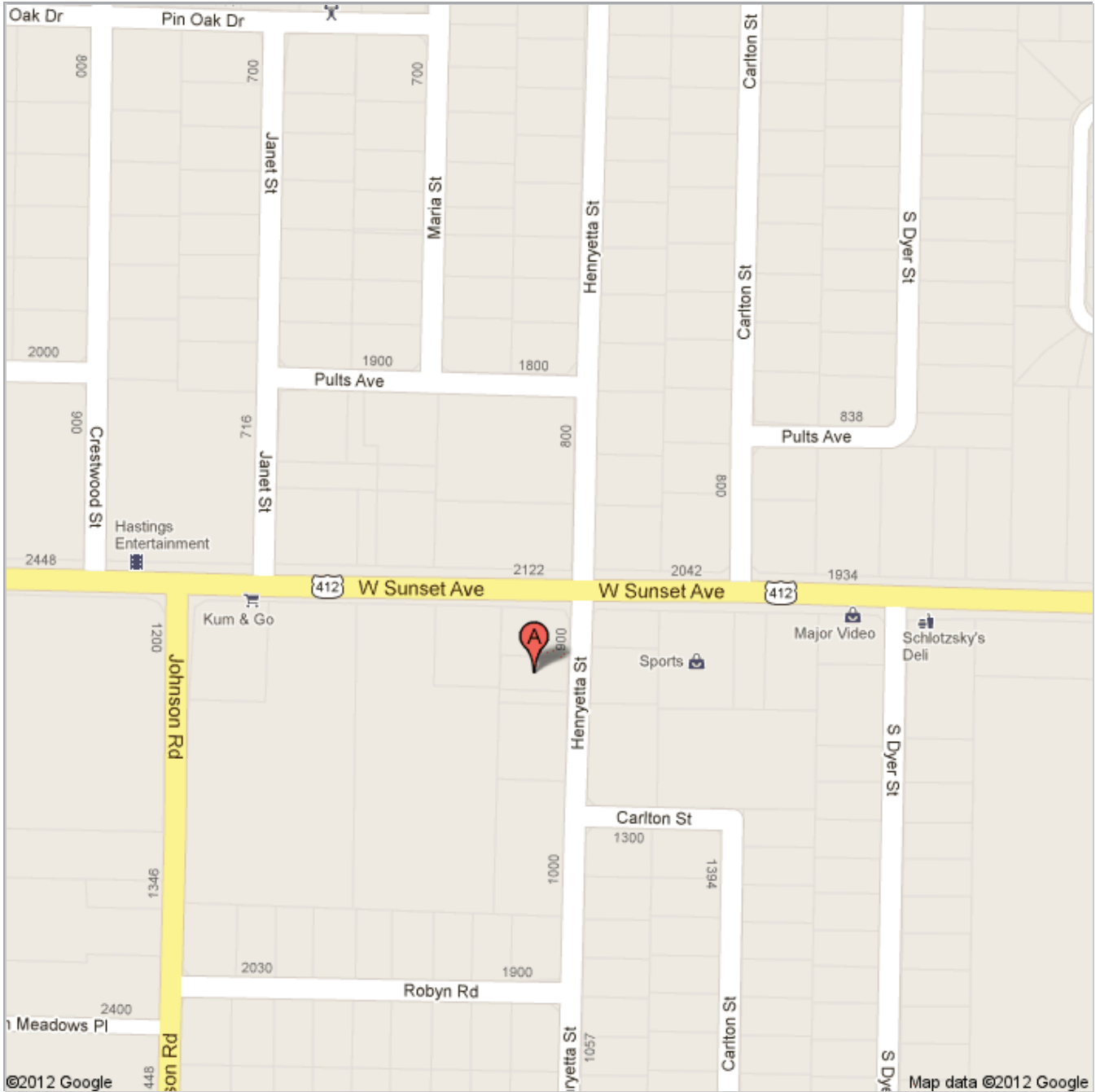

Get Google Maps on your phone
Text the word "GMAPS" to 466453





Address 1200 Henryetta St
Springdale, AR 72762

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AGENDA
BOARD OF DIRECTORS MEETING
September 8, 2018

1. Call to Order (Ms. Chumbler)
2. Board Committee Reports
 - a. Special Office Safety Committee (Ms. Smith)
 - b. Consideration of creating a standing Delivery of Legal Services/Litigation Committee (Ms. Chumbler)
 - c. Audit Finance Committee (Ms. Haun)
 - i. Selection of 2018 Auditor
3. Approval of Minutes of June 2, 2018 Meeting (Ms. Chumbler)
4. Financial Report (Mr. Bowman)
 - a. Presentation of Year to Date Financial Report and Balance Sheet
 - b. Rolling projections for 2019
5. Report on Arkansas Works Litigation (Mr. DeLiban, Mr. Hawkins)
6. Board Training, Review of LSC Regulations (Mr. Richardson)
7. Director's Report (Mr. Richardson)
8. Old/New Business (Ms. Chumbler)
9. Adjournment (Ms. Chumbler)

**SPECIAL SAFETY COMMITTEE
MEETING ACTIONS
July 18, 2018**

The Special Safety Committee of the Legal Aid of July 19, 2018. Participating in the conference call were Lori Chumbler, Samantha Davis, Kris Ramsfield, Lee Richardson, Annie Smith, Andrea Walker and Elizabeth King.

Ms. Smith called the meeting to order.

There was discussion regarding the first steps for the committee. It was decided that staff would be surveyed and that Lori Chumbler and Elizabeth King will work together on a survey.

Research would be done on best practices of other Legal Aid programs with Annie Smith volunteering to do the research.

Workplace safety assessments will be done on the Legal Aid of Arkansas offices organized by Lee Richardson and Andrea Walker.

The committee will meet again in early August to review the staff survey results and research on best practices and discuss steps to move forward.

Workplace Safety Survey

Do you feel safe in your Workplace

ANSWER CHOICES-	RESPONSES-
– Yes	69.57% 16
– No	30.43% 7
TOTAL	23

Why or Why Not:

- YES - the doors past the lobby/reception area have a lock on them - **Jonesboro**
- YES - There is no reason why I shouldn't feel safe. There has never been an incident where it led me to feel unsafe - **CALS**
- NO - we are not allowed to protect ourselves should anything happen, and our front doors could easily be breached by a determined six year old -**Springdale**
- YES - I have never encountered anything that made me not feel safe - **Springdale**
- NO - We have a lock on the door leading from the reception area to the offices, which virtually anyone can reach through the opening and unlock. We have offices that are not set up with personnel safety in mind – **Springdale**
- NO - Because of the potential for violence due to adverse party - **Harrison**

- YES - I have not experienced anything that would make me think otherwise - **Springdale**
- YES - We have door codes, staff keys, and a lot of staff in the building at any given time - **Springdale**
- NO - Shabby door with defective lock is the only thing separating us from angry clients - **Newport**
- NO - We have no backdoor, fire escape (we don't even have a fire extinguisher), place to hide if necessary, alarm system, etc. and I am alone when in my office 95% of the time. I have also on multiple occasions had angry Defendants/Respondents approach me aggressively (a couple times while appearing to be high on meth or something similar) and I have no option other than to say whatever I think will calm them down and hope it works and that someone else hears or realizes something troubling is going on in my office... I am also located in a town with more guns than people and some of the scariest abusers/perpetrators the DV workgroup encounters - **Harrison**
- YES - Because I haven't been given a reason to feel unsafe - **Springdale**
- NO - our lobby door is not secure at all. However for the most part, I am not afraid bc of location and good people skills for the most part that God has given me to deal with the majority of people I deal with - **Newport**
- YES - I do not feel threatened by clients because the nature of my work is nearly 100% internal. I am stationed at the downtown Jonesboro Office and it is a very safe neighborhood. My safety concerns in the workplace stemmed from a conflict with a colleague. I felt targeted and was in constant fear that it could escalate to physical harm. That conflict has been addressed and seemingly resolved - **Jonesboro**
- NO - would like the workers that have conceal and carry to have conceal and carry at workplace - **Springdale**

What does it mean to you to feel safe in the workplace?

- Get along with everyone, including clients. Believing it is a safe environment to be in and people making important decisions during tough situations, including myself - **CALS**

- To not have to wonder if one of the people who have threatened me will be able to just show up and perpetrate violence - **Springdale**
- That I'm not being threatened, intimidated, or harassed at work - **Jonesboro**
- To know that I can come to work and not have to worry or fear for my safety. To feel comfortable with my co-workers - **Springdale**
- Danger is not even contemplated in the realm of possibility - **Jonesboro**
- It means that I am not anxious about my well being - **Springdale**
- To not feel threatened – **West Memphis**
- I do not like the feeling of being trapped in my own office, and I do not like the feeling of being intimidated by a co-worker - **Springdale**
- It means to feel that I am not under any unreasonable threat of harm - **Harrison**
- Be able to come in and work without thinking something or someone is being extremely hateful. This could be either a client or a co-worker - **Springdale**
- Feeling comfortable around co-workers and clients and knowing protocol should a situation arise where that comfort may be threatened - **Springdale**
- To be able to perform all duties associated with position without fear of assault or harm – **West Memphis**
- To have options other than to keep my door locked 24/7 e.g. a way out, a panic button, anything other than just hoping I can talk some person with a violent history and/or on drugs and/or armed in some way that is mad at me down - **Harrison**
- To feel like I won't be the victim of any sort of crime in the workplace - **Springdale**

- Good harmony and respect for each other client and staff – **West Memphis**
- Not worrying about anyone threatening my physical safety - **Jonesboro**
- Safety in the workplace means being able to trust the people I work or interact with everyday to not intentionally harm me - physically, emotionally, psychologically. That no one in the workplace would use the knowledge they learn about me from our day-to-day exposure to cause me harm, be it financially, physically, psychologically - including harming my reputation as a form of retaliation for perceived slights - **Jonesboro**
- My physical safety is not at risk - **Springdale**
- We have some angry and unhappy clients , afraid they will come and do harm. The lady in Harrison told her story and I sympathize with her - **Springdale**

Do you feel that Legal Aid of Arkansas' security measures are appropriate?

ANSWER CHOICES	RESPONSES
- Yes	59.09% 13
- No	9.09% 2
TOTAL	15

Why or Why Not:

- While security measures are in place in many locations, many times they are not followed. In Jonesboro, for example, the security door is not always closed, two staff are in an office outside of security, and I don't believe clients are religiously required to sign in. These things are simply corrected with more diligence - **Jonesboro**
- I do not believe it has ever been adequately discussed regarding measures to be taken in the event that someone becomes violent, or even in the event that an employee becomes uncomfortable with a situation. In light of today's climate, it would be prudent to have frank discussions regarding the subject - **Springdale**
- There are no safety measures. All buildings can easily be accessed by a threatening person - **Harrison**
- Yes, In our office we have a door that separates the clients from staff. Only if we were forced to allow someone to where staff is can anyone come in. This door is locked at all times - **Springdale**
- No secure doors between employees and lobby area, which is open to the public. We are also not allow to have any means of protection against an assailant, without violation of Legal Aid policies - **Newport**
- Because this is all common knowledge and it has been this way since at least before I started 1.5 years ago - **Harrison**
- I don't know how to answer this as it relates to my experience. I do, however, generally rely on my employer to hire well - ensuring they will not invite or retain anyone who poses harm to other employees – **Jonesboro**

Do you feel comfortable that you would know how to handle a violent client or co-worker?

ANSWER CHOICES	RESPONSES
- Yes	63.64% 14
- No	36.36% 8
TOTAL	22

Comments:

- Not sure as this has never come up. Upset clients but never violent - **Jonesboro**
- I have a pretty good idea on how I should react and how to take the appropriate measures - **CALS**
- I know how, but we're prohibited from doing so. If someone does come in with the intent to commit a violent act, there is nothing to stop them - **Springdale**

What training would be helpful for you to feel better equipped to handle unsafe situations in the workplace?

- Hands on training - **CALS**
- no training needed. I think sturdier doors in the lobby and unbreakable glass on the flanking doors would be plenty. We can't reasonably make this a fortress. It still has to be a welcoming place for our clients - **Springdale**
- Active shooter training and maybe quarterly reminders of how to handle difficult people or at least annually - **Springdale**
- Active shooter training and office safety basics - **Jonesboro**
- I don't believe I need further training in this - **Springdale**
- I don't know if any training would be appropriate, but I don't know anything else than to call the police. I'm not sure if we have security or anything in WM – **West Memphis**
- I believe that having a self defense course offered at our retreat would be beneficial. I've certainly thought about taking such a course on my own - **Springdale**
- Active shooter, de-escalation tactics, defense from OP offenders - **Harrison**

- I am not sure that I need any training. I've come up with maybe one or two upset clients but not anything past that - **Springdale**
- Handling conflicts with individuals with mental illness – **West Memphis**
- Better-explained emergency procedures - **Springdale**
- None that Legal Aid can provide - **Newport**
- There isn't anything other than more advanced psychological training and having had extensive post-graduate level training in negotiations and related matters, I don't know what training options we might have that would help... Maybe self-defense classes since we don't have the option of running or hiding - **Harrison**
- Self defense might be. Or even active shooter training for any extreme situations - **Springdale**
- basic training on handling disputes that become violent - **Newport**
- More routine trainings. Anything to make us feel more prepared - **Jonesboro**
- A simple guidance on active shooter (or similar) situations would help. In situations where I feel unsafe because of a co-worker who does not like me and intends to do me harm in various ways, training on how to interact with co-workers with apparent disturbance would be helpful. Tips perhaps on how to navigate a situation where the very act of performing your job triggers the disturbance of another - **Jonesboro**
- We could have 30 minutes of explanations, with examples. Some simple stuff - **Springdale**
- the Springdale Police dept offer safety in workplace seminars occasionally - **Springdale**

To your knowledge, have incidents of violence ever occurred at any Legal Aid of Arkansas office location, either between co-workers or with clients?

ANSWER CHOICES	RESPONSES
- Yes	22.73% 5
- No	77.27% 17
TOTAL	22

Comments:

- NO - Not in my 28 years. There have been some incidents that might have become loud or tense but nothing has turned into a physical altercation - **Jonesboro**
- NO - I'm not aware of physical violence in any office location. I am aware of clients who have made threats against various staff members, and of employees who have not always acted appropriately to co-workers -**Springdale**
- YES - I had an upset cl who refused to leave. I called my supervisor and the matter was addressed, things did not escalate past that - **Springdale**
- YES - We have had the police called to our location due to opposing parties in dv cases getting into confrontations and we have had a Respondent come in with a knife. Fortunately, I do not know of any in which someone has actually gotten hurt - **Harrison**
- YES - domestic violence issues, where we have been able to handle getting spouse to safe place; nothing recent but in past. White River Battered shelter came to pick app up at office. removed her from the waiting room - **Newport**
- YES - I have never been the victim of physical violence nor have I ever witnessed anyone suffering through physical violence at any Legal Aid locations. I have, however, experienced working with someone who is emotionally and psychologically violent at Legal Aid locations - and some with violent history outside of Legal Aid locations. The latter situation was a concern - **Jonesboro**
- YES - I have heard of threats, and I have felt threats coming from clients - **Springdale**

What changes could be made to your specific workplace to make you feel safer?

- I am with Legal Aid but am located in CALS. Yevonne should have a camera outside the door, to be able to take a look at who it is before unlocking the door, without her having to go to the door. Maybe team work could take place here. :) - **CALS**
- Sturdy doors at the lobby and unbreakable glass on the adjoining outside doors - **Springdale**
- Nothing that I know of - **Springdale**
- Make sure the doors are always secure -**Jonesboro**
- There aren't any I feel are needed - **Springdale**
- Maybe having security onsite –**Newport**
- I would like to see us initiate a code system which could summon help immediately, or notify the receptionist/hr that an employee is in need of assistance, whether with a client, or other employee. The code would need to be thought out. If the situation needs to be de-escalated, then one code is used, if it is to the point that law enforcement needs to be called another code is used. This could be used in hangouts to alert staff members that an individual is in need of assistance - **Springdale**
- Security measures. An emergency button. Locked doors that can keep people out - **Harrison**
- We have two doors that separate the clients from staff. Maybe bullet proof glass. Not sure if that would be exaggerating, since there does not seem to be a need for that - **Springdale**
- No comment. Employee opinions carry little to no weight when it comes to Legal Aid policy decisions - **Newport**
- We need a backdoor or at least a door between the two offices so we aren't completely isolated and with no emergency exit. It would be great to have some semblance of security since everyone here carries a gun, more often than not concealed and we have no way of enforcing the policy against firearms against anyone but ourselves. Maybe make the doors where someone has to be buzzed in... although that's so hard b/c we want to be able to talk to people that may need to apply and we wouldn't recognize them so I'm not sure about that - **Harrison**

- None. I mean if I could carry my concealed weapon that might make me feel safer, but I don't really feel a need to do so at the moment - **Springdale**
- more secure door in lobby - **Newport**
- A more proactive management that addresses individual behavior that makes other employees feel restricted in the workplace - **Jonesboro**
- I don't have any suggestions - **Springdale**

What changes could be made to the program as a whole to make Legal Aid of Arkansas staff feel safer?

- Taking just one more step in making sure all the staff is safe. For example, if some of the staff is located in CALS - **CALS**
- repeal the "no weapons" rule. At least give us a chance to protect ourselves should violence occur - **Springdale**
- I feel safer knowing that staff and clients cannot have guns in the office - **Jonesboro**
- Uniform training - **Jonesboro**
- I don't think any are needed - **Springdale**
- As much as is feasible, I don't think staff members should be sent to remote locations alone, to meet either a client, or an opposing party. Self defense training, because knowledge is always empowering, and working toward a system to ensure that a staff member can inform someone if help is needed, unobtrusively - **Springdale**
- Better mental health access - **Harrison**
- Not sure on what changes need to be made. Not sure what other offices experience - **Springdale**

- Listen to staff, really listen, and address the fears reasonably associated with the jobs they do for little money when they could do something more profitable and far less dangerous; and allow individual offices to implement the level of security necessary for their location e.g. revisit the issue of a person's right to protect themselves when they are made to work completely alone and without any protection/safety precautions whatsoever. If never having a violent incident in an office is going to be used to justify taking zero safety precautions, then never having issues w/ a person exhibiting anything other than total responsibility should also be used to justify not taking away the only thing that makes them feel safe in their workplace - **Harrison**
- not sure - **Newport**
- More training or information - **Jonesboro**
- Hire decent people and don't be afraid to send the message across that going outside the bounds of decency is not acceptable - **Jonesboro**
- some training - **Springdale**
- security guard - **Springdale**

CHARTER OF THE COMMITTEE ON THE DELIVERY OF LEGAL SERVICES

(Amended by the LSC Board of Directors on and effective as of October 22, 2013)

I. Purpose

The purpose of the Committee shall be to encourage high quality in the delivery of legal services to the poor by grantees of the Legal Services Corporation (LSC). To accomplish this purpose, the Committee shall review, discuss, and make recommendations to the Board, when appropriate in view of LSC's role as a leading funder of civil legal aid programs, on all issues related to the quality of legal services delivery, including but not limited to the service of special populations, delivery models and systems, evaluations of grantee performance, and the role of private attorneys in the delivery of legal services to the poor.

II. Membership

The Chairman of the Board ("Chairman") shall appoint at least three Directors to serve on the Committee and designate at least one to serve as its chairman. The Chairman may appoint non-Directors as members of the Committee. A majority of the Director members of the Committee (or two, if their number is even) will be required to constitute a quorum. No member of the Committee may be an officer or employee of the Corporation.

III. Terms

Members of the Committee shall serve for a term of one year, or until their earlier resignation, replacement, or removal from the Committee or Board.

IV. Meetings

The Committee:

- (1) shall meet at least four times per calendar year, but may meet more frequently at the call of the Committee's Chairman or majority of the Committee's membership; and
- (2) may adopt procedural rules that are not inconsistent with this Charter, the Corporation's Bylaws, or the laws to which the Corporation is subject.

V. Resources

All offices, divisions, and components of the Corporation ("Management"), including the Office of Inspector General ("OIG"), are expected to cooperate with all requests made by the Committee for information and Management shall provide any necessary support. The Committee shall be given the resources necessary to carry out its responsibilities.

VI. Authority

The Committee:

- (1) shall have unrestricted access to the Corporation's books, records, facilities, personnel, and outside consultant(s);
- (2) is authorized to carry out the duties and responsibilities described in this Charter, as well as any other activities reasonably related to the Committee's purposes or as may be directed by the Board from time to time;
- (3) may delegate authority to one or more designated members of the Committee;
- (4) may rely on the expertise and knowledge of Management, the OIG, and such consultants and experts that the Board approves for carrying out its responsibilities;
- (5) may authorize to be conducted, or itself conduct, reviews into any matters within the scope of its responsibilities; and
- (6) may request any person, including outside consultants or any officer or employee of the Corporation, to attend Committee meetings or to meet with any member(s) of or advisor(s) to the Committee.

VII. Duties and Responsibilities

The Committee shall:

A. CORE RESPONSIBILITIES

- (1) evaluate methods and standards for assessing grantee delivery of legal services, including the LSC Performance Criteria and any significant revisions made thereof;
- (2) receive periodically from Management a briefing on findings, trends, and challenges identified by Management regarding the program quality of grantees, as well as any recommendations for improvement and follow-up actions;
- (3) review (a) assessments of legal needs of the low income communities performed by grantees, (b) priorities established by such assessments, and the extent to which these are performed in a manner consistent with the Legal Services Corporation Act and LSC regulations, and (c) proper evaluation of grantees' effectiveness in meeting these priorities;
- (4) review appropriate metrics to evaluate the efficiencies and effectiveness of grantee legal services, outcomes and benefits obtained for clients, other societal benefits, and governmental savings;
- (5) review any system of reward or recognition of exemplary service provision and of incentives for improvement created or proposed to be created for grantees;
- (6) review the scope and effectiveness of *pro bono* and other private attorney involvement in the promotion and provision of legal services by grantees;

- (7) review the effectiveness of other methods of delivering high quality legal services;
- (8) review with management compliance by grantees with Section 1007(c) of the LSC Act, including but not limited to, the effective participation of eligible clients as members of the governing boards of grantees;
- (9) review and discuss with Management programs offered or potentially to be offered by the Corporation to grantees related to improving the quality of the provision of legal services or the training of management or boards of directors; and
- (10) review annually with Management those aspects of its risk management assessment that relate to the quality of legal services delivered by LSC grantees;

B. OTHER RESPONSIBILITIES

- (1) report to the Board at least four times per calendar year and on such other occasions as requested to do so by the Board;
- (2) regularly report Committee actions, and make recommendations the Committee deems appropriate, to the Board with respect to any matters the Committee deems necessary or appropriate;
- (3) annually assess the Committee's performance under the Charter, reassess the adequacy of the Charter as needed, and report to the Board the results of the evaluation and any recommendations for proposed changes to the Charter; and
- (4) perform such other duties and responsibilities, consistent with this Charter, delegated to the Committee by the Board.

VIII. Overall Limitations

- (1) Nothing contained in this Charter is intended to expand the applicable standards of liability under statutory or regulatory requirements for the Board or its Directors.
- (2) The Committee is an advisory committee, as defined at D.C. Code §29-406.25(h), and nothing contained in this Charter shall be construed as authorize the Committee to exercise the powers of the Board.

Insert Date Here

**TOLL FREE
1-800-967-9224**

**TELEPHONE
1-870-972-9224**

**HELPLINE
1-800-952-9243**

www.arlegalaid.org

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Helena, AR 72342
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714 South Main Street
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202 Walnut Street
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Springdale
1200 Henryetta
Springdale, AR 72762
479-751-0002 - Fax

West Memphis
310 Mid Continent Plaza
Suite 420
West Memphis, AR 72301
870-732-6373 – Fax

XXXX
XXXX
XXXX

Re: Request for Proposal, Audit

Dear Prospective Auditor:

Legal Aid of Arkansas, Inc., a non-profit corporation providing free civil legal services to income eligible Arkansans, is in the process of selecting independent accountants to conduct an audit and compliance review of its financial accounts and records for the fiscal year ending December 31, 2018. Your firm is invited to submit a written bid and proposal describing the benefits that LAA will derive by selecting your firm as its independent public accountants.

A formal Request for Proposal outline is attached. Please submit the proposal to Lee Richardson, Executive Director, 714 South Main, Jonesboro, AR 72401 no later than August 10, 2018. Key personnel who will be available to meet with you upon request to discuss your proposal are: David Bowman, Fiscal Officer and Lee Richardson, Executive Director. To contact Mr. Bowman, please call 870-972-9224 ext. 4308.

The proposed timetable for our selection process is September 8, 2018 and we will notify all firms of a decision shortly thereafter.

Proposals will be reviewed by our Audit/Finance Committee which is comprised of four Board members, and they, in cooperation with staff, will rank each firm based on the merits of the proposals and make a recommendation for selection of independent accountants to the full Board of Directors for approval. We may ask for supplemental information after our review of the written proposals and may also ask selected firms to make an oral presentation to the Audit Committee.

Sincerely,

Lee Richardson
Executive Director

cc: David Bowman, Fiscal Officer
Annie Smith, Treasurer, Board of Directors
Lori Chumblor, President, Board of Directors

Audit Bid Solicitation

Legal Aid of Arkansas, Inc., is soliciting bids for the performance of their annual audit for the fiscal year ending December 31, 2018. The audit involves both financial and regulatory compliance work in accordance with OMB Circular A-133 and the Legal Services Corporation Audit Guide. You may review the audit and compliance information on the LSC Office of the Inspector General website: <http://www.oig.lsc.gov>. Previous experience with non-profit and governmental auditing, especially Legal Services Corporation funded programs, is preferred. Interested parties must send a proposal to:

Lee Richardson
Executive Director
714 South Main
Jonesboro, AR 72401

Written proposals must be received no later than August 10, 2018.

Legal Aid of Arkansas, Inc.
2018 Audit RFP Bids

Roberts, McKenzie, Mangan & Cummings
4035 S. Fremont
Springfield, MO 65804
\$19,500

Thomas, Speight & Noble, CPAs
2210 Fowler Avenue
Jonesboro, AR 72401
\$15,700

Yoakum, Lovell & Company, PLC
1106 Military Road
Benton, AR 72015
\$15,000

Alexander Thompson Arnold PLLC (ATA)
227 Oil Well Road
Jackson, TN 38305
\$29,250

**LEGAL AID OF ARKANSAS
BOARD OF DIRECTOR'S MEETING
June 2, 2018**

A meeting of the Board of Directors of Legal Aid of Arkansas was held at 12:00 p.m. Saturday, June 2, 2018 at the Red Apple Inn in Heber Springs, AR.

The formal agenda was as follows:

1. Call to Order (Ms. Haun)
2. Nomination of New Board Member (Ms. Haun)
3. Approval of Minutes of March 24, 2018 Meeting (Ms. Haun)
4. Financial Report (Mr. Bowman)
5. Fair Housing Update (Mr. Auer)
6. Update to Personnel Policy Manual – Firearms in the Workplace Policy (5030)
 - a. Report and Recommendations of Special Committee (Mr. Price, Committee Chair)
 - b. Discussion and consideration of proposed policy (Ms. Haun)
7. Director's Report (Mr. Richardson)
8. Old/New Business (Ms. Haun)
9. Adjournment (Ms. Haun)

Present in person were Fuller Bumpers, Steve Davis, Pamela Haun, Donna Price, Val Price, Ashlie Thacker, Demetre Walker and Ron Wilson. Present via conference call were Lori Chumbler, Niki Cung, Helen Jenkins, Kachia Phillips, Curtis Walker, Rene Ward and Tim Watson. Legal Aid staff in attendance in person included Lee Richardson, Executive Director; Andrea Walker, Deputy Director; Jason Auer, Housing Workgroup Leader/Staff Attorney; Elizabeth King, Admin Assistant/HR and Samantha Davis, Legal Support Specialist. Staff present via conference call included David Bowman, Fiscal Officer and Lynda Ware, Paralegal. Others present in person included Brian Clary, Board member of the Access to Justice Foundation.

Vice Chair, Pamela Haun called the meeting to order. She welcomed everyone and moved to item two on the agenda, Nomination of New Board Member.

Ms. Haun stated that Kachia Phillips was nominated by Goodwill Industries of Arkansas and she will be filling the slot of a client board member that was previously filled by Ms. Sharp in Harrison. Ms. Haun called for a motion to approve the nomination of Ms. Phillips.

A motion was made by Donna Price, seconded by Val Price to approve the nomination of Ms. Phillips to the Legal Aid of Arkansas Board. The motion carried with none opposed.

Ms. Haun moved to item three on the agenda, Approval of Minutes of March 24, 2018 Meeting. She asked for questions regarding the minutes. Hearing none, she called for a motion.

A motion was made by Niki Cung, seconded by Demetre Walker to approve the Minutes of the March 24, 2018 Meeting. The motion carried with none opposed.

Ms. Haun moved to item four on the agenda, Financial Report.

Mr. Bowman reviewed the balance sheet as of April 30, 2018 starting with the assets. He said cash is showing \$1,323,000 and if you recall from the March 24, 2018 minutes, cash was \$1,300,000 and therefore we have increased that by about \$23,000 at this point. He said that the note payable is \$185,700 and total assets if you look at excess revenue over expenses we are at \$142,300. Looking at the actual revenue and expenditures from January 1st through April 30th, April revenue is at \$990,000 and expenditures we are showing \$847,750 and this leaves us with excess revenue of \$142,387. He stated that we are looking good for being four months in to the year. He said we received an addition \$109,000 from the Legal Services Corporation basic grant with \$45,000 of that already banked and additional \$63,000 distributed on our seven payouts for the rest of the year. From the March meeting our revenue is in excess of about \$43,000 from the February revenue and expense report so we are still doing a very fine job and our staff is a part of that and he would like to thank them. He asked for questions.

Mr. Richardson pointed out we are at 4.38 months of money in reserve as of the end of April and the target has been three months which we struggled for years to get to. He stated that we are doing well in that regard. He stated that there will be some expenditures that we have not had in the past because we have filled some positions so that \$142,000 that we are projecting out, he stated that he does not think we will end the year with that much to the good. He stated that we have carryover of \$1,077,000. He stated that things are looking real good right now. He further stated that concerning the United Way of Boone County, we budgeted \$2,000 for 2018 and we will not receive that \$2,000 for 2019. He stated that we never got their application and by the time we ran that to ground, it was too late to apply so we will not see that money in 2019.

Ms. Haun asked for any further questions regarding the financial report. Hearing none, she called for a motion.

A motion was made by Steve Davis, seconded by Donna Price to approve the Financial Report. The motion carried with none opposed.

Ms. Haun moved to item five on the agenda, Fair Housing Update.

Mr. Auer gave an update on the Fair Housing Project.

Mr. Richardson stated that just yesterday the Access to Justice Foundation renewed our special project grant for the Fair Housing program for another year at an additional \$60,000. He stated that the overall Fair Housing budget is close to \$200,000 for the year.

Mr. Auer stated that Legal Aid of Arkansas is acting as a full service private Fair Housing agency right now, providing Fair Housing testing, Fair Housing enforcement and also Fair Housing education and outreach. He stated that Arkansas has not had a private organization doing any testing since the early 2000's and this is showing to be much needed work and we have had good success getting funded to do it. He stated that we have been working on funding this for years and it has finally paid off.

Ms. Haun asked for any questions regarding the Fair Housing Report.

Ms. Haun moved to item six on the agenda, Update to Personnel Policy Manual – Firearms in the Workplace Policy (5030)

Mr. Price stated in the board packet we have the minutes of the Special Committee meeting that was on April 16th and in addition the actual policy the committee will be proposing is there as well. Mr. Price then recapped the Special Committee meeting, which is reflected in the minutes of that meeting.

Mr. Price stated that he would make a motion to adopt the 5030 Dangerous Weapons in the Workplace Policy, seconded by Ron Wilson.

Ms. Haun stated that she would open the floor for discussion about the policy.

Mr. Richardson stated that he included in the packet a survey that was sent to staff regarding their feelings on the policy as we had some staff stating that they had heard none were opposed and some stating that they had heard many were opposed. He stated that the survey was anonymous but staff could identify their office as well as themselves if they wanted to. He stated that the results of that show that staff is fairly evenly split, as was the committee vote. He stated that he also sent information to a Legal Services director list serve asking what policies other programs had or if they had a policy. He stated that he received 19 responses and of those 11 had policies prohibiting firearms, 6 did not and 2 said firearms were prohibited by default. He stated that one thing he did determine after sending out this request for information is that our policy was longer than anyone else that had a policy. He stated that we had in our policy that people would be subject to search. He stated that we had some staff that were very opposed to that and some raising concerns of racial implications but that was not considered in the previous discussion by the committee. He stated that none of the policies he received from other organizations had the option to search. He stated that we never planned on searching everybody but if someone brought in a rifle case one day we could ask them to show us what was in the case or ask them to leave. He stated that he has proposed another alternate policy that is attached at the end of packet that took the search part out and shortened the policy considerably. He stated that this is another alternative if the board wanted to consider that. He stated that again there were some strong objections from staff about the search part of the policy

Ms. Davis voiced concerns about specific clients if the search part is removed. Mr. Richardson responded that he believes that we have the right to search whether it is in the policy or not, but no one is trained to search. He stated that we can always ask someone to show us what is in their bag and if they refuse we can call law enforcement.

He further stated that the offices at the Center for Arkansas Legal Services are covered by a policy which is also included in the packet. He stated that their policy is very short and to the point and proceeded to read that policy, *“Effective January 1, 2000, no person shall be permitted to bring a firearm or weapon of any kind on the Center's premises. To enforce this policy, local police authorities will be notified, and violators will be removed from the Center's premises. Employees who violate this policy will be subject to disciplinary action.”*

Mr. Richardson introduced Samantha Davis, Legal Support Specialist in the Harrison office. He stated she was one of the committee members of the special committee and asked her to voice her views on the potential policy.

Ms. Davis stated that we are still having domestic violence issues in our offices and she does not see why the clients cannot be protected. She stated that when they come in sometimes we have to lock our doors and call law enforcement. She stated that since the committee met they have had a situation with a petitioner and respondent screaming outside the office, law enforcement was called and the respondent and their family was arrested. She stated that there is nothing there to protect the clients. She further stated that she knows there was discussion about metal detectors and such but feels those will not do anything and they are too pricey. She stated that the way her office is set up you walk in and she is right there to the left and there is nowhere to go. She stated that to get to the other attorney offices you have to walk outside and she is often there by herself as the attorneys are in court. She stated that there are people that walk in all the time and she doesn't know who they are. She stated that she does not feel protected and she does not have time to pick up the phone and call the Harrison Police Department or Boone County. She stated that they are trying to work with Harrison Police Department to build a relationship to be on the same side but they are not going to always be there when needed.

Mr. Richardson stated that he appreciated Ms. Davis presenting her concerns and he would like to present his concerns as well. He stated that in his mind and from what he has been studying you are not going to prevent a premeditated act regardless of what your policy states but you might be able to prevent an impulse heat of passion type of event. He stated the one study he has found from North Carolina showed that you are five times more likely to experience homicide in places where weapons are allowed versus places where they are prohibited. He stated that his main concern is do the employees have an acceptable level of training to use a firearm in a life threatening situation should the need arise and do they know how to discern which situations call for potential use of deadly force versus less lethal methods. He stated that he went to military police school and he is not confident he would be able to make that discernment so he is not sure someone going through a concealed carry class has the ability to do that. He stated there are also concerns about negligent hiring, negligent supervision, negligent retention tort liability if something happens.

Ms. Davis stated that she is willing to take any kind of training needed and there is a training facility around the corner of her office that is opening this summer.

Mr. Richardson stated that Ms. Andrea Walker was also on the committee and asked her to voice her views on the matter.

Ms. Andrea Walker stated that she has talked to several staff members who have expressed concern about staff having guns in the office. She stated that knowing that other people in the office have a gun is intimidating and can cause conflicts. She further stated that we know that workplace violence is not typically from the outside it is the workers and that was a concern that was very much expressed. She stated that she finds it intimidating for someone to have a gun and she does not feel comfortable that there are guns in the office. She stated that clients, especially domestic violence clients that may have been traumatized by weapons talking to an attorney or staff member that has a weapon could be intimidating and keep them from following through with their case.

Ms. Davis stated that she does not think staff or clients would know if the weapon is concealed as it should be.

Ms. Davis presented the board with an article of a law clerk that was killed by a client that was angry about the outcome of the case.

Ms. Haun asked for further comments.

Mr. Watson stated that he does not have a strong enough opinion on the issue to add to this and is not entirely sure how he feels about this other than weapons beg to be used and in general, he is against them.

Mr. Wilson inquired if Mr. Richardson is recommending the language about search be taken out of the policy. Mr. Richardson responded in the affirmative and stated that this was after doing some research and hearing specifically from staff about their feelings on the matter.

Ms. Price stated that she had a suggestion and asked if we could limit what could be brought in the office, anything that could have a weapon, purses, briefcase, etc.

Mr. Richardson responded that with attorneys that have brief cases and such, he is thinking more about staff than clients. He stated that the overwhelming likelihood is that if there was a violent act it would be a staff member committing the violent act.

Ms. Price stated that she does not feel someone that actually works there would do that, as we should know them since we hired them.

Ms. Walker stated that we have had personnel matters in the past that raised concerns therefore that is not always the case.

Ms. Davis stated that she has had issues with staff in the past but she never considered pulling her weapon.

Mr. Richardson stated that the search was included for the person that brings in a large duffle bag that has never brought that in before, that we could ask to see inside that bag. He stated that his recommendation today would be to go with the shorter policy that he drafted on May 23, 2018.

Mr. Davis stated that he is in favor of a half page policy versus the page and a half policy. He stated that one suggestion he would make is that the last paragraph of the shorter policy refers only to after hours holidays and weekends and he would suggest that we reinstate the third to last paragraph on the original policy which states, *The Legal Aid Executive Director, **under exceptional circumstances with good cause shown**, may grant special permission for an employee, visitor, or client who has met the requirements of the Department of Arkansas State Police Arkansas Concealed Handgun Carry License Rules, specifically Rule 13.3, training requirement for enhanced license, to possess a concealed handgun on Legal Aid owned or leased property during regular business hours, consistent with the Arkansas Concealed Handgun Carry Rules. The Executive Director will set the term for this permission, and may revoke permission at any time. Possession of an enhanced license does not supersede Legal Aid policy absent this express permission.*

Ms. Cung stated that she would agree and if that was a motion she would second the shortened version of the policy with the addition of allowing the Executive Director to grant exception in certain circumstances.

Mr. Price stated that he will make a motion to withdraw his initial motion, seconded by Ron Wilson. The motion carried with none opposed.

Mr. Davis made a motion to adopt the shortened version of the policy that Mr. Richardson submitted with the exception of removing the final paragraph and inserting the third to last paragraph from the original policy allowing the Executive Director, under exceptional circumstances with good cause shown, to permit a staff member to carry once they have satisfied the requirements set out in that paragraph.

Mr. Richardson inquired if we want to add the third to last paragraph to the shorted version or replace the last paragraph of the shortened version.

After some discussion, Mr. Davis stated that he would amend his motion and rather than omit the last paragraph of the shortened revised policy, just add that third to last paragraph to that. He would move that we adopt Mr. Richardson's shortened version but add to that the third to last paragraph of the original policy, seconded by Niki Cung.

Ms. Demetre Walker inquired if there was a way to make the Harrison office safer for Ms. Davis, could something be put in that would not allow people to come into the office without being buzzed in.

Ms. Andrea Walker stated that the special committee had decided that safety was a separate issue and the committee had voted to ask the board to create a special Safety Committee to specifically look at office safety.

After more discussion regarding office safety, it was decided those issues would be addressed by the Safety Committee.

Hearing no further discussion, Ms. Haun called for a vote on the motion. The motion carried with none opposed.

Ms. Haun stated that the committee had considered the need for a Safety Committee and asked for any questions or a motion.

Mr. Price inquired if Ms. Davis' office was safe or should we consider moving it to a different location to make it safer.

Mr. Davis stated that it is a good location and there are very few offices that would be safer in Harrison.

After more discussion regarding office safety, it was decided that office safety issues would be addressed by the Safety Committee.

A motion was made by Lori Chumbler, seconded by Steve Davis to create a Safety Committee. The motion carried with none opposed.

Mr. Richardson stated that all the members on the Special Committee had agreed to serve on the Safety Committee but Mr. Wilson was undecided.

Mr. Wilson stated that he would serve on the committee.

Mr. Price inquired if any other board members wanted to be on the committee. Ms. Chumbler responded that she would like to be on the committee as well.

Mr. Richardson inquired if it was the intent of the board that the staff members that were on the Special Committee remain on the Safety Committee.

It was affirmed that the staff members should stay on the committee.

Ms. Cung stated that she wanted to thank the members of the Special Committee as it is a hard subject and she can tell that the committee members spent a lot of time and energy and focus in providing the proposed policy and she wanted to thank them for their time on this.

Ms. Haun moved to item seven on the agenda, Director's Report

Mr. Richardson stated that under new developments he attached a copy of a lease with the Center for Arkansas Legal Services. He stated that it is a short term lease for two offices as we have more employees in Little Rock than we have the space to house at the current time. He stated that it is short term and we have wrapped this into the Fair Housing budget. He stated that some additional information on funding has come to light since he prepared the Director's Report and that is that the Access to Justice Foundation has agreed to approve special project funding for us and partial funding for two transitional attorney positions. He stated that we are trying to do an incubator sort of project to get attorneys moving in the rural areas and we anticipate one attorney being in the Delta and the other being in the 14th Judicial District.

Mr. Richardson stated that we have a large batch of new staff members as reflected in the report. He stated that Spencer Sims Bowling is filling an Equal Justice Works Campus Sexual Assault attorney position. He stated that we have the two largest universities in the state in our service area and this is something we have needed to look at for a while.

He asked for any questions regarding his report.

Ms. Haun moved to item eight on the agenda, Old/New Business.

Mr. Richardson stated that we have an account at the Bank of Fayetteville where most of our money initially hits, and then we have an account at Centennial Bank that is our payroll and accounts payable account. He stated that we have a Money Market, CD and Client Trust account at Iberia Bank. He further stated that interest rates have started to rise and our Centennial Bank account is at .1% and Bank of Fayetteville is at either .4 or .5%. He stated that the Money Markey account at Iberia Bank is .3%. He stated that First Security has approached him with no strings attached and is offering 2% on

the checking and 2% on the Money Market account. He stated that First Security has the mortgage on our office in Springdale and has been the lead sponsor of our running festival for several years and this is the first time they have approached us. He stated that First Security is located in Springdale and Jonesboro so it is easily accessible to our main offices. He stated that 2% on a million dollars is quite a bit of money. He stated that First Security will also pledge securities so when we go over the \$250,000 FDIC limit we are still covered as the Bank of Fayetteville does now. He stated that he would propose we go after the 2% with First Security. He stated that he would also propose we move the Money Market at Iberia to the 2% at First Security. He stated that all banks are probably going to raise interest rates and First Security may just be at the leading edge. He stated that he would like to close out the Centennial account as soon as reasonably possible, open the checking account with First Security and Money Market with First Security and close the Money Market at Iberia and keep the CD and Client Trust account at Iberia and keep the account with Bank of Fayetteville/Farmers Merchant.

Ms. Haun asked for any questions. Hearing none she called for a motion.

A motion was made by Val Price, seconded by Steve Davis to authorize Mr. Richardson to make the bank changes as stated by Mr. Richardson. The motion carried with none opposed.

Mr. Price reminded of the next meeting which is September 8th in Springdale and then December 8th in Jonesboro.

Hearing no further business, Ms. Haun called for a motion to adjourn the meeting.

A motion was made by Steve Davis, seconded by Val Price to adjourn the meeting. The motion carried with none opposed.

LEGAL AID OF ARKANSAS, INC (LEGFND)

Detailed Balance Sheet

As of: 7/31/2018

8/6/2018 8:35:07 PM

All Funds

Page 1

Assets

10-00-100 CASH - BANK OF FAYETTEVILLE	479,100.95
10-00-101 CASH-CENTENNIAL BANK-GENERAL	109,103.16
10-00-102 CD - IBERIA BANK	100,000.00
10-00-103 FIRST SECURITY BANK MM	125,326.12
10-00-105 CASH-IN-BANK - B.O.F. LITC	20.00
10-00-110 CLIENTS TRUST BANK ACCTS	6,211.59
10-00-111 CASH-FIRST SECURITY BANK-GENERAL	691,844.30
10-00-140 PREPAID EXPENSES	12,541.24
10-00-150 LAND	8,000.00
10-00-151 BUILDINGS	443,268.98
10-00-155 FURNITURE & EQUIPMENT	122,201.89
10-00-170 LEASEHOLD IMPROVEMENTS	83,747.81
10-00-180 ACCUMULATED DEPRECIATION	(394,814.63)

Total Assets

\$1,786,551.41
=====

Liabilities

10-00-200 ACCOUNTS PAYABLE	2,296.73
10-00-204 CLIENTS TRUST	6,211.59
10-00-205 ACCRUED PAYROLL	80,112.07
10-00-210 UNITED WAY W/H	277.50
10-00-213 GROUP INS. W/H & PAYABLE	(8,863.94)
10-00-214 RETIREMENT W/H & PAYABLE	8,689.95
10-00-220 ACCRUED LEAVE	75,539.99
10-00-240 DEFERRED SUPPORT	163,610.67
10-00-245 NOTE PAYABLE-FIRST SECURITY	181,873.00

Total Liabilities

\$509,747.56

Net Assets

10-00-301 NET ASSETS - LSC	62,476.19
10-00-303 Net Assets-Property Restricted	29,188.43
10-00-304 NET ASSETS-DONATIONS RESERVE	125,000.00
10-00-305 NET ASSETS-DONATIONS-Unrestricted	494,502.00
10-00-306 Net Assets-Property Unrestricted	57,314.18
10-00-309 NET ASSETS - EJW / MLP	11.57
10-00-320 NET ASSETS- ARK FILING FEES	309,231.53
Excess Revenues Over Expenses	199,079.95

Total Net Assets

\$1,276,803.85

Total Liabilities and Net Worth

\$1,786,551.41
=====

LEGAL AID OF ARKANSAS
 ACTUAL REVENUE & EXPENDITURES
 FOR THE PERIOD JANUARY 1 THRU JULY 31, 2018

Line#	Revenue:	2018 Approved Budget	JULY 2018 Actual	Dec 2017 Actual	Dec 2016 Actual
1	LSC BASIC GRANT	\$1,469,994.50	\$917,739.00	\$1,469,531.00	\$1,480,844.00
2	Ark Adm Justice Funds	\$250,213.86	\$145,958.05	\$250,213.80	\$250,213.80
3	IOLTA	\$0.00	\$20,350.00	\$0.00	\$20,000.00
4	Equal Justice Works-CVJC (2018-2020)	\$0.00	\$0.00	\$0.00	\$0.00
5	Americorps (Includes CALS Funds and Summer Project)	\$0.00	\$0.00	\$57,447.69	\$76,810.23
6	STOP/VAWA/VOCA	\$132,192.00	\$61,049.70	\$116,555.02	\$83,331.15
7	Modest Means	\$0.00	\$0.00	\$225.00	\$425.00
8	IRS-LITC	\$60,000.00	\$31,985.64	\$60,000.00	\$60,000.00
9	IOLTA-Housing Foreclosure	\$262,378.00	\$240,514.01	\$282,743.83	\$224,382.68
10	AATJF-Fair Housing Special Grant - 2018/2019 (2018-7/months)	\$25,437.50	\$85,520.83	\$35,612.50	\$0.00
11	MLP-EJW&ACH	\$110,553.07	\$83,560.13	\$132,870.41	\$103,943.93
12	AR CARE	\$0.00	\$0.00	\$0.00	\$50,000.00
13	ST VINCENT	\$30,000.00	\$13,333.33	\$31,666.67	\$7,550.00
14	Georgetown University	\$0.00	\$0.00	\$16,666.67	\$0.00
15	Equal Justice Works-AMC	\$25,200.00	\$12,618.24	\$30,002.25	\$38,946.96
16	AAA-White River	\$2,000.00	\$1,212.50	\$2,262.50	\$3,619.50
17	AAA-East Arkansas	\$35,000.00	\$17,500.00	\$35,000.00	\$31,625.00
18	AAA NWA	\$9,112.00	\$4,606.25	\$10,836.75	\$9,312.00
19	UW-Boone Cnty	\$2,000.00	\$1,875.00	\$2,000.00	\$1,500.00
20	UW-Bly	\$3,000.00	\$2,100.00	\$3,000.00	\$2,500.00
21	UW-NW Ark	\$75,000.00	\$47,236.57	\$87,815.58	\$43,054.26
22	UW-NE Ark	\$15,974.00	\$9,280.25	\$15,909.00	\$15,564.48
23	UW-NCA (Independence Cnty)	\$4,000.00	\$2,000.00	\$4,000.00	\$4,000.00
24	UW-Mid South	\$3,915.63	\$4,005.00	\$3,915.63	\$4,869.74
25	ADHS-DAAS	\$22,178.00	\$0.00	\$10,528.89	\$17,383.05
26	Donations	\$85,000.00	\$18,218.17	\$146,640.67	\$121,841.44
27	Interest income	\$3,000.00	\$4,708.81	\$4,450.27	\$2,994.75
28	Attorney fees	\$4,000.00	\$2,400.00	\$80,082.32	\$6,075.97
29	Other - AATJF-Help Desk, Cy Pres Award	\$0.00	\$32,339.07	\$27,322.41	\$0.00
30	Affordable Care Act	\$0.00	\$0.00	\$0.00	\$9,412.72
31	Washington County Law Library	\$12,500.00	\$8,400.00	\$12,500.04	\$12,500.04
32	RACES-NEA LawDay & NWA Judicata	\$0.00	\$4,671.35	\$0.00	\$7,949.00
34	National Health Law Program	\$45,833.33	\$40,833.33	\$4,166.67	\$0.00
35	Revenue (excludes carryOver)	\$2,688,481.89	\$1,814,015.23	\$2,933,965.57	\$2,690,649.70

LEGAL AID OF ARKANSAS
 ACTUAL REVENUE & EXPENDITURES
 FOR THE PERIOD JANUARY 1 THRU JULY 31, 2018

36	Expenses:	2018 Approved Budget	JULY 2018 Actual	Dec 2017 Actual	Dec 2016 Actual
37	Total-Attny(excludes AMC&EJW; Includes ACH/EJW-MLP)	\$1,346,228.81	\$806,564.03	\$1,247,427.62	\$1,199,496.14
38	Total-Paralegals	\$229,879.58	\$113,330.04	\$246,107.17	\$256,056.99
39	Total-Other	\$286,544.78	\$182,151.32	\$279,755.70	\$233,297.05
40	Total-Americorps	\$0.00	\$0.00	\$67,599.02	\$70,591.71
41	Total-EJW (Living Allow&Suppl Benefits)	\$38,360.00	\$28,309.16	\$43,271.06	\$52,768.40
42	Benefits Budgeted (includes Americorp & EJW benefits)	\$342,885.90	\$212,204.59	\$318,250.58	\$305,879.75
43	Grand Total of All Payroll	\$2,243,899.07	\$1,342,559.14	\$2,202,411.15	\$2,118,090.04
44					
45	Space Rent (HA \$675, WM\$600, Helena \$275)	\$18,600.00	\$13,650.00	\$19,950.00	\$20,800.00
46	Space Other Expenses	\$34,799.00	\$16,430.24	\$27,718.97	\$34,621.74
47	Equipment Rental&Maint	\$14,310.00	\$8,600.66	\$20,881.03	\$17,618.29
48	Office Supplies	\$37,850.00	\$34,694.92	\$37,371.02	\$42,149.50
49	Postage /Printing	\$15,500.00	\$6,851.45	\$15,419.05	\$15,595.71
50	Communication Expense	\$61,240.00	\$24,006.96	\$53,317.93	\$57,699.99
51	Travel Board Members & Mtg Supplies	\$4,500.00	\$1,393.84	\$1,854.84	\$1,671.10
52	Travel Staff & Others	\$65,000.00	\$46,399.43	\$72,297.79	\$54,942.82
53	Training-Board Members	\$3,500.00	\$0.00	\$1,920.76	\$760.18
54	Training-Staff & Other	\$35,000.00	\$22,676.58	\$40,044.25	\$45,552.03
55	Library	\$14,000.00	\$7,076.39	\$15,205.22	\$14,521.76
56	Insurance-Prof Liab, Prop & Gen Liab	\$29,541.96	\$24,777.89	\$27,365.51	\$27,449.48
57	Dues & fees	\$17,500.00	\$15,528.50	\$17,050.50	\$15,670.00
58	Audit	\$15,000.00	\$12,700.00	\$15,000.00	\$15,000.00
59	Litigation	\$20,000.00	\$4,400.26	\$7,332.83	\$13,163.13
60	Advertising	\$4,000.00	\$3,300.80	\$8,313.67	\$2,705.45
61	Property Acquisition	\$15,000.00	\$0.00	\$0.00	\$0.00
62	Contract Services to Applicant to ALSP				
63	Depreciation (no affect on Cash)	\$14,443.15	\$14,931.67	\$14,465.18	\$14,114.18
64	Other (Contract Labor)	\$9,700.00	\$6,327.58	\$10,575.90	\$5,139.43
65	RACE-NEA LawDay	\$0.00	\$3,084.97	\$0.00	\$3,714.12
66	TIG(Ben&Wages included above in Payroll Exp)				
67	SPG Bldg Loan Pmts (interest Exp)	\$24,864.00	\$5,544.00	\$9,396.57	\$9,710.34
68					
69	Total Non-Personnel Exp	\$454,348.11	\$272,376.14	\$415,481.02	\$412,599.25
70					
71	TOTAL EXPENSES	\$2,698,247.18	\$1,614,935.28	\$2,617,892.17	\$2,530,689.29
72					
73	Revenues over(under)Exp(excluding carryover)	(\$9,765.29)	\$199,079.95	\$316,073.40	\$159,960.41
74	Net Assets Beginning of Year (includes PROPERTY & Carryover/Reserves)	1,077,793.00	1,077,793.00	\$761,650.50	\$601,690.09
75	Net Assets at End of Year(includes PROPERTY&carryover/Reserves)	1,068,027.71	1,276,872.95	1,077,723.90	761,650.50
76	Monthly Average Expenses >>>>>>>>	\$224,853.93	\$230,705.04	\$218,157.68	\$210,890.77
77	Average Monthly Exp in Unrestricted CarryOver(Reserves)	4.13	4.03	3.17	2.42

LEGAL AID OF ARKANSAS
 2018 PROJECTED REVENUE & EXPENDITURES
 WITH 2017 ACTUALS

Line#	Revenue:	2018 Approved	2019 Projected	2019 Projected
1	LSC BASIC GRANT	\$1,469,994.50	\$1,469,994.50	\$1,469,994.50
2	Ark Adm Justice Funds	\$250,213.86	\$250,213.86	\$250,213.86
3	HUD	\$0.00	\$93,750.00	\$93,750.00
4	Americorps (Includes CALS Funds and Summer Project)	\$0.00	\$0.00	\$0.00
5	STOP/VAWA/VOCA	\$132,192.00	\$132,192.00	\$132,192.00
6	Modest Means	\$0.00	\$0.00	\$0.00
7	IRS-LITC	\$60,000.00	\$60,000.00	\$60,000.00
8	IOLTA	\$0.00	\$20,000.00	\$20,000.00
9	IOLTA-Housing Foreclosure	\$262,378.00	\$262,378.00	\$262,378.00
10	AATJF-Fair Housing Special Grant - 2017/2018 (2017-7/months)	\$25,437.50	\$0.00	\$0.00
11	MLP-EJW & ACH	\$110,553.07	\$110,553.07	\$110,553.07
12	ST VINCENT	\$30,000.00	\$30,000.00	\$30,000.00
13	GEORGETOWN UNIVERSITY	\$0.00	\$0.00	\$0.00
14	Equal Justice Works (AMC 2017-2018, CVJC May 2018-July 2020)	\$25,200.00	\$58,092.00	\$58,092.00
15	AAA-White River	\$2,000.00	\$2,000.00	\$2,000.00
16	AAA-East Arkansas	\$35,000.00	\$35,000.00	\$35,000.00
17	AAA NWA	\$9,112.00	\$9,560.50	\$9,560.50
18	UW-Boone Cnty	\$2,000.00	\$0.00	\$0.00
19	UW-Bly	\$3,000.00	\$3,000.00	\$3,000.00
20	UW-NW Ark	\$75,000.00	\$37,500.00	\$37,500.00
21	UW-NE Ark	\$15,974.00	\$13,125.00	\$13,125.00
22	UW-Independence Cnty	\$4,000.00	\$4,000.00	\$4,000.00
23	UW-Mid South	\$3,915.63	\$3,010.00	\$3,010.00
24	ADHS-DAAS	\$22,178.00	\$0.00	\$0.00
25	Donations	\$85,000.00	\$85,000.00	\$85,000.00
26	Interest income	\$3,000.00	\$6,000.00	\$6,000.00
27	Attorney fees	\$4,000.00	\$4,000.00	\$4,000.00
28	Other	\$0.00	\$0.00	\$0.00
29	Washington County Law Library	\$12,500.00	\$12,500.00	\$12,500.00
30	National Health Law Program	\$45,833.33	\$45,833.33	\$45,833.33
31	Race	\$0.00	\$0.00	\$0.00
32	Revenue (excludes carryOver)	\$2,688,481.89	\$2,747,702.26	\$2,747,702.26

LEGAL AID OF ARKANSAS
 2018 PROJECTED REVENUE & EXPENDITURES
 WITH 2017 ACTUALS

33	Expenses:	2018 Approved	2019 Projected	2019 Projected
34	Total-Attny plus Bonus (\$7,100)	\$1,346,228.81	\$1,559,706.93	\$1,559,706.93
35	Total-Paralegals plus Bonus (\$1,675)	\$229,879.58	\$213,606.50	\$213,606.50
36	Total-Other plus Bonus (\$2,312.50)	\$286,544.78	\$342,497.93	\$342,497.93
37	Total-Americorps	\$0.00	\$0.00	\$0.00
38	Total-EJW (Living Allow&Suppl Benefits)	\$38,360.00	\$0.00	\$0.00
39	Benefits Budgeted (includes Americorp & EJW benefits)	\$342,885.90	\$414,613.99	\$399,676.77
40	Grand Total of All Payroll	\$2,243,899.07	\$2,530,425.35	\$2,515,488.13
41				
42	Space Rent (HA \$675, WM\$600, Helena \$275)	\$18,600.00	\$21,000.00	\$21,000.00
43	Space Other Expenses	\$34,799.00	\$36,800.00	\$36,800.00
44	Equipment Rental&Maint	\$14,310.00	\$21,000.00	\$21,000.00
45	Office Supplies	\$37,850.00	\$39,000.00	\$39,000.00
46	Postage /Printing	\$15,500.00	\$16,000.00	\$16,000.00
47	Communication Expense	\$61,240.00	\$67,000.00	\$67,000.00
48	Travel Board Members & Mtg Supplies	\$4,500.00	\$4,500.00	\$4,500.00
49	Travel Staff & Others (includes 50th Ann Celebration in 2017)	\$65,000.00	\$67,000.00	\$67,000.00
50	Training-Board Members	\$3,500.00	\$3,500.00	\$3,500.00
51	Training-Staff & Other	\$35,000.00	\$40,000.00	\$40,000.00
52	Library	\$14,000.00	\$14,000.00	\$14,000.00
53	Insurance-Prof Liab, Prop & Gen Liab	\$29,541.96	\$29,541.96	\$29,541.96
54	Dues & fees	\$17,500.00	\$18,500.00	\$18,500.00
55	Audit	\$15,000.00	\$15,000.00	\$15,000.00
56	Litigation	\$20,000.00	\$20,000.00	\$10,000.00
57	Advertising (includes 50th Ann Celebration in 2017)	\$4,000.00	\$4,500.00	\$4,500.00
58	Property Acquisition	\$15,000.00	\$15,000.00	\$0.00
59	Contract Services to Applicant to ALSP	\$0.00	\$0.00	\$0.00
60	Depreciation (no affect on Cash)	\$14,443.15	\$14,931.67	\$14,931.67
61	Other (Contract Labor)	\$9,700.00	\$9,700.00	\$9,700.00
62	RACE-NEA LawDay	\$0.00	\$0.00	\$0.00
63	TIG	\$0.00	\$0.00	\$0.00
64	SPG Bldg Loan Pmts (interest Exp)	\$24,864.00	\$26,936.00	\$9,396.00
65				
66	Total Non-Personnel Exp	\$454,348.11	\$483,909.63	\$441,369.63
67				
68	TOTAL EXPENSES	\$2,698,247.18	\$3,014,334.98	\$2,956,857.76
69				
70	Revenues over(under)Exp(excluding carryover)	(\$9,765.29)	(\$266,632.72)	(\$209,155.50)
71	Net Assets Beginning of Year (includes PROPERTY & Carryover/Reserves)	1,077,793.00	1,155,358.11	1,155,358.11
72	Net Assets at End of Year (includes PROPERTY & carryover/Reserves)	1,068,027.71	888,725.39	946,202.61
73	Monthly Average Expenses >>>>>>>>>	\$224,853.93	\$251,194.58	\$246,404.81
74	Avr Monthly Exp in Unrestricted CarryOver(Reserves)	4.13	3.70	3.77

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

Civil Action No. _____

CHARLES GRESHAM)
[REDACTED])
CESAR ARDON)
[REDACTED])
MARISOL ARDON)
[REDACTED])

Plaintiffs,)

v.)

ALEX M. AZAR II)
SECRETARY, UNITED STATES DEPART-)
MENT OF HEALTH AND HUMAN SERVICES)
in his official capacity)
200 Independence Avenue, S.W.)
Washington, DC 20201)

SEEMA VERMA)
ADMINISTRATOR, CENTERS FOR MEDI-)
CARE AND MEDICAID SERVICES)
in her official capacity)
7500 Security Boulevard)
Baltimore, MD 21244)

UNITED STATES DEPARTMENT OF HEALTH)
AND HUMAN SERVICES)
200 Independence Avenue, S.W.)
Washington, DC 20201)

CENTERS FOR MEDICARE AND MEDICAID)
SERVICES)
7500 Security Boulevard)
Baltimore, MD 21244)

Defendants.)

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

PRELIMINARY STATEMENT

1. This case challenges the ongoing efforts of the Executive Branch to bypass the legislative process and act unilaterally to “comprehensively transform” Medicaid, the cornerstone of the social safety net. Purporting to invoke a narrow statutory waiver authority that allows experimental projects “likely to assist in promoting the objectives” of Medicaid, the Executive Branch has instead effectively rewritten the statute, ignoring congressional restrictions, overturning a half century of administrative practice, and threatening irreparable harm to the health and welfare of the poorest and most vulnerable in our country.

2. The Medicaid program provides health insurance coverage to more than 75 million low-income people in the United States. Medicaid enables states to provide a range of federally specified preventive, acute, and long-term health care services to individuals “whose income and resources are insufficient to meet the costs of necessary medical services.” As described in more detail below, the core populations covered by Medicaid include children; pregnant women; the aged, blind, or disabled; and, as added by the Affordable Care Act (“ACA”), adults with household incomes of less than 133% of the federal poverty level (currently \$12,140 for an individual; \$16,460 for a family of two).

3. The Medicaid program offers a deal for states. If a state chooses to participate in the program, the federal government will contribute the lion’s share of the cost of providing care. In return, the state agrees to pay the remaining portion of the costs of care and to follow all federal requirements, including those regarding the scope of coverage and eligibility for the program. States may not impose additional eligibility requirements other than those set forth in the Medicaid Act, and states cannot pick and choose among individuals within a covered population group.

4. The Social Security Act, of which Medicaid Act is a part, does permit the Secretary of Health and Human Services (“HHS”) to waive certain federal Medicaid requirements, but only in narrow circumstances — when necessary to allow a state to carry out an experimental or pilot program that is likely to promote the objectives of the Medicaid Act.

5. In 2014, the State of Arkansas obtained such a waiver to expand its Medicaid program to cover the adults made eligible through the ACA by using private health plans. In 2016, this waiver was renewed and extended through 2021. Consistent with previous agency actions, HHS denied Arkansas’ request to impose a work requirement as a condition of eligibility, finding such a requirement was not consistent with the objectives of the Medicaid Act.

6. Early in 2017, the current HHS abruptly reversed course, signaling to states that it would revise its use of the waiver authority in Medicaid as part of President Trump’s vow to “explode” the ACA and its Medicaid expansion. On June 30, 2017, Arkansas Governor Asa Hutchinson submitted the “Arkansas Works Amendment,” a request to the Secretary of HHS to implement a work requirement as a condition of Medicaid eligibility in order to “promot[e] personal responsibility and work, encourage[e] movement up the economic ladder, and facilitate[e] transitions from Arkansas Works” to private coverage.

7. While the Arkansas Works Amendment was pending, HHS announced its new Medicaid waiver policy through a letter to State Medicaid Directors. Reversing decades of agency guidance, and consistent with the Administrator’s own expressed view of the need to “fundamentally transform Medicaid,” the letter to State Medicaid Directors announced the agency’s intention to, for the first time, approve waiver applications containing work requirements and outlining “guidelines” for states to consider in submitting such applications. On March 5,

2018, citing the Dear State Medicaid Director Letter, the Secretary approved the Arkansas Works Amendment, and Arkansas began implementing the Amendment on June 1, 2018.

8. The Secretary's issuance of the letter to State Medicaid Directors and approval of Arkansas' request sharply deviate from the congressionally established requirements of the Medicaid program and vastly exceed any lawful exercise of the Secretary's limited waiver authority. This Amendment will harm Arkansans across the state who need a range of health services, including check-ups, diabetes treatment, mental health services, non-emergency medical transportation, and vision and dental care. The letter and approval of Arkansas' application are unauthorized attempts to re-write the Medicaid Act, and the use of the Social Security Act's waiver authority to "transform" Medicaid is an abuse of that authority. The Defendants' actions here thus violate both the Administrative Procedure Act and the Constitution, and they cannot survive.

JURISDICTION AND VENUE

9. This is an action for declaratory and injunctive relief for violations of the Administrative Procedure Act, the Social Security Act, and the United States Constitution.

10. The Court has jurisdiction over Plaintiffs' claims pursuant to 28 U.S.C. §§ 1331 and 1361, and 5 U.S.C. §§ 702 to 705. This action and the remedies it seeks are further authorized by 28 U.S.C. §§ 1651, 2201, and 2202, and Federal Rule of Civil Procedure 65.

11. Venue is proper under 28 U.S.C. § 1391(b)(2) and (e).

PARTIES

12. Plaintiff Charles Gresham is a 37-year-old man who lives in Harrison, Boone County, Arkansas with his fiancé. Mr. Gresham is enrolled in the Arkansas Medicaid program.

13. Plaintiff Cesar Ardon is a 40-year-old man who lives in Siloam Springs, Benton County, Arkansas and is enrolled in the Arkansas Medicaid program.

14. Plaintiff Marisol Ardon is a 44-year-old woman who lives in Siloam Springs, Benton County, Arkansas with her adult daughter. Ms. Ardon is enrolled in the Arkansas Medicaid program.

15. Defendant Alex M. Azar II is the Secretary of the United States Department of Health and Human Services (“HHS”) and is sued in his official capacity. Defendant Azar (“the Secretary”) has overall responsibility for implementation of the Medicaid program, including responsibility for federal review and approval of state requests for waivers pursuant to Section 1115 of the Social Security Act.

16. Defendant Seema Verma is Administrator of the Centers for Medicare and Medicaid Services (“CMS”) and is sued in her official capacity. Defendant Verma is responsible for implementing the Medicaid program in the manner required by federal law, including as amended by the ACA.

17. Defendant HHS is a federal agency with responsibility for, among other things, overseeing implementation of provisions of the Social Security Act, of which the Medicaid Act is a part.

18. Defendant CMS is the agency within HHS with primary responsibility for overseeing federal and state implementation of the Medicaid Act.

BACKGROUND AND FACTUAL ALLEGATIONS

A. The Medicaid Program

19. Title XIX of the Social Security Act establishes the cooperative federal-state medical assistance program known as Medicaid. *See* 42 U.S.C. §§ 1396 to 1396w-5. Medicaid’s stated purpose is to enable each state, as far as practicable, “to furnish [] medical assistance” to individuals “whose income and resources are insufficient to meet the costs of necessary medical

services” and to provide “rehabilitation and other services to help such families and individuals attain or retain capability for independence or self-care.” *Id.* § 1396-1.

20. The statute defines “medical assistance” to be a range of health care services that participating states must cover or are permitted to cover at state option. *Id.* § 1396d(a).

21. Although states do not have to participate in Medicaid, all have chosen to do so.

22. Each participating state must maintain a comprehensive state Medicaid plan for medical assistance that the Secretary has approved. *Id.* § 1396a.

23. The state Medicaid plan must describe the state’s Medicaid program and affirm its commitment to comply with the requirements imposed by the Medicaid Act and its associated regulations.

24. State and federal governments share responsibility for funding Medicaid. Section 1396b of the Medicaid Act requires the Secretary to pay each participating state the federal share of “the total amount expended . . . as medical assistance under the State plan.” *Id.* §§ 1396b(a)(1), 1396d(b). The federal reimbursement rate is based on the state’s relative per capita income.

B. Medicaid Eligibility and Coverage Requirements

25. Using household income and other specific criteria, the Medicaid Act delineates who is eligible to receive Medicaid coverage. *Id.* §§ 1396a(a)(10)(A), (C). The Act identifies required coverage groups as well as options for states to extend Medicaid to additional population groups. *Id.*

26. States participating in Medicaid must provide medical assistance to individuals who meet the eligibility standards applicable to required coverage groups (so-called “mandatory populations”). *Id.* § 1396a(a)(10)(A)(i).

27. To be eligible for federal Medicaid funding, states must cover, and may not exclude from Medicaid, individuals who: (1) are part of a mandatory population group; (2) meet the minimum financial eligibility criteria applicable to that population group; (3) are residents of the state in which they apply; and (4) are U.S. citizens or certain qualified immigrants. *Id.* §§ 1396a(a)(10)(A), 1396a(b)(2), (3); 8 U.S.C. §§ 1611, 1641.

28. The mandatory Medicaid population groups include children; parents and certain other caretaker relatives; pregnant women; and the elderly, blind, or disabled. 42 U.S.C. § 1396a(a)(10)(A)(i).

29. In 2010, Congress passed, and the President signed, comprehensive health insurance reform legislation, the Patient Protection and Affordable Care Act (“ACA”). Pub. L. No. 111-148, 124 Stat. 119 (2010), as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, 124 Stat. 1029. “The Act aims to increase the number of Americans covered by health insurance and decrease the cost of health care.” *Nat’l Fed’n of Indep. Bus. v. Sebelius*, 567 U.S. 519, 538 (2012).

30. As part of the effort to ensure comprehensive health insurance coverage, Congress amended the Medicaid Act to add an additional mandatory population group. Effective January 1, 2014, the Medicaid Act requires participating states to cover adults who are under age 65, not eligible for Medicare, do not fall within another Medicaid eligibility category, and have household income below 133% of the federal poverty level (“FPL”). 42 U.S.C. § 1396a(a)(10)(A)(i)(VIII), 1396a(e)(14). This group is often called the “expansion population” or the “Section VIII population,” and it includes adults in a variety of family circumstances: parents living with children (whose incomes exceed the state-established limit for the mandatory parents/caretaker relatives population group); parents of older children who have left the home; and adults without children.

31. States receive enhanced federal reimbursement rates for medical assistance provided to the Medicaid expansion population: 94% federal dollars in 2019, and 90% for 2020 and each year thereafter. *Id.* § 1396d(y).

32. The Supreme Court’s decision in *National Federation of Independent Business v. Sebelius* barred HHS from terminating Medicaid funding to states that choose not to extend Medicaid coverage to the expansion population. 567 U.S. 519 (2012).

33. States that cover the expansion population submit state plan amendments electing to provide this coverage. To date, 34 states, including Arkansas, and the District of Columbia have approved state plans covering the expansion population.

34. Once a state elects to expand coverage to the expansion population, it becomes a mandatory coverage group. *See* 42 U.S.C. § 1396a(a)(10)(A)(i)(VIII).

35. As noted above, the Medicaid Act also allows states to extend Medicaid eligibility to certain optional population groups, including children and pregnant women with incomes between 133% and 185% of FPL, *see id.* § 1396a(a)(10)(A)(ii)(IX), limited-income aged, blind, and/or disabled individuals receiving home and community-based services, *id.* § 1396a(a)(10)(A)(ii)(VI), and “medically needy” individuals who would fall within a mandatory population but for excess income, *id.* § 1396a(a)(10)(C).

36. The Medicaid Act requires a participating state to cover *all* members of a covered population group. In other words, the state may not cover subsets of a population group described in the Medicaid Act. *Id.* § 1396a(a)(10)(B). This requirement applies to optional and mandatory population groups: if a state elects to cover an optional group, it must cover all eligible individuals within that group. *Id.*

37. States cannot impose additional eligibility requirements that are not explicitly allowed by the Medicaid Act. *See id.* § 1396(a)(10)(A).

38. In addition to addressing *who* is eligible for medical assistance, the Medicaid Act delineates how states must make and implement eligibility determinations to ensure that all eligible people who apply are served and get coverage.

39. The Medicaid Act requires states to “provide such safeguards as may be necessary to assure that eligibility . . . and such care and services will be provided, in a manner consistent with simplicity of administration and the best interests of the recipients.” *Id.* § 1396a(a)(19).

40. The ACA requires states to use a streamlined Medicaid eligibility process so that individuals “may apply for enrollment in, receive a determination of eligibility for participation in, and continue participation in, [Medicaid].” 42 U.S.C. § 18083(a). Individuals must be able to file streamlined eligibility forms online, in person, by mail, or by telephone. *Id.* § 18083(b)(1)(A); *see also* 42 U.S.C. § 1396w-3 (requiring participating states to streamline and simplify process for persons to remain enrolled in Medicaid); 42 C.F.R. §§ 435.907(a) (requiring states to accept applications and any documentation required to establish eligibility by internet, telephone, mail, and in person); 435.908(a) (requiring states to provide assistance with applications and renewals in person, over the telephone, and online).

41. Since its enactment, the Medicaid Act has required states to determine eligibility and provide medical assistance to all eligible individuals with “reasonable promptness.” Social Security Amendments of 1965, Pub. L. No. 89-97, § 1902(a)(8), 79 Stat. 286, 344 (codified at 42 U.S.C. § 1396a(a)(8)); 42 C.F.R. §§ 435.906 (requiring states to allow individuals to apply without delay); 435.912(c)(3) (requiring states to determine eligibility within 90 days for individuals who apply on the basis of disability and 45 days for all other individuals).

42. Through so-called “presumptive” eligibility, the Medicaid Act gives states a mechanism to provide immediate, temporary coverage to individuals who appear to their health care provider to be Medicaid eligible based on preliminary information. 42 U.S.C. § 1396a(a)(47). Under the ACA, states must allow qualified hospitals to provide presumptive eligibility to their patients. *See* Pub. L. 111-148, 124 Stat. 119, 291, § 2202 (codified at 42 U.S.C. § 1396a(a)(47)(B) (eff. Jan. 1, 2014)). *See* Ctrs. for Medicare & Medicaid Servs., *Medicaid & CHIP FAQs: Implementing Hospital Presumptive Eligibility Programs* (2014), <https://www.medicaid.gov/state-resource-center/faq-medicaid-and-chip-affordable-care-act-implementation/downloads/faqs-by-topic-hospital-pe-01-23-14.pdf> (noting that hospital presumptive eligibility assures that individuals have timely access to care and promotes “ongoing Medicaid coverage by offering additional channels through which individuals can apply”).

43. The Medicaid Act has always required states to provide retroactive coverage to certain individuals to ensure that they can obtain timely care and avoid incurring medical debts. Social Security Amendments of 1965, Pub. L. No. 89-97, § 1905(a), 79 Stat. 286, 351 (codified at 42 U.S.C. §§ 1396a(a)(34), 1396d(a)); *see also* S. Report No. 92-1230, 92nd Congress, 2nd Session, pg. 209 (1972) (noting the purpose of retroactive coverage is to protect individuals “who are eligible for [M]edicaid but do not apply for assistance until after they have received care, either because they did not know about the [M]edicaid eligibility requirements or because the sudden nature of their illness prevented their applying”). Specifically, states must provide medical assistance for care provided in or after the third month before the month of application, as long as the enrollee would have been eligible for Medicaid at the time the services were received. 42 U.S.C. §§ 1396a(a)(34), 1396d(a).

C. The Secretary’s Section 1115 Waiver Authority

44. Section 1115 of the Social Security Act, codified at 42 U.S.C. § 1315, grants the Secretary authority to waive a state’s compliance with certain requirements of the Medicaid Act under certain conditions.

45. The Secretary may grant a Section 1115 Medicaid waiver only in the case of an “experimental, pilot, or demonstration project which . . . is likely to assist in promoting the objectives” of the Medicaid Act. *Id.* § 1315(a).

46. The Secretary may only waive requirements of Section 1396a for Section 1115 projects relating to Medicaid. *Id.* § 1315(a)(1).

47. The Secretary may not waive compliance with requirements that Congress has placed outside of Section 1396a.

48. The Secretary may grant a Section 1115 waiver only to the extent and for the period necessary to enable the state to carry out the experimental, pilot, or demonstration project. *Id.*

49. The costs of such a project, upon approval, are included as expenditures under the State Medicaid plan. 42 U.S.C. § 1315(a)(2).

50. The Secretary must follow certain procedural requirements before he may approve a Section 1115 project. *Id.* § 1315(d); 42 C.F.R. §§ 431.400 to 431.416. In particular, after receiving a complete application from a state (following a state-level public comment period), the Secretary must provide a 30-day public notice and comment period. 42 U.S.C. § 1315(d); 42 C.F.R. § 431.416.

51. The Secretary does not have the authority under Section 1115 to waive compliance with other federal laws, such as the United States Constitution, the Americans with Disabilities Act, or other federal statutes.

52. For example, the Fair Labor Standards Act (“FLSA”) requires that all individuals, including individuals receiving public benefits, be compensated at least the minimum wage in exchange for hours worked. *See* 29 U.S.C. § 206(a)(1)(C); Dep’t of Labor, *How Workplace Laws Apply to Welfare Recipients* at 2 (1997), <http://nclej.org/wp-content/uploads/2015/11/LaborProtectionsAndWelfareReform.pdf>. Notably, the Supplemental Nutrition Assistance Program (“SNAP”) and Temporary Assistance for Needy Families (“TANF”) statutes specifically refer to work requirements and further describe how the benefits interact with the FLSA minimum wage protections. *See* 7 U.S.C. § 2029(a)(1) (SNAP); 42 U.S.C. § 607 (TANF). There is no such reference or description in the Medicaid Act. According to the Department of Labor, medical assistance, unlike SNAP and TANF cash benefits, may not be substituted for a wage. *See How Workplace Laws Apply to Welfare Recipients* at 4.

D. Medicaid in Arkansas

53. Arkansas, like all other states, has elected to participate in Medicaid. *See* Ark. Code Ann. §§ 20-77-101 to 20-77-2811, 23-61-1004 to 23-61-1009. The Department of Human Services (“DHS”) administers the program at the state level.

54. HHS typically reimburses Arkansas for over 70% of the cost of providing medical assistance through its Medicaid program. *See* 81 Fed. Reg. 80078-79 (Nov. 15, 2016) (70.87%, in fiscal year 2017); 82 Fed. Reg. 55383-85 (Nov. 21, 2017) (70.51% in fiscal year 2018).

55. Effective January 1, 2014, Arkansas expanded its Medicaid program to include the Medicaid expansion population – *i.e.*, adults who are under age 65; do not fit into another Medicaid (or Medicare) eligibility category; and have household income below 133% of FPL. As noted above, the State receives enhanced federal reimbursement for medical assistance provided to this

group: 94% federal dollars in 2019, and 90% for 2020 and each year thereafter. 42 U.S.C. § 1396d(y).

56. Arkansas implemented the Medicaid expansion through a Section 1115 project called the “Arkansas Health Care Independence Program” (“HCIP”). *See* Letter from Marilyn Tavenner, Admin., Ctrs. for Medicare & Medicaid Servs., to Andy Allison, Dir., Arkansas Dep’t of Human Servs. (Sept. 27, 2013) (approving HCIP through December 31, 2016), <https://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Waivers/1115/downloads/ar/Health-Care-Independence-Program-Private-Option/ar-private-option-app-ltr-09272013.pdf> (last visited Aug. 8, 2018).

57. HCIP allowed the State to cover most of the expansion population through a “private option.” Under the private option, individuals receive health coverage, *i.e.*, medical assistance, through a private health plan, and the Medicaid program covers the enrollees’ portion of the premiums and cost sharing. *Id.* Because the private plans do not cover all of the services that the Medicaid Act requires Arkansas to provide to the expansion population, enrollees continue to receive some services through the State on a fee-for-services basis. *See id.* at Special Terms and Conditions ¶ 36-37.

58. In 2014 and 2015, more than 225,000 individuals received coverage through HCIP. Arkansas Ctr. for Health Improvement, *Arkansas Health Care Independence Program (“Private Option”) Section 1115 Demonstration Waiver Interim Report* 16, 21 (2016), <http://www.achi.net/Content/Documents/ResourceRenderer.ashx?ID=347>. During that same time period, Arkansas saw “a reduction in the uninsured rate for adults from 22.5 percent to 9.6 percent, the largest reduction observed nationwide.” *Id.* at 20.

59. Medicaid expansion in Arkansas has been associated with a variety of positive health outcomes, including increased utilization of preventive services, out-patient office visits, and chronic disease care; decreased reliance on emergency rooms; fewer skipped medications due to cost; better quality care; and improved self-reported health. Benjamin D. Sommers et al., *Changes in Utilization and Health Among Low-Income Adults After Medicaid Expansion or Expanded Private Insurance*, 176 JAMA Internal Medicine 1501, 1505-06 (2016).

60. In mid-2016, Arkansas requested permission from HHS to extend and amend HCIP, renaming the project “Arkansas Works.” Letter from Asa Hutchinson, Governor of Arkansas to Sylvia Mathews Burwell, Sec’y, U.S. Dep’t Health & Human Servs. (June 28, 2016), <https://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Waivers/1115/downloads/ar/Health-Care-Independence-Program-Private-Option/ar-works-application-07072016.pdf>.

61. The Secretary extended the Section 1115 project through the end of 2021. Letter from Andrew M. Slavitt, Acting Admin., Ctrs. for Medicare & Medicaid Servs., to Cindy Gillespie, Dir., Arkansas Dep’t of Human Servs. (Dec. 8, 2016), <https://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Waivers/1115/downloads/ar/Health-Care-Independence-Program-Private-Option/ar-works-amndmnt-appvl-12292017.pdf>.

62. The Secretary also approved several changes to the project. Most notably, the Secretary granted Arkansas a conditional waiver of retroactive eligibility. Before implementing this waiver, the State needed to demonstrate: (1) compliance with the requirement to provide Medicaid coverage during a reasonable opportunity period to individuals who are otherwise eligible for Medicaid and attest to eligible immigration status, consistent with 42 U.S.C. § 1320b-7(d); (2) completion of the Arkansas MAGI Backlog Mitigation Plan and written assurance that “eligibility

determinations and redeterminations are completed on a timely basis;” and (3) implementation of the requirement to allow hospitals to make presumptive eligibility determinations. *Id.* at Waiver List ¶ 7).

63. Arkansas DHS has not implemented hospital presumptive eligibility.

E. The Arkansas Works Amendment

64. On or about June 30, 2017, Governor Hutchinson submitted to the Secretary a request to amend Arkansas Works. Letter from Asa Hutchinson, Governor of Arkansas, to Thomas E. Hargan, Sec., U.S. Dep’t of Health & Human Servs. (June 30, 2017) (“Arkansas Works Amendment”) (attached as Exhibit 1, hereto).

65. Arkansas requested permission to implement a work and community engagement requirement and to eliminate three-month retroactive coverage. Arkansas also sought permission to phase out Medicaid coverage of individuals with household income above 100% of the FPL. *Id.*

66. Governor Hutchinson described the proposed Amendment as designed to “promot[e] personal responsibility and work, encourage[e] movement up the economic ladder, and facilitate[e] transitions from Arkansas Works” to private coverage. *Id.* The State commented that the changes would better position Arkansas Works to focus on “the most vulnerable enrollees.” *Id.* at App. C, p. 2.

67. The State’s request did not provide an estimate of the number of individuals who would lose coverage as a result of the work requirement. Likewise, Arkansas did not indicate the number of individuals who would incur medical costs due to the elimination of retroactive coverage or the amount of those costs.

68. CMS held a public comment period on the proposed Amendment from July 11, 2017 to August 10, 2017. Medicaid.gov, Arkansas Works Amendment, <https://public.medicaid.gov/connect.ti/public.comments/view?objectID=1891331>.

69. On March 5, 2018, the Secretary issued his approval letter for the Arkansas Works Amendment, pursuant to Section 1115 and effective through the end of 2021. *See* Letter from Seema Verma, Admin., Ctrs. for Medicare & Medicaid Servs. to Cindy Gillespie, Dir. Ark. Dep't of Human Servs. (March 5, 2018), <https://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Waivers/1115/downloads/ar/ar-works-ca.pdf> (hereinafter "Amendment Approval") (attached as Exhibit 2, hereto).

70. The Amendment Approval granted Arkansas permission to implement the work requirement, on or after June 1, 2018.

71. The Amendment Approval also waived the retroactive coverage requirement for Arkansas, reducing the retroactive coverage period from three months to one month. Neither the State's Amendment application nor the CMS approval explained how the State had met the three pre-conditions CMS set forth in 2016 for a waiver of the retroactive coverage requirement—that Arkansas comply with the reasonable opportunity period requirements, successfully complete the Arkansas MAGI Backlog Mitigation Plan, and implement hospital presumptive eligibility. *See* Amendment Approval at Ex. 2 at 4, 7, 21; Arkansas Works Amendment.

72. Arkansas' request to reduce income eligibility for Arkansas Works to 100% of FPL was not approved. *See* Amendment Approval at Ex. 2 at 2.

73. In approving Arkansas' request, HHS did not provide an estimate of the number of individuals who would lose coverage as a result of the Arkansas Work Amendment.

Work and Community Engagement Requirements

74. As noted above, the Medicaid Act requires a participating state to furnish Medicaid to *all* members of covered population groups. The state may not cover only subsets of a population group described in the Medicaid Act. *See* 42 U.S.C. §§ 1396a(a)(10)(A)-(B).

75. States cannot impose additional eligibility requirements that are not explicitly allowed by the Medicaid Act.

76. The Arkansas Works Amendment added a new condition of eligibility that is not permitted under the Medicaid Act: Arkansas Works enrollees ages 19 to 49 must engage in 80 hours of specified employment or community engagement activities every month. Amendment Approval at Ex.2 at 28.

77. The work requirement does not apply to pregnant women or medically frail individuals. Amendment Approval at Ex. 2 at 28. In addition, enrollees who meet certain other criteria are exempt from the requirement. *Id.*

78. If enrollees subject to the work requirement do not meet the requirement for any three months of the year, the State will terminate their coverage unless they demonstrate that one of the narrow “good cause” exceptions applies. *Id.* at 29-31.

79. Under the Medicaid Act, an individual may apply for and enroll in Medicaid at any time.

80. Under the Arkansas Works Amendment, the State will prohibit an individual who has been terminated from Medicaid for failure to meet the work requirements from re-enrolling in Arkansas Works for the remainder of the calendar year. *Id.* at 30. Only once the year begins again will a terminated enrollee be allowed to submit a new application to re-enroll. However, enrollees may end the lockout period early by showing that one of the “good cause” exceptions would have

applied at the time of termination and their inability to fulfill the requirement “was the result of a catastrophic event or circumstances beyond [their] control.” *Id.*

81. According to the State, the purpose of the work requirement is to “incentivize enrollees to work and encourage personal responsibility” and “encourage individuals to climb the economic ladder.” Arkansas Works Amendment at p. 55. The State also described the goal of the work requirement as “promot[ing] independence through employment.” *Id.* at 15.

82. The State began implementing the requirement for individuals ages 30 to 49 on June 1, 2018. Arkansas is fully rolling out the requirement, to include individuals ages 19 to 29, during the first four months of 2019. *Eligibility and Enrollment Monitoring Plan, Arkansas Works: Work and Community Engagement Amendment 8 (2018)* (hereinafter “Implementation Plan”) (attached as Exhibit 3, hereto).

83. As a condition of eligibility, enrollees must report their participation activities each month, which they can only do by using an online portal. Enrollees may not report participation in-person or by telephone. *Id.*

84. DHS Director Cindy Gillespie stated in March 2018 that the online-only reporting requirement was more convenient for DHS, and “If you implement it in the old-fashioned way of ‘Come into our county office,’ we would have to hire so many people – and that just doesn’t make sense.” Benjamin Hardy, *Medicaid Advocate Criticizes Arkansas Works’ Email-only Reporting for Work Requirements*, Ark. Times, Apr. 28, 2018, <https://www.arktimes.com/ArkansasBlog/archives/2018/04/28/medicaid-advocate-criticizes-arkansas-works-email-only-reporting-for-work-requirements> (last visited Aug. 3, 2018).

85. To use the online portal, enrollees need an email address, a log-in and password unique to the portal, and a reference number provided in a multi-page letter sent by DHS. Enrollees

use the reference number to link their insurance account to the reporting portal. Once the link is established, individuals must click through multiple different screens to report their work activities each month. The portal is only accessible to beneficiaries between the hours of 7 a.m. and 9 p.m. Sometimes, DHS schedules online maintenance of the portal during these operating hours. Enrollees must report work activities for a given month by the 5th of the following month, or the activities will not be counted for purposes of determining compliance. *See generally* Arkansas Works Information, <https://ardhs.sharepointsite.net/ARWorks/default.aspx>.

86. To claim an exemption, Arkansas Works beneficiaries use the online portal to make an attestation based on their understanding of the exemption. The State plans to review exemption attestations as part of a quality review process, which may result in retroactive removal of months of exemption or compliance. If the retroactive removal leaves an enrollee with three months of non-compliance in a calendar year, the individual's Arkansas Works case will be closed and referred for investigation as potential fraud and overpayment. Implementation Plan at 13.

87. After the March 5, 2018 approval, the Arkansas Medicaid agency publicly estimated that "approximately 69,000 out of 278,734 individuals currently enrolled in Arkansas Works will be expected to participate in monthly approved work activities" once the requirement is fully implemented. This estimate did not include an estimate of Arkansans who would not be able to meet the requirement and would thus lose Medicaid coverage for the year. Implementation Plan at 1, 6.

88. The State estimates there are 125,242 Arkansas Works beneficiaries in the 30 to 49 age group. *Id.* at 6. The State began rolling out the work requirement to this group in June 2018, announcing that 25,815 of these enrollees needed to meet the work and community engagement

requirement in June 2018. Almost one-third of the individuals who needed to meet the work requirements – 7,464 people – did not do so for the month. Of those who met the requirement, 15,511 were deemed to meet it through state data sources, 2,395 reported an exemption, and only 445 reported they met the 80 hours of work-related activity. *See* Arkansas Dep’t of Human Servs., *Arkansas Works Program June 2018 Report*, at 1 (attached as Exhibit 4, hereto).

89. The State estimates that 38,321 of the 125,242 Arkansas Works beneficiaries ages 30 to 49 will need to report how they met the work requirement or an exemption when the requirement is fully implemented for this age group by October 2018. Once fully implemented, the State estimates that about 69,000 of the 171,999 Arkansas Works beneficiaries in the 19 to 49 age group will need to report how they meet the work requirement or an exemption. Implementation Plan at 1, 6.

Retroactive Eligibility

90. As noted above, the Medicaid Act requires that medical assistance be provided to enrollees retroactively. States must provide that

in the case of any individual who has been determined to be eligible for medical assistance . . . such assistance will be made available to him for care and services included under the plan and furnished in or after the third month before the month in which he made application . . . for such assistance if such individual was . . . eligible for such assistance at the time such care and services were furnished.

42 U.S.C. § 1396a(a)(34).

91. Separately, Section 1396d(a) defines “medical assistance” to include coverage for services received by eligible individuals during the three-month period prior to the month of application. *Id.* § 1396d(a).

92. There is no authority for the Secretary to grant a waiver of Section 1396d(a).

93. Under the approved Arkansas Works Amendment, retroactive eligibility coverage as required by the statute is terminated. Instead, the State will only pay for services received during the 30 days before an individual submits an application. Amendment Approval at Ex. 2 at 11, 21.

F. Action Taken by the Defendants to Allow Work Requirements and Approve the Arkansas Works Amendment

94. Prior to 2017, CMS’s website stated that the purpose of Section 1115 waivers is to “demonstrate and evaluate policy approaches such as:

- Expanding eligibility to individuals who are not otherwise Medicaid or CHIP eligible;
- Providing services not typically covered by Medicaid; or
- Using innovative service delivery systems that improve care, increase efficiency, and reduce costs.”

Medicaid.gov, *About Section 1115 Demonstrations*, <https://www.medicaid.gov/medicaid/section-1115-demo/about-1115/index.html> (last visited September 5, 2017). The “general criteria” for CMS to use when assessing waiver applications included whether the demonstration would:

1. increase and strengthen overall coverage of low-income individuals in the state;
2. increase access to, stabilize, and strengthen providers and provider networks available to serve Medicaid and low-income populations in the state;
3. improve health outcomes for Medicaid and other low-income populations in the state; or
4. increase the efficiency and quality of care for Medicaid and other low-income populations through initiatives to transform service delivery networks.

Id.

95. Prior to 2017, CMS recognized that work requirements do “not support the objectives of the [Medicaid] program” and “could undermine access to care.” Letter from Andrew M. Slavitt, Acting Administrator, Ctrs. For Medicare & Medicaid Servs., HHS to Thomas Betlach, Dir. Az. Health Care Cost Containment System (Sept. 30, 2016); *see* Sec’y of Health & Human

Services Sylvia Burwell, *Hearing on The President's Fiscal Year 2017 Budget*, Responses to Additional Questions for the Record, U.S. House of Rep. Energy & Commerce Health Subcommittee at 35 (Feb. 24, 2016), <http://docs.house.gov/meetings/IF/IF14/20160224/104521/HHRG-114-IF14-Wstate-BurwellS-20160224-SD002.pdf>.

96. In 2016, CMS denied Arkansas' request to institute a work requirement in Medicaid, stating in part: "[C]onsistent with the purposes of the Medicaid program, we cannot approve a work requirement." Letter from Sylvia Burwell, Sec'y of Health & Human Services, to Asa Hutchinson, Governor of Arkansas (Apr. 5, 2016) (attached as Exhibit 5, hereto).

97. The current HHS abruptly reversed course to revise its use of the Section 1115 waiver authority and to authorize work requirements in Medicaid as part of President Trump's vow to "explode" the ACA and its Medicaid expansion. See Amy Goldstein & Juliet Eilperin, *Affordable Care Act Remains "Law of the Land," but Trump Vows to Explode It*, Wash. Post, Mar. 24, 2017, https://www.washingtonpost.com/national/health-science/affordable-care-act-remains-law-of-the-land-but-trump-vows-to-explode-it/2017/03/24/4b7a2530-10c3-11e7-ab07-07d9f521f6b5_story.html.

98. When he took office, President Trump signed an Executive Order calling on federal agencies to undo the ACA "[t]o the maximum extent permitted by law." Executive Order 13765, *Minimizing the Economic Burden of the Patient Protection and Affordable Care Act Pending Repeal*, 82 Fed. Reg. 8351 (Jan. 20, 2017), <https://www.gpo.gov/fdsys/pkg/FR-2017-01-24/pdf/2017-01799.pdf>.

99. On March 14, 2017, Defendant Seema Verma was sworn in as the Administrator of CMS. Defendant Verma and former Secretary Price immediately issued a letter to state Governors announcing CMS's disagreement with the purpose and objectives of the Medicaid Act,

stating that “[t]he expansion of Medicaid through the Affordable Care Act (‘ACA’) to non-disabled, working-age adults without dependent children was a clear departure from the core, historical mission of the program.” *See* Sec’y of Health and Human Servs., Dear Governor Letter, at 1, <https://www.hhs.gov/sites/default/files/sec-price-admin-verma-ltr.pdf>.

100. Since then, Defendant Verma has made repeated public statements criticizing the expansion of Medicaid to “able-bodied individual[s],” advocating for lower enrollment in Medicaid, and outlining plans to “reform” Medicaid through agency action. *See* Casey Ross, *Trump health official Seema Verma has a plan to Slash Medicaid rolls. Here’s how*, Stat News, Oct. 26, 2017, <https://www.statnews.com/2017/10/26/seema-verma-medicaid-plan/>.

101. For instance, on June 27, 2017, Defendant Verma wrote an Opinion piece in the Washington Post observing that “U.S. policymakers have a rare opportunity, through a combination of congressional and administrative actions, to fundamentally transform Medicaid.” Seema Verma, *Lawmakers have a rare chance to transform Medicaid. They should take it*, Wash. Post, June 27, 2017, https://www.washingtonpost.com/opinions/lawmakers-have-a-rare-chance-to-transform-medicaid-they-should-take-it/2017/06/27/f8e5408a-5b49-11e7-9b7d-14576dc0f39d_story.html?utm_term=.11a4dfe727df.

102. On November 7, 2017, at a speech before the National Association of Medicaid Directors, Defendant Verma declared that the ACA’s decision to “move[] millions of working-age, non-disabled adults into” Medicaid “does not make sense,” and announced that CMS would resist that change by approving state waivers that contain work requirements. Speech: Remarks by Administrator Seema Verma at the National Association of Medicaid Directors (NAMD) 2017 Fall Conference, CMS.Gov (Nov. 7, 2017), <https://www.cms.gov/newsroom/fact-sheets/speech-remarks-administrator-seema-verma-national-association-medicaid-directors-namd-2017-fall>.

103. On November 10, 2017, Defendant Verma gave an interview in which she declared that one of the “major, fundamental flaws in the Affordable Care Act was putting in able bodied adults,” declaring that Medicaid was “not designed for an able bodied person,” and announcing that CMS is “trying” to “restructure the Medicaid program.” Wall Street Journal, *The Future of: Health Care* (Nov. 10, 2017), <http://www.wsj.com/video/the-future-of-health-care/D5B767E4-B2F2-4394-90BB-37935CCD410C.html>.

104. In or around early November 2017, CMS revised its website to invite states to submit Section 1115 waivers that would:

1. Improve access to high-quality, person-centered services that produce positive health outcomes for individuals;
2. Promote efficiencies that ensure Medicaid’s sustainability for beneficiaries over the long term;
3. Support coordinated strategies to address certain health determinants that promote upward mobility, greater independence, and improved quality of life among individuals;
4. Strengthen beneficiary engagement in their personal healthcare plan, including incentive structures that promote responsible decision-making;
5. Enhance alignment between Medicaid policies and commercial health insurance products to facilitate smoother beneficiary transition; and
6. Advance innovative delivery system and payment models to strengthen provider network capacity and drive greater value for Medicaid.

Medicaid.gov, *About Section 1115 Demonstrations*, <https://www.medicaid.gov/medicaid/section-1115-demo/about-1115/index.html>.

105. On January 11, 2018, well after the federal comment period for the Arkansas Works Amendment had closed, Defendant CMS issued a letter to State Medicaid Directors (“Dear State Medicaid Director Letter”), attached as Exhibit 6, hereto, titled “Opportunities to Promote Work and Community Engagement Among Medicaid Beneficiaries.”

106. The nine-page document “announc[es] a new policy” that allows states to apply “work and community engagement” requirements to certain Medicaid recipients—specifically, “non-elderly, non-pregnant adult Medicaid beneficiaries who are eligible for Medicaid on a basis other than disability.” Dear State Medicaid Director Letter at 1, <https://www.medicaid.gov/federal-policy-guidance/downloads/smd18002.pdf>.

107. The Dear State Medicaid Director Letter acknowledges that allowing states to implement work requirements “is a shift from prior agency policy.” *Id.* at 3.

108. The Dear State Medicaid Director Letter outlines the “guidelines” for states to consider in submitting applications containing work requirements.

109. The Dear State Medicaid Director Letter was not submitted for notice and public comment and was not published in the Federal Register.

110. The same day CMS issued the Dear State Medicaid Director Letter, it received several letters critical of this novel policy position, including from members of Congress and nonprofit organizations. The National Health Law Program (“NHeLP”) noted that by announcing the policy change after the Arkansas Works comment period had closed, CMS had not given the public the ability to comment meaningfully on the pending Arkansas Amendment. NHeLP further noted that the Dear State Medicaid Director Letter “entirely ignore[d] the wealth of literature regarding the negative health consequences of work requirements, which was repeatedly cited by NHeLP and others in those state-specific comments.” Letter from Jane Perkins, Legal Director, Nat’l Health Law Program, to Brian Neale, Dir., Ctrs. For Medicare & Medicaid Servs. (Jan. 11, 2018), <http://www.healthlaw.org/component/jsfsubmit/showAttachment?tmpl=raw&id=00P0W00000ozROSUA2>.

111. NHeLP requested that CMS re-open public comment on the Arkansas Works project to allow the public a meaningful opportunity to comment. Defendants ignored this request.

112. On or about January 18, 2018, CMS further emphasized that it disagrees with the legislative expansion of Medicaid under the ACA and that it had announced the “new policy guidance” to support state implementation of work requirements intended to target that expansion population. CMS, Community Engagement Initiative Frequently Asked Questions, <https://www.medicaid.gov/medicaid/section-1115-demo/community-engagement/index.html> (last visited August 13, 2018).

113. When Defendant Verma announced approval of the Arkansas Works Amendment on March 5, 2018, she tied it to the Dear State Medicaid Director Letter, tweeting, “#ArkansasWorks is the 3rd community engagement demonstration we’ve approved since releasing guidance in January. @CMSgov has 9 pending applications with similar demonstration applications and several states have expressed interest in exploring these reforms. #TransformingMedicaid.” Seema Verma, Administrator, Ctrs. for Medicare & Medicaid Servs. (@SeemaCMS), Twitter (Mar. 5, 2018, 9:45 AM), <https://twitter.com/SeemaCMS/status/970716905379123205>.

114. In approving the Arkansas work and community engagement requirement, CMS cited the Dear State Medicaid Director Letter and imposed a number of terms and conditions on the State. Amendment Approval at Ex. 2 at 3-4. Several of those terms and conditions require that Arkansas follow requirements set out in the Dear State Medicaid Director Letter. *See, e.g., id.* at 27 (exempting from work requirement enrollees with an acute medical condition that would prevent compliance); *id.* (exempting enrollees participating in substance use disorder treatment); *id.* (exempting enrollees who are exempt from SNAP/TANF work requirements); *id.* at 20-21

(requiring reasonable modifications for enrollees with ADA-protected disabilities, including exemption from participation); *id.* at 32 (promising that Arkansas will assess areas with limited economies and/or educational activities or higher barriers to participation to determine whether further exemptions or modifications are needed to the work requirement).

115. Each waiver approval including work requirements that has come after the Dear State Medicaid Director Letter—Kentucky, Arkansas, Indiana, and New Hampshire—invokes the Dear State Medicaid Director Letter and reflects its requirements.

116. In July 2018, Defendant Azar stated: “We are undeterred. We are proceeding forward... We’re fully committed to work requirements and community participation in the Medicaid program... we will continue to litigate, we will continue to approve plans, we will continue to work with states. We are moving forward.” Colby Itkowitz, *The Health 202: Trump administration ‘undeterred’ by court ruling against Medicaid work requirements*, Wash. Post, July 25, 2018, https://www.washingtonpost.com/news/powerpost/paloma/the-health-202/2018/07/27/the-health-202-trump-administration-undeterred-by-court-ruling-against-medicaid-work-requirements/5b5a10bb1b326b1e64695577/?utm_term=.7ba76e8a0719.

G. The Constitution’s Take Care Clause

117. The United States Constitution provides that “All legislative Powers herein granted shall be vested in a Congress of the United States.” U.S. Const., art. I, § 1. Congress is authorized to “make all laws which shall be necessary and proper for carrying into Execution” its general powers. *Id.* §§ 1, 8.

118. After a federal law is duly enacted, the President has a constitutional duty to “take Care that the Laws be faithfully executed.” *Id.* art. II, § 3.

119. The Take Care Clause is judicially enforceable against presidential action that undermines statutes enacted by Congress and signed into law. *See, e.g., Angelus Milling Co. v. Comm’r*, 325 U.S. 293, 296 (1945) (“Insofar as Congress has made explicit statutory requirements, they must be observed and are beyond the dispensing power of [the Executive Branch].”); *Kendall v. United States ex rel. Stokes*, 37 U.S. (12 Pet.) 524, 612-13 (1838).

120. The Take Care Clause limits the President’s power and ensures that he will faithfully execute the laws that Congress has passed.

121. Under the Constitution, the President lacks the authority to rewrite congressional statutes or to direct federal officers or agencies to effectively amend the statutes he is constitutionally required to execute.

122. The Administrator of CMS has expressed the need to “fundamentally transform Medicaid.”

123. The power to “transform” a congressional program is a legislative power vested in Congress. An effort to “transform” a statute outside that legislative process is at odds with the President’s constitutional duty to take care that the laws be faithfully executed.

124. The Medicaid population targeted by the Arkansas Works Amendment is the so-called “expansion population,” which Congress added to Medicaid in the Affordable Care Act. The Executive Branch has repeatedly expressed its hostility to the Affordable Care Act and its desire to undermine its operation. An effort to undermine the Affordable Care Act by undoing the extension of Medicaid to the expansion population is at odds with the President’s duty to take care that the laws be faithfully executed.

H. Effects of the Arkansas Works Amendment on the Plaintiffs

125. By approving the Arkansas Works Amendment, the Secretary has enabled the State to impose requirements and procedures that punish Plaintiffs by prohibiting them from obtaining and retaining Medicaid coverage.

126. By approving the Arkansas Works Amendment, the Secretary has allowed the State to ignore ACA requirements to streamline Medicaid enrollment and continued program participation. Plaintiffs should be able to submit information to Arkansas online, in-person, by mail, or by telephone. However, under the Secretary's approval of the Arkansas Works Amendment, they are restricted to only online submission of work requirement and exemption documentation—a difficult, if not impossible task for Plaintiffs on a regular basis due to lack of internet access, trouble using computers, and problems working with the online portal. Instead of simplifying the Medicaid system for individuals, the Secretary's approval to disregard these ACA requirements for the primary purpose of making things simpler and cheaper for Arkansas, results in harm to those who rely on Arkansas Works for health coverage.

127. By approving the Arkansas Works Amendment, the Secretary has permitted Arkansas to eliminate the three months of retroactive coverage required under the Medicaid Act and instead provide only one month of coverage prior to the month of application. If a Plaintiff loses coverage and then reapplies, the Plaintiff will not have retroactive coverage for health services received during the gap in coverage. Plaintiffs who lose coverage after three months of non-compliance with the work requirement and then re-enroll the following year will lose two months of retroactive coverage they would have otherwise had during the gap in coverage.

128. Continuous and adequate health insurance coverage is fundamental for each Plaintiff's ability to stay as healthy as possible and to work.

129. The Secretary's action approving the Arkansas Works Amendment will cause harm to Plaintiffs. Specifically:

130. Plaintiff Charles Gresham is a 37-year-old man who lives with his fiancé in Harrison, Arkansas. Mr. Gresham's fiancé works at a fast food restaurant earning about \$9 an hour with a gross income of about \$1100 per month. She currently supports Mr. Gresham financially and is his source of transportation.

131. Mr. Gresham has his GED and has largely worked in the food service industry. In 2015, he went to work as a labor hand with a local construction company but was let go after about a year because he began having seizures on the job. Mr. Gresham went back to the food service industry and other service jobs, but has lost those jobs due to issues related to his seizures, including missing work.

132. Although Mr. Gresham would like to work, he is not working at this time because he has had trouble finding and keeping a job. Despite his health conditions, he can do some types of work but needs a flexible schedule because he may not be able to work all day and he needs times for doctors' appointments.

133. Mr. Gresham has medical conditions that need to be monitored and treated. He has a seizure disorder, extreme social anxiety, and asthma. With Medicaid coverage through Arkansas Works, he has been able to get the treatment and services he needs, including doctors and therapists.

134. Mr. Gresham has been covered by Medicaid through Arkansas Works since 2015. When he has questions or needs help in renewing his coverage, Mr. Gresham has gone to the local Arkansas Department of Human Services office in Boone County. He is not comfortable with computers and generally requires help from other people when going online, especially to fill

something out or send in information. Mr. Gresham recently tried to navigate the Access Arkansas website and could not report his work activities online without assistance from his fiancé and Legal Aid of Arkansas. Up until recently, Medicaid coverage has been mostly easy for him to obtain, but the Arkansas Works notices and materials he has received in the past few months have been confusing and difficult to understand.

135. In May 2018, Mr. Gresham received a notice that he would be subject to the work requirement for Arkansas Works. He was unable to meet the work requirement in June and July 2018 because he has been unable to find and maintain a job. He cannot meet the requirement through volunteering or searching for jobs consistently because he does not have his own transportation, is not comfortable with computers, and may not be able to do an activity as scheduled.

136. Mr. Gresham received a letter from DHS stating he was exempt from the work requirements due to receiving unemployment benefits. He is no longer receiving unemployment benefits and has notified DHS that his situation has changed. Mr. Gresham does not currently have an exemption to the work requirement and does not expect his situation to change in the coming months such that he will be able to meet the requirements.

137. Mr. Gresham has previously had gaps in health care coverage that caused him to go without the care he needed. In April 2018, he had a month-long gap that caused him to miss a therapist visit and three doctors' appointments. Although during that gap he had enough medications to get him through, if he were immediately cut off from his medications, his seizure disorder would be much worse and potentially harmful to him.

138. The threat of losing his health coverage has increased Mr. Gresham's anxiety as he worries that without medical coverage his conditions will get worse and that he may suffer irreversible harm or die before he has an opportunity to figure out what is causing his seizures.

139. Plaintiff Cesar Ardon is a 40-year-old man who lives in Siloam Springs, Arkansas.

140. Mr. Ardon worked as a welder for fifteen years until he had a tumor surgery in May 2017. Currently, Mr. Ardon works in construction as a self-employed handyman doing mostly outdoor work. His income and hours fluctuate greatly from month to month. He earned about \$1,200 in July 2018 but typically earns less during other times of year.

141. As a self-employed handyman, Mr. Ardon's work hours change from week to week based on the type of work he gets. Sometimes he is able to work 20 hours a week; other times, especially in the fall and winter when work is slower, he works less.

142. Prior to receiving Medicaid in 2017, Mr. Ardon often did not get the medical care that he needed. For example, he did not get treatment for carpal tunnel, arthritis, and vision issues because he could not afford it.

143. In 2017, Mr. Ardon had major surgery to remove a baseball-sized tumor on his side. He also currently has medical conditions that require monitoring, such as high cholesterol. With Medicaid, he is able to get the treatment and services he needs, as well as annual check-ups.

144. In May 2018, Mr. Ardon received a notice stating he would have to work at least 80 hours a month to keep his Medicaid coverage. Mr. Ardon did not have enough hours to meet the work requirement in June 2018 and received a notice from DHS in July 2018 that he failed to comply with the work requirements for June.

145. In July 2018, Mr. Ardon was able to work enough hours to meet the work requirement. Although he met the hours requirement, Mr. Ardon had trouble accessing the online

portal to report his hours. He has not received confirmation that his online report for July 2018's work activities was accepted.

146. Mr. Ardon does not expect to always be able to get 80 hours of month of work, such that he will be able to meet the requirements. Mr. Ardon is concerned that he will lose his Medicaid coverage because he will not be able to meet the work requirements or because of problems reporting on the online portal. Mr. Ardon worries about getting sick, being unable to work, and losing access to health care if he loses his Medicaid coverage.

147. Mr. Ardon fears what will happen because he cannot predict his future or health. He depends on Medicaid to help him get through the ups and downs of life, especially if he has trouble finding work.

148. Plaintiff Marisol Ardon is a 44-year-old woman who lives in Siloam Springs, Arkansas with her adult daughter. She is separated from her husband, Mr. Ardon, but he rents a room with a separate entrance to her home.

149. Ms. Ardon previously worked answering phones and connecting people to social service agencies and other community resources. In 2013, her job changed slightly and for the next four years she continued to do the same type of work but she did not have the same health care coverage. Ms. Ardon had a gap in health care coverage from about 2013 until 2015 when she started receiving health care coverage from Arkansas Works. During that gap, she paid for basic health care out of her pocket, such as when she had the flu, but she did not go to the doctor for an annual physical, get any blood work, or receive other services.

150. Ms. Ardon has several medical conditions that need to be treated and monitored. She has a hernia in her stomach, thyroid problems, asthma, anxiety attacks, and chronic back pain.

Her back pain is associated with a 25-pound non-cancerous tumor in her midsection that she had removed in July 2017.

151. Ms. Ardon uses her Medicaid coverage to get her four daily medications, regular doctor visits with her primary care doctor and specialists, and to get annual checkups.

152. Ms. Ardon has not worked since about March 2017 because of her health issues at the time. She does not currently have income from work and relies on her adult daughter to pay rent and other household expenses.

153. Ms. Ardon confirmed with DHS that she needs to meet the work requirement and is not exempt. She has not met the requirements in June and July of 2018, and she does not expect to meet the requirement in August.

154. Ms. Ardon tried to create her account on the online portal, but had difficulty with the website. The portal rejected her attempts to create an account several times. Ms. Ardon found the long letters from DHS confusing and does not fully understand the requirements and exemptions. She telephoned DHS for assistance and submitted a paper about not working because of her back, but she has not heard back from DHS.

155. Ms. Ardon does not expect her situation to change and is worried about meeting the requirements either through work or an exemption. She needs her health care coverage to address her health issues. The uncertainty around her Medicaid coverage and the work requirements has increased her anxiety, including having more panic attacks per day because of her concerns about her health care coverage.

**COUNT ONE: VIOLATION OF ADMINISTRATIVE PROCEDURE ACT
(DEAR STATE MEDICAID DIRECTOR LETTER)**

156. Plaintiffs repeat and incorporate herein by reference each and every allegation contained in the preceding paragraphs as if fully set forth herein.

157. The Administrative Procedure Act provides that a reviewing court may “hold unlawful and set aside” agency actions that are “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law”; “contrary to constitutional right, power, privilege, or immunity”; “in excess of statutory jurisdiction, authority, or limitations, or short of statutory right”; or “without observance of procedure required by law.” 5 U.S.C. § 706(2)(A)-(D)

158. The approval of the Arkansas Works Amendment was explicitly based in substantial part on the policy announced in the Dear State Medicaid Director Letter. Amendment Approval at Ex. 2 at 2.

159. The Dear State Medicaid Director Letter was required to be, but was not, issued through notice and comment rulemaking. *See* 5 U.S.C. § 553.

160. In issuing the Dear State Medicaid Director Letter, the Defendants purported to act pursuant to Section 1115 of the Medicaid Act.

161. Authorization of work and community engagement requirements is categorically outside the scope of the Secretary’s Section 1115 waiver authority.

162. In the Dear State Medicaid Director Letter, the Defendants relied on factors that Congress has not intended them to consider, entirely failed to consider several important aspects of the problem, and offered an explanation for their decision that runs counter to the evidence.

163. The Defendants’ issuance of the Dear State Medicaid Director Letter exceeded the Secretary’s Section 1115 waiver authority; otherwise violated the Medicaid Act; was arbitrary and capricious and an abuse of discretion; and ran counter to the evidence in the record.

**COUNT TWO: VIOLATION OF ADMINISTRATIVE PROCEDURE ACT
(ARKANSAS WORKS AMENDMENT APPROVAL)**

164. Plaintiffs repeat and incorporate herein by reference each and every allegation contained in the preceding paragraphs as if fully set forth herein.

165. The Administrative Procedure Act provides that a reviewing court may “hold unlawful and set aside” agency actions that are “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law”; “contrary to constitutional right, power, privilege, or immunity”; “in excess of statutory jurisdiction, authority, or limitations, or short of statutory right”; or “without observance of procedure required by law.” 5 U.S.C. § 706(2)(A)-(D).

166. The Secretary’s decision to approve the Arkansas Works Amendment as described herein exceeded his authority under 42 U.S.C. § 1315, otherwise violated the Medicaid Act, was arbitrary and capricious and an abuse of discretion, and ran counter to the evidence in the record.

167. Plaintiffs will suffer irreparable injury if the Secretary’s actions approving the Arkansas Works Amendment are not declared unlawful because those actions have harmed and will continue to harm Plaintiffs.

168. Plaintiffs are in danger of suffering irreparable harm and have no adequate remedy at law.

**COUNT THREE: VIOLATION OF THE TAKE CARE CLAUSE,
ARTICLE II, SECTION 3, CLAUSE 5**

169. Plaintiffs repeat and incorporate herein by reference each and every allegation contained in the preceding paragraphs as if fully set forth herein.

170. Plaintiffs have a non-statutory right of action to enjoin and declare unlawful official action that is ultra vires.

171. The United States Constitution provides that “All legislative Powers herein granted shall be vested in a Congress of the United States.” U.S. Const., art. I, § 1. Congress is authorized to “make all laws which shall be necessary and proper for carrying into Execution” its general powers. *Id.* §§ 1, 8.

172. The Defendants' actions, as described herein, seek to undermine the ACA, including its expansion of Medicaid, and represent a fundamental alteration to those statutes.

173. Accordingly, the Defendants' actions are in violation of the Take Care Clause and are ultra vires.

174. Plaintiffs will suffer irreparable injury if the Secretary's actions following the President's Executive Orders are not declared unlawful and unconstitutional because those actions have injured or will continue to harm Plaintiffs.

175. Plaintiffs are in danger of suffering irreparable harm and have no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully ask that this Court:

1. Declare that Defendants' issuance of the Dear State Medicaid Director Letter violates the Administrative Procedure Act, the Social Security Act, and the United States Constitution in the respects set forth above;
2. Declare that Defendants' approval of the Arkansas Works Amendment violates the Administrative Procedure Act, the Social Security Act, and the United States Constitution in the respects set forth above;
3. Preliminarily and permanently enjoin Defendants from implementing the practices purportedly authorized by the January 11, 2018 Dear State Medicaid Director Letter and the Arkansas Works Amendment.
4. Award Plaintiffs their reasonable attorneys' fees and costs pursuant to 28 U.S.C. § 2412; and
5. Grant such other and further relief as may be just and proper.

August 14, 2018

Respectfully submitted,

By: /s/ Jane Perkins

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Arkansans Challenge the State's Medicaid Work Requirements

Waiver Would Cut Thousands of Low-Income Individuals from Medicaid

RELEASE: August 14, 2018 **CONTACT:** Kevin De Liban, kdeliban@arlegalaid.org, Jeremy Leaming, leaming@healthlaw.org, and Jen Fuson, jen.fuson@splcenter.org

Washington – In a federal lawsuit lodged today in the District of Columbia, Arkansans are challenging approval of Arkansas's request to condition the receipt of health coverage on an onerous work requirement. The approval will lead to thousands of low-income individuals and families losing access to vital health care. According to the lawsuit, the U.S. Department of Health and Human Services acted in an arbitrary and capricious manner when it approved the work requirement in violation of federal laws and the U.S. Constitution.

"The Arkansas waiver plan has it all backwards. Cutting people's health care and making them jump through administrative hoops will make it harder for our clients to work and make a better life, not easier," said Legal Aid of Arkansas Attorney [Kevin De Liban](#). "Almost 60 percent of people covered by Medicaid expansion in the state already work, and nearly all the rest either have a disability or look after family. These work requirements and the online-only reporting system threaten everyone's care"

Plaintiff Charles Gresham, who has had trouble finding and keeping a job, has a seizure disorder and is one of the people whose insurance is jeopardized. "Arkansas Works gives a person in my situation the ability to continue with my care to resolve whatever health issues I have," Gresham said. "Without the program, my health can only get worse."

Like the many Arkansans who lack online access or computer literacy, Gresham could not navigate the mandatory online reporting system alone. The state does not accept in-person or telephone reports. Any three months of non-compliance results in termination from the program for the rest of the year. In the first month of work requirements, 72 percent of the people required to go online to report failed to do so.

De Liban added, "Medicaid is not a work program; it is a program to provide health coverage. Medicaid coverage enables people with limited incomes and no health insurance to become healthy. Without access to health services, it is nearly impossible to be healthy enough to find and keep a job."

[Legal Aid of Arkansas](#), [National Health Law Program](#), and [Southern Poverty Law Center](#) are representing the plaintiffs. This is the second federal lawsuit challenging a Medicaid waiver plan with a work a requirement component approved by the U.S. Department of Health and Human Services.

In June, a federal judge vacated the administration's approval of a similar work requirement in Kentucky and sent the project back to HHS. The groups challenging the Kentucky waiver approval are National Health Law Program, Kentucky Equal Justice Center, and the Southern Poverty Law Center. The law firm, Jenner & Block, is working with National Health Law Program in the Kentucky case.

For more information about the Arkansas litigation, please contact: Kevin De Liban, Legal Aid of Arkansas, 870.732.6370 (x. 2206), kdeliban@arlegalaid.org, Jeremy Leaming, National Health Law Program, 301.233.0867, leaming@healthlaw.org, or Jen Fuson, SPLC, 202.834.6209, jen.fuson@splcenter.org.



Personal Stories of Those Affected By “Arkansas Works” Amendment

By [Wayne Turner](#) and [Elizabeth Edwards](#)

On March 5, 2018, the Department of Health and Human Services (HHS) approved Arkansas’ request to amend its existing Medicaid expansion waivers (“AR Works Amendment”) to impose new requirements and eliminate key consumer protections in the state’s Medicaid program. Because the AR Works Amendment violates numerous provisions of the law and will gravely harm tens of thousands of Arkansans, the National Health Law Program (NHeLP) brought a lawsuit challenging the approval on August 14, 2018.¹

The lawsuit was filed on behalf of three individuals who have health care coverage through Arkansas’ Medicaid program and who will suffer serious harm under the AR Works Amendment. They will face new, punitive requirements, including work and reporting obligations. They will lose health care coverage if they fail to meet the requirements or fail to properly report and document compliance. Under the AR Works Amendment, they will be locked out of Medicaid for the remainder of the calendar year after they have three months of noncompliance. The Amendment also limits the three months of retroactive coverage required under the Medicaid Act to one month, meaning that those who are locked out of Medicaid for noncompliance will also suffer harm from the lack of retroactive coverage.

Below are descriptions of how the AR Works Amendment will affect the named plaintiffs:

- Charles Gresham is a 37-year-old man who has been covered by Medicaid since 2015. Mr. Gresham has several health conditions that need to be monitored and treated, including asthma, extreme social anxiety, and a seizure disorder that began in 2015. Despite his health conditions, he can do some types of work and wants to work. However, he does not have his own transportation and because he may not be able to work all day and he needs time for doctors’ appointments, he needs a flexible schedule. Mr. Gresham has held various jobs, largely in food service, but in recent years he has

struggled with finding and keeping a job. With Medicaid coverage, he has been able to get the treatment and services he needs, including doctors' visits to help with the seizure disorder and therapists for his anxiety. His Medicaid coverage *helps* him work. In May 2018, Mr. Gresham received a notice that he would be subject to the work requirement for Arkansas Works. He was unable to meet the work requirement in June and July 2018 because he has been unable to find and maintain a job. He also struggles with the online portal for reporting compliance with the Arkansas Works Amendment requirements. The threat of losing his health coverage has increased Mr. Gresham's anxiety as he worries that without medical coverage his conditions will get worse. He is also concerned that without health coverage, he may suffer irreversible harm or die before he has an opportunity to figure out the cause of his seizures.

- Cesar Ardon is a 40-year-old man who works in construction as a self-employed handyman, largely doing outdoor work. His income and hours fluctuate greatly from month to month. Sometimes he works 20 hours a week or more; other times, especially in the fall and winter when work is slower, he works less. Mr. Ardon has received health coverage under Medicaid since 2017, which is the same year he had major surgery to remove a baseball-sized tumor on his side. Mr. Ardon also has ongoing medical conditions that require monitoring, such as high cholesterol. With Medicaid, he is able to get the treatment and services he needs, as well as annual check-ups. In May 2018, Mr. Ardon received a notice stating he would have to work at least 80 hours a month to keep his Medicaid coverage. Mr. Ardon was not able to get enough hours to meet the work requirement in June 2018, but believes he met the requirement in July. He received a notice from DHS in July 2018 that he failed to comply with the work requirements for June and is unsure if the hours he submitted for July were accepted. Mr. Ardon does not expect to always be able to get 80 hours a month of work every month. He is worried that he will have at least three months of noncompliance with the requirements and will lose his health coverage for the remainder of the calendar year, which could be nine months if he does not get adequate hours during the colder months at the beginning of the calendar year. Mr. Ardon also experienced problems with the online portal for reporting hours and is concerned that he will have ongoing issues reporting hours even if he meets them because of problems with the website or access to the internet. Mr. Ardon worries about getting sick, being unable to work, and losing access to health care if he loses his Medicaid coverage.
- Marisol Ardon is a 44-year-old woman who lives with her adult daughter who pays the rent and other household expenses. Ms. Ardon worked for many years answering phones and connecting people to social service agencies and other community resources. When her job changed slightly in 2013, she lost her health coverage and experienced a gap in coverage until she accessed coverage through Medicaid in 2015.

Ms. Ardon uses her Medicaid coverage to get her four daily medications, regular doctor visits with her primary care doctor and specialists, and to get annual checkups. In July 2017, she had a large non-cancerous tumor removed from her midsection, but as a result she has chronic back pain. She also has other medical conditions that she uses her Medicaid coverage to treat and monitor, including thyroid problems, asthma, and anxiety. Since hearing of the work requirements, Ms. Ardon has confirmed with DHS that she needs to meet the work requirement and does not have an identified exemption. Ms. Ardon has not worked since March 2017, shortly before her surgery to remove the tumor. She has not met the work requirements in June and July of 2018, and she does not expect to meet the requirement in August. When Ms. Ardon tried to create her account on the online portal, she had difficulty with the website. The portal rejected her attempts to create an account several times. She contacted DHS for assistance and submitted a paper about not working because of her back, but she has not heard back from DHS. Ms. Ardon is worried about meeting the requirements and the uncertainty around her Medicaid coverage and the work requirements has increased her anxiety, including having more panic attacks per day because of her concerns about her health care coverage.

In addition to these individuals, the Amendment will harm tens of thousands of Arkansans across the state, including parents, grandparents, caregivers, home health aides and childcare workers, housekeepers and custodians, ministers, retired workers, students, church administrators, and more. All of these individuals need primary, preventive, and potentially emergency care, including check-ups, diabetes treatment, mental health services, substance use disorder treatment, blood pressure monitoring and treatment, and other essential health care services. The Amendment will mean the loss of coverage for tens of thousands, resulting in poorer health and economic status for themselves, their families, and their communities.

ENDNOTES

¹ For more information on the lawsuit see NHeLP, *Summary of Lawsuit Filed Against HHS Approval of “Arkansas Works” Amendment*, <http://www.healthlaw.org/publications/browse-all-publications/summary-of-lawsuit-filed-against-hhs-approval-of-arkansas-works-amendment#.W3RKc7gna70>. NHeLP brought the lawsuit together with the Legal Aid of Arkansas and Southern Poverty Law Center.

Legal Aid sues over Medicaid work rule

 jonesborosun.com/news/news.php

Wednesday, August 15, 2018

By Keith Inman, Sun Staff Writer, inman@jonesborosun.com

JONESBORO — The U.S. Department of Health and Human Services violated the U.S. Constitution when it permitted Arkansas to impose work requirements on Medicaid recipients, a federal lawsuit filed Tuesday states.

The lawsuit was filed in the District of Columbia by attorneys for Jonesboro-based Legal Aid of Arkansas, the Southern Poverty Law Center and the National Health Law Program on behalf of three residents who have been informed they've failed to meet the state's work requirements. They either failed because they were unable to work the required 80 hours per month or had trouble accessing the online portal to report their hours.

A similar work requirement in Kentucky was struck down by a federal judge in that state in June.

Gov. Asa Hutchinson, a Republican, has promoted the requirement as a way to move more people onto the workforce and eventually off of the government-funded coverage. Hutchinson defended the requirement on Tuesday, and said the state is providing "substantial" assistance to people on the program who have trouble reporting because of limited access to the internet, The Associated Press reported.

"This lawsuit has one goal, which is to undermine our efforts to bring Arkansans back into the workforce, increase worker training, and to offer improved economic prospects for those who desire to be less dependent on the government," Hutchinson said in a statement.

Advocates for the homeless around the state have complained that it has had an added impact on their constituents. Gwendolyn Zugarek, a volunteer at The Hub — Helping Underserved Belong — in Jonesboro, said some of the people that office serves have also reported problems.

"Whenever the rules change we have to learn how we can help our neighbors," Zugarek said Tuesday. She said The Hub volunteer staff is still trying to learn those rules.

The lawsuit claims the work requirement violates the federal Medicaid Act and the Affordable Care Act (Obamacare), which allowed states to expand Medicaid to individuals.

The Social Security Act, of which the Medicaid Act is a part, does permit the secretary of Health and Human Services to waive certain federal Medicaid requirements, but only in narrow circumstances — when necessary to allow a state to carry out an experimental or pilot program that is likely to promote the objectives of the Medicaid Act, the complaint states.

The Affordable Care Act requires states to use a streamlined Medicaid eligibility process so that individuals "may apply for enrollment in, receive a determination of eligibility for participation in, and continue participation in, [Medicaid]."

Arkansas expanded Medicaid under Obamacare in 2014 to cover adults who are under age 65; do not fit into another Medicaid (or Medicare) eligibility category; and have household income below 133 percent of the federal poverty level.

The Arkansas Health Care Independence Program, popularly known as the Private Option, resulted in 225,000 receiving coverage in 2014 and 2015.

During that same time period, Arkansas saw "a reduction in the uninsured rate for adults from 22.5 percent to 9.6 percent, the largest reduction observed nationwide," according to the lawsuit.

In 2016, the agency denied a request from Hutchinson to add the work requirement under the newly titled Arkansas Works program. But that changed after President Donald Trump took office, the complaint said.

"Early in 2017, the current HHS abruptly reversed course, signaling to states that it would revise its use of the waiver authority in Medicaid as part of President Trump's vow to 'explode' the ACA and its Medicaid expansion," according to the lawsuit.

The work requirement began to take effect in June.

Legal Aid attorney Kevin De Liban said the combination of the work requirement and the complexities of the website portal will result in thousands of people losing coverage.

"The Arkansas waiver plan has it all backwards," De Liban said. "Cutting people's health care and making them jump through administrative hoops will make it harder for our clients to work and make a better life, not easier. Almost

60 percent of people covered by Medicaid expansion in the state already work, and nearly all the rest either have a disability or look after family. These work requirements and the online-only reporting system threaten everyone's care."

So far, 72 percent of the people required to go online to report their compliance failed to do so. De Liban said the Arkansas Department of Human Services is scheduled to issue an updated report today.



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Lawsuit filed on Arkansas work rule for Medicaid

Federal officials' authority to OK state waiver at issue

by [Andy Davis](#) | Today at 4:30 a.m.



COMMENT

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Less than two months after winning a federal judge's order that blocked a work requirement for Kentucky's Medicaid program, advocacy groups filed a lawsuit on Tuesday challenging Arkansas' similar requirement.

Echoing arguments from the Kentucky case, the latest lawsuit contends that President Donald Trump's administration exceeded its authority when it approved the requirement for enrollees in Arkansas' expanded Medicaid program, known as Arkansas Works.

The suit also takes issue with a requirement that Arkansas enrollees use a state website to report their work activities or exemption status. The lawsuit notes that the 2010 Patient Protection and Affordable Care Act requires states to allow enrollees to submit eligibility forms online, in person, by mail or by telephone.

The lawsuit was filed in federal court in Washington, D.C., on behalf of three Arkansas Works enrollees by the National Health Law Program and the Southern Poverty Law Center, both of which also represented the plaintiffs in the Kentucky case, and by Jonesboro-based Legal Aid of Arkansas.

[DOCUMENT: Read the lawsuit]

"We know that being healthy is kind of a requirement to be able to work, and we know that these work requirements and online-only reporting system are likely to lead to massive terminations [of coverage] for tens of thousands of people, many of whom are our clients," Legal Aid of Arkansas attorney Kevin De Liban said.

In a statement, Gov. Asa Hutchinson said the lawsuit "has one goal, which is to undermine our efforts to bring Arkansans back into the workforce, increase worker training, and to offer improved economic prospects for those who desire to be less dependent on the government."

Named as defendants in the suit are U.S. Secretary of Health and Human Services Alex Azar and his department and Centers for Medicare and Medicaid Services Administrator Seema Verma and her agency.

Health and Human Services Department spokesman Caitlin Oakley said in an email that the agency doesn't comment on pending litigation.

In March, Arkansas became the third state to receive federal approval to implement a Medicaid work requirement, and in June it became the first state to implement one.

Out of almost 44,000 enrollees who were subject to the requirement last month, 12,722 failed to comply, according to a state Department of Human Services report released Tuesday.

That included 5,426 enrollees who also did not comply with the requirement in June. If they fail to meet the requirement this month, they will lose their coverage starting in September.

Those who were in compliance in July included 30,228 people who were determined to be exempt based on information in state records or because they had reported exemptions in June. Such exemptions apply, for instance, to enrollees living with dependent children or who earn at least \$736 a month. That cutoff is based on the average monthly income of someone making the state's minimum wage of \$8.50 an hour and working 20 hours a week.

Just 2,415 people met the requirement by using the state website to report their work activity or exemptions. Of those, 1,571 reported exemptions and 844 reported engaging in 20 hours of work or other approved activities, such as taking classes or volunteering.

When fully implemented, the requirement will apply to about 167,000 enrollees. It is being phased in for enrollees ages 30-49 this year and for those ages 19-29 next year. Older enrollees are exempt, and people under age 19 are not eligible for Arkansas Works.

As of Aug. 1, 265,223 people were enrolled in the program, which covers people with incomes of up to 138 percent of the poverty level who became eligible for Medicaid under the expansion in 2014.

The income cutoff this year is \$16,753 for an individual or \$34,638 for a family of four. Most enrollees receive the coverage through private insurance plans, with the Medicaid program paying the premiums.

Hutchinson spokesman J.R. Davis said some of those who have failed to report may have gained coverage from another source -- such as under a spouse's plan or through a new job -- and no longer need the Arkansas Works coverage.

As for the others, the state has used letters, emails and phone calls to make sure they know about the requirement, he said.

"If someone makes the decision, 'Hey look, I just don't want to work,' this should come as no surprise to them," Davis said.

The lawsuit was filed on behalf of Cesar Ardon, 40, of Siloam Springs, who works in construction and as a self-employed handyman; his wife, Marisol, 44, who hasn't worked since March 2017 because of health problems; and Charles Gresham, 37, of Harrison, who, according to the suit, would like to work but suffers from a seizure disorder that has made it difficult to keep a job.

Cesar Ardon met the work requirement last month after being out of compliance in June because he didn't work enough hours, according to the lawsuit. Marisol Ardon, who is separated from her husband, did not meet the requirement in June or July and doesn't expect to meet it in August, either, the suit says.

Gresham didn't meet the requirement in June or July because he couldn't find a job, the lawsuit says. He also can't meet the requirement through other activities, such as volunteering, because he doesn't have a car, isn't comfortable using a computer to report his activities and "may not be able to do an activity as scheduled," according to the suit.

All three plaintiffs have had trouble using the state website, the suit says. Marisol Ardon, who tried to create an account on the site several times, sent the state Human Services Department a paper about not being able to work because of her back problems, but she hasn't heard back, the suit says.

The lawsuit contends that Azar acted in an "arbitrary and capricious" manner and abused his discretion in approving a waiver from Medicaid laws that allowed Arkansas to impose the requirement.

It also argues that Verma failed to follow the federal Administrative Procedure Act when she sent a letter to state Medicaid directors in January offering guidance on making requests for such waivers.

The suit contends that the waivers are part of the Trump administration's effort to undermine the Affordable Care Act in violation of the president's duty under the Constitution to execute laws passed by Congress.

U.S. District Judge James Boasberg on June 29 rescinded the waiver allowing a work requirement in Kentucky, ruling that Azar failed to consider the effect the requirement would have on enrollees' health coverage.

In response, the Centers for Medicare and Medicaid Services solicited a new round of public comments on the waiver. According to news reports, federal officials hope to satisfy the judge's concerns by showing they considered the requirement's effect on coverage.

Hutchinson said Arkansas is "providing substantial assistance to anyone that has limited access to the Internet or who may encounter additional challenges."

"Our goal is to assist those in compliance so that their health care coverage continues; however, we must have an accountable system that does not leave thousands of able-bodied recipients on the Medicaid rolls who may not qualify for a whole host of reasons," he said.

He added that he's disappointed in the participation in the suit by Legal Aid of Arkansas, which he noted is "in part funded by federal taxpayer dollars." The group, which provides free legal help to low-income people, has "a consistent history of trying to thwart any effort to transform and bring accountability to our Medicaid program," he said.

Legal Aid of Arkansas Director Lee Richardson responded that change "has to happen within the bounds of the law."

"These work requirements are illegal, nearly 13,000 Arkansans are already on the path to losing coverage, and many of them have come to us," Richardson said in a statement. "We are simply doing our job to help our clients assert their legal rights."

A Section on 08/15/2018

Print Headline: Lawsuit filed on work rule for Medicaid

Comments

Post As LegalAidofArkansas

LRCROOKATTORNEY AUGUST 15, 2018 AT 7:57 A.M.

Okay, I get the fact that homeless people will be injured by this, however, we have to do something to stop the abuse and get these people back into the work force. Just to sit around and do nothing to rise above this is not being proactive. The way it is run now, once you are on the receiving side, you stay and then the size will continue to grow. Instead of giving a hand-out (which is needed in some cases but not all) let's come up with a solution that will help these people become productive instead of a drain on society. One well known homeless guy (he hits me up daily as I head to the courthouse because I always give him what is in my pocket), actually rummaged through cars over in a flat parking lot in Little Rock

New lawsuit challenges Trump administration's support for Medicaid work requirements

[washingtonpost.com/national/health-science/new-lawsuit-challenges-trump-administrations-support-for-medicaid-work-requirements/2018/08/14/dde88462-9ff0-11e8-8e87-c869fe70a721_story.html](https://www.washingtonpost.com/national/health-science/new-lawsuit-challenges-trump-administrations-support-for-medicaid-work-requirements/2018/08/14/dde88462-9ff0-11e8-8e87-c869fe70a721_story.html)

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Seema Verma, the head of the Centers for Medicare and Medicaid Services, signs paperwork at the state Capitol in Little Rock on March 5 to give the state permission to require that thousands of people on its Medicaid expansion seek ways to work or volunteer. (Kelly P. Kissel/AP)

by [Amy Goldstein](#) August 14 at 7:12 PM [Email the author](#)

Opponents of the Trump administration's changes to Medicaid, who recently persuaded a federal judge to block those changes in Kentucky, have filed a similar lawsuit aimed at Arkansas.

In June, Arkansas became the first state to begin phasing in requirements that thousands of poor residents must work at least 80 hours a month, look for a job, or otherwise engage in their community to start receiving Medicaid or keep it. The suit, filed Tuesday on behalf of three poor Arkansans with significant medical problems, seeks to stop those rules.

It contends that the administration's approval of the state's plan is unconstitutional, violates Congress's power and undermines the basic purpose of the safety-net program created in the 1960s as part of President Lyndon B. Johnson's War on Poverty.

In language echoing the challenge in Kentucky, the suit accuses the administration of "overturning a half century of administrative practice, and threatening irreparable harm to the health and welfare of the poorest and most vulnerable in our country."

The suit was filed in the U.S. District Court for the District of Columbia by the National Health Law Program and the Southern Poverty Law Center, both of which are involved in the Kentucky litigation, as well as Legal Aid of Arkansas. It names as defendants the Department of Health and Human Services, its Centers for Medicare and Medicaid Services, and their top officials.

The case heightens attention to the philosophical divide over the compact between the government and the nation's poor. Conservatives, including the administration's senior health officials, say that Medicaid recipients should be required to fulfill certain obligations, such as work requirements, and that such activities would lift people out of poverty and government reliance. Liberals regard the health-care program as a right for anyone who is eligible, and they maintain that access to care is an underpinning for poor people to improve their lives.

Two months after administration officials said they were open to work requirements, Arkansas in March became the third state to win federal permission.

But it was the first to implement the new rules, beginning in June with residents ages 30 to 49. They are among 125,000 Arkansans who joined Medicaid through an expansion under the Affordable Care Act who will eventually need to comply, unless they qualify for several kinds of exemptions. Over the next few months, younger adults will be phased in under the rule.

About 46,000 people needed to meet the requirements during the first two months, the state reported Tuesday, but nearly 13,000 did not. Almost 5,500 were noncompliant for two consecutive months, the figures show. If someone does not follow the rules for three months, they are removed from Medicaid for the rest of that year.

The lawsuit notes that to report work or document the basis for an exemption, Arkansans must submit monthly information online. The suit contends that is "a difficult, if not impossible task for plaintiffs on a regular basis due to lack of Internet access, trouble using computers, and problems working with the online portal."

U.S. District Judge James E. Boasberg ruled in the Kentucky case that administration officials had been "arbitrary and capricious" in approving the requirements without adequately considering their effect on beneficiaries.

"We are undeterred," HHS Secretary Alex Azar said in July. "We're fully committed to work requirements and community participation in the Medicaid program."

The groups filing the new suit are asking that it be given to Boasberg on the grounds that it is a related case, rather than being assigned to any judge on the court.

“This lawsuit has one goal, which is to undermine our efforts to bring Arkansans back into the workforce, increase worker training, and to offer improved economic prospects for those who desire to be less dependent on the government,” Gov. Asa Hutchinson (R) said in a statement, accusing the plaintiffs of “trying to thwart any effort to transform and bring accountability to our Medicaid program.”

Federal health officials said they could not comment on pending litigation.

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[The nation’s first Medicaid work rules loom, and many fear losing health coverage](#)

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[Amy Goldstein](#) Amy Goldstein is The Washington Post’s national health-care policy writer. During her 30 years at The Post, her stories have taken her from homeless shelters to Air Force One, often focused on the intersection of politics and public policy. She is the author of the book "Janesville: An American Story." [Follow](#)

In Arkansas, 'Digital Redlining' Could Leave Thousands Without Health Care

citylab.com/equity/2018/08/arkansas-medicaid-work-requirements-online-reporting/567589

August 21, 2018

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Karen Pulfer Focht/Reuters

1. [Sarah Holder](#)

Aug 21, 2018

One of America's poorest and least connected states says Medicaid recipients must find work and an internet connection to keep receiving benefits.

In June, Arkansas began rolling out a controversial change to its Medicaid program. Under a new state plan, all recipients who are able to work will have to log 80 working hours each month, or risk losing access to their health care. But finding a job might not be the biggest hurdle for many people.

In order to stay eligible for Medicaid, Arkansas’s recipients must report their working hours each month, and it must be done online—the state doesn’t offer a way to do it via mail, telephone, or in person.

This stings especially hard in Arkansas, which rank 48th in the country for internet access. According to BroadbandNow, 30 percent of the state’s population has access to fewer than two internet providers. An estimated 20 percent have only a smart phone for internet access at home. And in a state where 17 percent of residents live below the poverty line—ranked 44th in the country—even those with access might not be able to afford it.

Arkansas Broadband Map © BroadbandNow

“Work requirements would be harmful to our clients in any situation, but the online-only reporting requirements make it incredibly difficult,” said Kevin De Liban, an attorney with Legal Aid of Arkansas. He is leading a federal lawsuit against the U.S. Department of Health and Human Services, arguing that the federal government doesn’t have the power to approve changes to state health care requirements at all, as the Trump administration did in March.

In some parts of Arkansas, “you don’t even have regular cell phone access,” he said. “If you have Verizon, and the sun is in the sky at a certain point, you might be able to get a bar or two of coverage.” Otherwise, he said, you’re often out of luck.

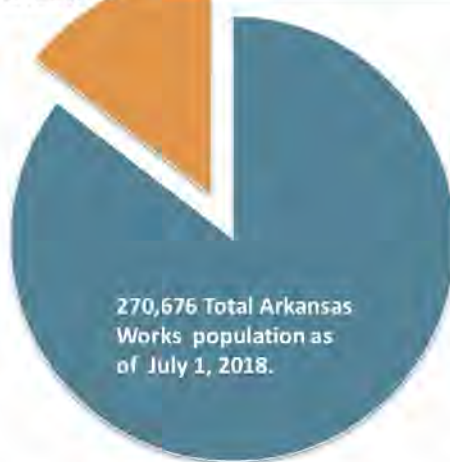
The new rules are being phased in in stages, and initial numbers suggest the first two cohorts are already in a precarious position. After the first month, about 7,000 people failed to report their working hours. That accounted for 72 percent of people in the first cohort, and 26 percent of all people on Medicaid in Arkansas. By the second month, 5,426 of the first cohort’s truants had failed again. In total, since June, more than 12,000 total have dropped off the reporting wagon. If recipients miss three months of reporting, they’re cut out of the system for the rest of the year.

It’s hard to parse where the reporting breaks down: whether it’s because people don’t have internet access, couldn’t work enough hours, or something else. Some people may not have been successfully notified of the new reporting plan at all. “If Arkansas sends out a letter and the address is wrong, they just kick them off,” Joan Alker, executive director of the Center for Children and Families at Georgetown University, told the Los Angeles Times. “Arkansas is shedding enrollment.”

Sixty percent of Arkansas’s Medicaid recipients already work full time, according to the Kaiser Foundation. Of those who don’t, most have disabilities, familial obligations, or are in school—and for them, the process won’t change much.

As of June 8, DHS data showed just over 46,000 Arkansas Works enrollees were subject to the work requirement in July. Most are already meeting the requirement through work, school, or other life situations that made them exempt from reporting. Numbers below are a point-in-time snapshot of the requirement and some fluctuate daily.

46,025* Originally estimated to be subject to work requirement in July (includes June)



Between June 8 and August 7, 2018, 2,231 fewer people became subject to the requirement due to case closures unrelated to compliance or a change in circumstances. That left 43,794 subject to the requirement in July.



One month non-compliance	Two months non-compliance	Three months non-compliance
6,531**	5,426**	0

** due to closures unrelated to compliance & as of Aug. 7, 2018.

*Enrollees ages 30-49 are being phased into the requirement from June through September 2018. Those 19-29 will roll in starting January 2019.

After the second month, more than 12,000 of Arkansas residents beholden to the new system failed to report working hours. 5,426 were in their second month of non-compliance. (Arkansas Department of Human Services)

It's the rest of the recipients who are at risk from the latest changes, De Liban said, and with Legal Aid's lawsuit he hopes to stop the changes before more cohorts are subjected to it. This lawsuit comes at the heels of another suit filed against Kentucky, which introduced its own work requirements this year. A federal judge struck the system down in June, calling it "arbitrary" and "capricious."

After gaining federal approval to introduce work requirements in March, Arkansas told its first cohort about the new system in May, one month before the reporting mandates kicked in. Like Kentucky, officials there are claiming that working is good for your health.

Arkansas's governor, Asa Hutchinson, insists that the work requirements are designed to help Arkansans, and strongly opposes the lawsuit. "This lawsuit has one goal, which is to undermine our efforts to bring Arkansans back into the workforce, increase worker training, and to offer improved economic prospects for those who desire to be less dependent on the government," he said in a statement.

De Liban, however, says the state's goal is to siphon people off state support without offering them a back-up plan. "Online-only reporting systems are administrative hoops, and when administrative hoops are there it's easier for people to trip up," he says. "And if they trip up

they lose coverage, and if they lose coverage the state saves some money.”

While access poses one major hurdle for reporting, internet literacy poses another even for those who have access at home. This factor splits across rural and urban lines even within the state. “Generally in rural areas people go online less and have less familiarity,” said De Liban. “Then when you add in socioeconomics, the digital divide becomes even more pronounced.”

Part of this divide has been driven by “digital redlining,” says Deb Socia, executive director of Next Century Cities, an organization that helps cities improve their internet infrastructure and access.

“It’s not the government, but providers that have chosen to make additional investments in areas where it’s most lucrative, and to not improve infrastructure or provide better plans in low-income neighborhoods,” she said. That means urban, densely populated areas often have better broadband access than rural, predominantly low-income ones. And where access exists, users still have to pay for it. Those costs can be prohibitive, especially for those on government assistance.

Even those who have internet access at home or somewhere nearby, the Medicaid reporting system itself can be difficult to navigate, De Liban says: Users have to create an email address, link health records to the reporting website using a reference number sent months earlier by mail, and click through multiple busy screens. The website only accepts reports between 7 a.m. and 9 p.m.

“One, we’re asking people who are very poor to figure out how to find access to internet that’s not too expensive and can fulfill the need,” said Socia. “Two, we are presuming that they have the knowledge base to actually use it effectively. Those are two things we ought not assume or choose—and those two things should prevent us from implementing something like this requirement.”

To facilitate these transitions, states often hire case managers and set up programs to guide people into employment—albeit to varying rates of success—as well as compliance officers to keep people accountable.

But instead of hiring extra staff to train Medicaid recipients how to use the online system or to funnel them toward employment, the Arkansas Department of Health Services is allowing people to “designate a trusted individual to help them report their work activities or exemptions.” Two Arkansas insurance companies will provide these “registered reporters,” and the Arkansas Foundation for Medical Care is offering telephone assistance. The state’s health department says it will offer in-person help, too, at local county offices. But Arkansas is not getting federal aid to implement the new program, and state lawmakers say no additional money will be allocated to new hires this year.

If successful, Legal Aid’s lawsuit could mark the beginning of a string of challenges to these new work-requirement waivers. “Since Arkansas is the second state where this is being litigated, it’ll be a key indicator on the future of work requirements,” said De Liban. Utah,

Kansas, Wisconsin, Ohio, Mississippi, and Maine have work requirements of their own pending; and waivers in Arizona, Indiana, and New Hampshire have already been approved.

Recommended

And already, the Trump administration is attempting to challenge the Kentucky ruling by providing more evidence that work improves mental and physical health—a claim that has very little research to support it, and one the federal judge in the original case deemed “little more than sleight of hand.”

Even if lawsuits dismantle work requirements, internet access in Arkansas and other disconnected states remains a significant challenge. Arkansas may be the third worst-connected state in the country, but the problem exists across the country: A quarter of all Americans have no broadband at all. That’s something policymakers at all levels will have to contend with if they want to make the internet a central fixture of government operations.

Arkansas has received a little over \$100 million in federal funds for broadband infrastructure projects since 2010, leading to slight gains in connectivity speeds over the last seven years. But in August, the U.S. Department of Agriculture committed to pouring \$97 million into “rural broadband infrastructure” in 11 states. Arkansas isn’t one of them.

“Technology so empowers us to be able to communicate with one another, but it’s not an equitable method of communication,” Socia said. “The outcome is only as good as the input, and in this case the input has serious flaws.”

Correction: A previous version of this article misstated the number of hours Medicaid workers needed to log.

LSC Restrictions and Other Funding Sources

LSC grants are subject to statutory and regulatory restrictions that prohibit the grantee from performing certain activities and from representing specific categories of clients. These restrictions apply to the use of LSC funds and in many situations to a grantee’s use of other funds, such as private funds, charitable donations, and public funds (generally, activities performed with non-LSC tribal funds are not restricted). In most states, funds from an interest on lawyers trust account program are public funds. This table provides an overview of the major restrictions, but it is not a comprehensive guide to all restrictions and exceptions.

Entity restrictions apply to *all activities of every LSC grantee* using LSC funds, private funds, and federal, state, local or other public funds.

Funds restrictions apply to *all uses of LSC funds and most uses of private funds* (e.g., private donations, United Way funds, private foundation grants). They do not apply to most uses of *public funds* from state and local governments or other federal grants (subject to the purposes and rules in those grants).

Generally, these restrictions do not apply to advising eligible clients about their rights, even when the grantee cannot provide representation.

Restricted Activities Subject to Limitations and Exceptions Established by Law	LSC Funds	Private Funds	Public Funds
Abortion Litigation —No participation in any abortion litigation. <u>Pub. L. 104-134, Tit. V, § 504(a)(14)</u>	√	√	√
Abortion Non-Litigation —No participation in non-litigation activities involving abortions except for some therapeutic situations (but not against providers with religious or moral objections). <u>42 U.S.C. 2996f(b)(8)</u>	√	√	—
Assisted Suicide —No assisted suicide or euthanasia activities. <u>45 C.F.R. Part 1643</u>	√	√	—
Census —No influencing the time and manner of a census. <u>45 C.F.R. Part 1632</u>	√	√	√
Class actions —No participation in any class actions. <u>45 C.F.R. Part 1617</u>	√	√	√
Criminal Cases —No criminal cases, except for in tribal courts or some court appointments. <u>45 C.F.R. Part 1613</u>	√	√	—
Demonstrations and Strikes —No engaging in or encouragement of public demonstrations, picketing, boycotts, or strikes.	√	√	—
Desegregation of Public Schools —No involvement in public-school desegregation proceedings. <u>42 U.S.C. § 2996f(b)(9)</u>	√	√	—

Restricted Activities Subject to Limitations and Exceptions Established by Law	LSC Funds	Private Funds	Public Funds
Draft Registration or Desertion —No involvement in proceedings involving selective service registration or desertion. <u>42 U.S.C. § 2996f(b)(9)</u>	√	√	—
Elected Office —Grantee attorneys may not run for partisan elected offices. <u>45 C.F.R. Part 1608</u>	√	√	√
Evictions from Public Housing Involving Illegal Drugs —No defense of persons charged with making, selling, or distributing illegal drugs in most public-housing evictions involving health and safety. <u>45 C.F.R. Part 1633</u>	√	√	√
Fee-generating Cases —No representation in fee-generating cases unless private lawyers are not available or the case meets one of the exceptions stated in <u>45 C.F.R. Part 1609</u>	√	√	—
Habeas Corpus —No <i>habeas corpus</i> cases challenging criminal convictions. <u>45 C.F.R. Part 1615</u>	√	√	—
Labor Training —No trainings for labor or anti-labor activities, boycotts, strikes, demonstrations, or supporting activities. <u>45 C.F.R. Part 1612</u>	√	√	√
Lobbying—General —No lobbying or of any government office, agency, or legislature and no lobbying regarding oversight of LSC or its recipients, subject to the statutory exceptions below—No lobbying training. <u>45 C.F.R. Part 1612</u>	√	√	√
Lobbying—State and Local Funding —A grantee may use non-LSC funds for lobbying on issues involving its own state or local funding. <u>45 C.F.R. Part 1612</u>	√	—	—
Lobbying—Public Rulemaking and Government Requests —A grantee may use non-LSC funds for responding to public rulemakings or to written requests from the government. <u>45 C.F.R. Part 1612</u>	√	—	—
LSC Lawsuits —No filing or pursuing a lawsuit against LSC. <u>Pub. L. 104-134, Tit. V, § 506</u>	√	—	—
Non-Citizens —No representation of non-U.S. citizens unless specifically allowed by statute or regulation. <u>45 C.F.R. Part 1626</u> . Major statutory exceptions include: <ul style="list-style-type: none"> • permanent residency and limited other lawful statuses • victims of domestic violence, trafficking, and other abuses • special situations such as international child abduction and citizenship in certain Native American tribes or Pacific island nations. 	√	√	√
Organizing —No organizing any association, federation, labor union, coalition, network, alliance, or similar entity. <u>45 C.F.R. Part 1612</u>	√	√	—
Political Activities (Other Than Lobbying, Organizing or Training) —No participation in political activities, election campaigns, ballot measures, initiatives or referendum, voter registration, or voter assistance. <u>45 C.F.R. Part 1608</u>	√	√	—
Political Tests —No political test for any decision or actions. <u>45 C.F.R. Part 1608</u>	√	√	√

Restricted Activities Subject to Limitations and Exceptions Established by Law	LSC Funds	Private Funds	Public Funds
Political Training —No trainings for or providing information about lobbying, political activities, advocacy for public policies, or supporting activities. <u>45 C.F.R. Part 1612</u>	√	√	√
Prisoner Representation —No civil litigation for prisoners. <u>45 C.F.R. Part 1637</u>	√	√	√
Prohibited Activities Support —No communications or expenses associated with any of the entity restrictions. <u>Pub. L. 104-134, Tit. V, § 504(a)(6)</u>	√	√	√
Redistricting —No involvement in any legislative, judicial, or elective redistricting. <u>45 C.F.R. Part 1632</u>	√	√	√
Rioting or Illegal Activities —No grantee employee may engage in or encourage rioting, civil disturbances, or violations of law, court injunctions, or professional rules for attorneys. <u>45 C.F.R. Part 1612</u>	√	√	√
Solicitation In-Person —No representation of persons after giving them unsolicited, in-person advice to take legal action (or obtain a lawyer) for their specific legal problems. <u>45 C.F.R. Part 1638</u>	√	√	—
Welfare Reform —No activities involving welfare reform other than cases for individual benefits or otherwise allowed uses of non-LSC funds for responding to government requests or public rulemakings. <u>45 C.F.R. Part 1639</u>	√	√	√



WHAT CAN AND CANNOT BE DONE: REPRESENTATION OF CLIENTS BY LSC-FUNDED PROGRAMS

**Christopher Buerger¹
NLADA
July 2018**

WHAT CAN BE DONE

The LSC restrictions imposed by the FY96 appropriations legislation, modified slightly and incorporated in the subsequent appropriations legislation, resulted in federal statutory and regulatory restrictions on LSC-funded entities. Nevertheless, there continue to be many critically important representational activities that can still be done by LSC-funded entities, and in the years since these additional restrictions were first introduced, some of them have been modified to allow recipients greater flexibility or outright repealed. To list just a few examples: the U.S. Supreme Court decision in *LSC v. Velazquez* restored recipients' ability to more fully represent individual clients in welfare cases; the Kennedy Amendment and others revisions expanded the categories of eligibility for clients who are neither U.S. citizens or U.S. nationals; and the prohibition of LSC recipients collecting attorneys' fees was repealed in its entirety in 2010.

Recipients of LSC funding can continue to address many systemic problems faced by low-income people in virtually all substantive areas. Even more critical to low-income populations, legal services can undertake advocacy in a variety of forums to expand opportunities and promote progressive social policy.

¹ Update of Previous Guides by Alan Houseman, Linda Perle, and Robin Murphy issued in 2012 and 2016.

Over 95% of the work done in legal services in 1995 can continue today and over 98% of the cases brought to court in 1995 can still be brought, including:

- most evictions and federal housing cases;
- bankruptcy, collections and repossession, consumer debt, consumer fraud, warranty, and utility cases;
- family law cases such as child support, domestic violence, custody, visitation, divorce/separation, paternity establishment, foster care, termination of parental rights, and child welfare cases;
- elderly and disability advocacy;
- migrant and Native American cases;
- employment discrimination, wage claims, and unemployment insurance cases;
- income maintenance and benefits cases, including Medicaid, food stamps, TANF, SSI, SSA and Veterans Benefits;
- education matters;
- health care cases, including Medicare;
- juvenile cases;
- individual rights cases, including mental health; and
- cases for aliens who fall into a number of categories.

Aliens who are eligible for LSC services include:

1. Lawful permanent resident aliens.²
2. Any alien who is either married to a U.S. citizen, the parent of a U.S. citizen, or an unmarried child under the age of 21 of a U.S. citizen.^{3*}
** In these case, the individual is only eligible if he/she has filed an application for adjustment of status to permanent residency and such application has not been denied.*
3. Aliens granted asylum,⁴ refugee status,⁵ conditional entrant status,⁶ or a withholding of deportation or exclusion status.⁷
4. Aliens who are in the united states pursuant to an H-2A nonimmigrant temporary agricultural worker visa,⁸ H-2B nonimmigrant forestry worker visa.⁹⁺
+ In these cases, representation is limited to matters concerning the worker's

² 1626.5(a).

³ 1626.5(b).

⁴ 1626.5(c).

⁵ *Id.*

⁶ 1625.5(d).

⁷ 1625.5(e).

⁸ 1626.11(a).

⁹ 1626.11(b).

employment contract.

5. Aliens who are victims of or, through no participation of their own, have children who are victims of: battering or extreme cruelty, sexual assault or trafficking in the United States, OR any other crime or abuse which allows them to qualify for a “U visa” under 101(a)(15)(U) of the INA.^{10±}

±In these cases, legal assistance is limited to assistance directly related to the prevention of, or obtaining relief from, the abuse, crimes, or mistreatment that was suffered.

6. Aliens who are victims of severe forms of trafficking of persons in the United States¹¹ OR classified as a non-immigrant under the T-Visa provisions in 101(a)(15)(T) of the INA.^{12Ψ}

*Ψ In these cases, legal assistance may include, but **IS NOT** limited to assistance directly related to the prevention of, or obtaining relief from, the abuse, crimes, or mistreatment that was suffered.*

Economic development work and group representation can continue. Subject to the provisions of the LSC regulations on group eligibility,¹³ LSC funds may be used for group representation. Specifically, non-LSC funds can be used to represent groups, non-profit corporations or community development entities who has a “principal activity” of delivering services to persons in the community who would be LSC eligible, even if the members of the group itself do not fit within the LSC eligibility standards.¹⁴ Transactional activities involved in economic development are permissible.

LSC recipients can represent clients before administrative agencies in administrative proceedings that adjudicate the client’s rights. LSC funded programs can provide representation to clients receiving public benefits such as TANF, Food Stamps, General Assistance, Social Security, SSI, Veterans Benefits, Unemployment Insurance, Medicaid and Medicare.¹⁵ LSC-funded programs can represent public benefit recipients in administrative proceedings to vindicate their individual rights.¹⁶ As a result of the *Velazquez* decision, programs can also challenge welfare statutes and agency policies and procedures in court during such cases.¹⁷

LSC-funded recipients can sue governmental entities. There is no prohibition on suing the government. Suits representing individual clients can be brought either directly or through procedures for judicial review of agency decisions. On behalf of those clients, LSC funded programs can seek injunctive and declaratory relief and sue to overturn state laws that violate federal law or the Constitution, overturn state agency regulations and policies that violate state or

¹⁰ 1626.4(a)(1)(i) and 1626.4(a)(1)(ii).

¹¹ 1626.4(a)(2)(i)(A).

¹² 1626.4(a)(2)(i)(B).

¹³ See 1611.6.

¹⁴ 1611.6(b).

¹⁵ See 1612.5(a). See Also 1639.4(a).

¹⁶ 1639.4(a).

¹⁷ See 1639.4(a). See Also LSC v. Velazquez, 531 U.S. 533 (2000).

federal law or the Federal or State Constitution or overturn local policies on statutory or constitutional grounds.

Recipients can also work to change agency practices. Recipients can advocate with administrative officials and represent clients in efforts to change the practices of institutions and agencies so that they are more responsive to the needs of the poor, so long as such advocacy and representation is not part of a lobbying or rulemaking process. For example, recipients may seek to improve access to services for disabled persons or persons residing in isolated rural areas or institutions. Recipients can work on school reform or advocate to ensure that a job training program provides effective training to participants.

Recipients can participate in efforts to enforce laws. Recipients can participate in cooperative efforts to enforce the housing code, the Community Reinvestment Act, fair housing laws, civil rights laws, and other laws enacted to protect individuals. When doing so, however, recipients must be careful not to engage in lobbying, grassroots organizing, or other attempts to influence legislative actions, executive orders, or other general policy.¹⁸

Recipients can undertake community legal education (CLE) programs. CLE programs can be run in various community settings. This includes community centers, nursing homes, housing projects, welfare offices, hospitals, and many other locations.¹⁹ LSC funded programs can answer questions regarding individual participants' legal situations and can represent people who seek assistance from the program as a result of those activities.²⁰ However, trainers/presenters may not affirmatively seek to identify particular individual participants who have specific problems on which they need assistance and advise those particular participants to seek such assistance from the recipient or another recipient.²¹ Recipients can also train clients to handle their own cases pro se and train lay advocates to assist them.²²

Recipients can use non-LSC funds to lobby State or local legislative and administrative bodies with regard to state or local funding for recipients. Using non-LSC funds, recipients can affirmatively contact or communicate with, as well as respond to requests of, State or local legislative officials with regard to pending or proposed legislation affecting the funding of the recipient.²³

Recipients can use non-LSC funds to prepare oral or written comments in a public rulemaking proceeding, which includes most formal rulemaking proceedings.²⁴

Recipients can use non-LSC funds to respond to a written request for information or testimony from a government agency, legislative body or committee, or a member of such

¹⁸ See Generally 1612 (defining and outlining the prohibitions on lobbying, grassroots organizing, and attempts to influence).

¹⁹ 1638.4(a).

²⁰ 1638.4(b).

²¹ 1638.3.

²² 1612.8(b).

²³ 1612.6(f).

²⁴ 1612.6(e); See Also LSC Appropriations Law FY96 § 504(e).

agency, body or committee.²⁵ This allowance is, however, subject to two important restrictions: (1) the response must be made only to the parties that made the request and to others only to the extent that it would be required in order to comply with the original requestor²⁶ AND (2) the recipient cannot have arranged or asked for the request to be made.²⁷ Recipients may use non-LSC funds to respond to requests relating to federal funding for legal services as well as state and local funding.

Individual clients who are members of a class may be represented under limited circumstances. LSC recipients may represent individual clients who are seeking to withdraw from or opt out of a class identified in a class action.²⁸ LSC recipients may also represent and assist an individual client who is seeking to obtain the benefit of a court order that resulted from class action litigation.²⁹

Attorneys' Fees: The 2010 consolidated appropriations bill, signed into law by President Obama on December 16, 2009, eliminated the statutory restriction on claiming, collecting and retaining attorneys' fees. Effective April 26, 2010, LSC issued a final rule that eliminated the attorneys' fee regulation (45 CFR 1642) and recipients are now permitted to make claims for attorneys' fees in any case in which they are otherwise legally permitted to make such a claim.³⁰ Recipients are also permitted to collect and retain attorneys' fees whenever such fees are awarded to them. With the repeal of the restriction, recipients are permitted to claim, collect and retain attorneys' fees with respect to any work they have performed for which fees are available to them, without regard to when the legal work for which fees are claimed or awarded was performed.³¹

WHAT CANNOT BE DONE

As a result of the 1996 restrictions, programs receiving LSC funds are subject to numerous restrictions on the types of clients they can represent and the nature of the representation that can be provided, and they are subject to certain administrative requirements. This is a summary, but not an exhaustive list, of these restrictions and requirements based on interpretations by the Legal Services Corporation in their final regulations.

There are some activities that are prohibited under any circumstances for any entity who receives LSC funding. These "Entity Restrictions" apply to a recipient regardless of which funds they might use to carry out the task. There are also "Fund Restrictions," which prohibit the use of LSC funds for certain activities, but allow for a program to engage in certain activities with non-LSC funds. There are also some restrictions that prohibit the use of LSC funds and private funds, but allow for the activities to be carried with other non-LSC public funds.

²⁵ 1612.6(a). *See Also* LSC Appropriations Law FY96 § 504(b).

²⁶ 1612.6(b).

²⁷ 1612.6(c).

²⁸ 1617.2(b)(2).

²⁹ *Id.*

³⁰ 75 Fed. Reg. 79, 21506 (April 26, 2010).

³¹ *Id.* at 21508.

ENTITY RESTRICTIONS: PROHIBITED REGARDLESS OF WHICH FUNDS ARE USED

Grass roots lobbying: Recipients are prohibited from participating in any grass roots lobbying.³²

Class Actions: Recipients **cannot initiate, participate or engage in class actions**,³³ but can perform certain limited non-adversarial activities and can represent individuals who are members of a class in certain limited circumstances.³⁴

Welfare Reform: Recipients cannot engage in litigation challenging laws or regulations that were enacted as part of State or Federal welfare reform initiatives, laws or regulations.³⁵ Recipients are also generally prohibited from engaging in rulemaking or lobbying related to welfare reform³⁶ with exceptions for participating in public rulemaking or responding to requests from government officials or entities.³⁷ Recipients are also permitted to represent an individual client who is seeking relief from a welfare agency because of threatened adverse action based on a welfare reform law, regulation or policy. As a result of the Supreme Court decision in *LSC v. Velazquez*, LSC recipients, when litigating such cases, can now raise all relevant legal issues and challenge existing statutory laws and regulations.³⁸

Redistricting and Voter Registration: Representation in redistricting cases is prohibited,³⁹ but litigation related to a claim under the 1965 Voting Rights Act is expressly permitted, provided that it does not involve redistricting.⁴⁰ Voter registration activity (i.e. registering voters) is also prohibited,⁴¹ though this prohibition is not meant to bar any litigation on behalf of individual clients.⁴²

Political Activity and Partisan Elections: Grantee attorneys are prohibited from running for any partisan elected office.⁴³ No employee of a recipient shall intentionally identify the LSC or the recipient with, or contribute to, any partisan or even non-partisan political activity or campaign of any candidate for public or political office.⁴⁴

Abortion Litigation: Recipients cannot participate in any litigation with regard to abortion.

³² 1612.

³³ 1617.1; 1617.2(a).

³⁴ 1617.2(b)(2)

³⁵ 1639.3(a).

³⁶ 1639.3(b); 1639.3(c).

³⁷ LSC Appropriations Law FY96 § 504(b), § 504(e).

³⁸ *LSC v. Velazquez*, 531 U.S. 533 (2000).

³⁹ 1632.3(a).

⁴⁰ 1632.3(b).

⁴¹ 1608.6(c).

⁴² 1608.7.

⁴³ 1608.5(c).

⁴⁴ 1608.4.

Aliens: Recipients are limited in the categories of non-citizens they can represent with any funds. If an alien does not qualify for an exception as outlined in the above section, recipients cannot represent that individual, regardless of funding source.⁴⁵

Prisoners: Recipients cannot participate in civil litigation on behalf of a person incarcerated in a Federal, State or local prison or participate in administrative proceedings challenging the conditions of incarceration.⁴⁶ However, there are many instances when LSC restrictions do not prevent providing representation in court debt matters and reentry services. There is narrow exception to this prohibition; if a recipient has a separately funded public defender program, this restriction does not apply to that program (though it will still apply to both LSC and non-LSC funds to the rest of the recipients work).⁴⁷

Drug evictions from public housing: Recipients cannot represent persons convicted of, or charged with, drug crimes in public housing evictions when the evictions are based on threats to health or safety of public housing residents or employees.⁴⁸

Solicitation: Recipients are prohibited from representing clients as a result of in-person solicitation. Recipients can operate community legal education programs and engage in outreach activities to client groups. They may also represent clients who seek assistance as a result of those activities, but recipients may not affirmatively seek to identify particular individual participants who have specific problems on which they need assistance and advise those particular participants to seek such assistance from the recipient or another recipient. LSC Funded programs may also mail “information” about legal rights and responsibilities or information about the recipient’s services. If the mailing contains unsolicited advice, but the advice is not tailored to the individual receiving the mailing, then it is not a “personal letter” and is not considered solicitation under LSC regulations.

Training: Recipients cannot conduct training programs to advocate particular public policies or political activities or to train people to engage in restricted activities.⁴⁹

Legislative or Administrative Advocacy: Recipients are prohibited from lobbying in relation to or attempting to influence any legislation,⁵⁰ executive action or rulemaking,⁵¹ initiative or referendum,⁵² or appropriation of funds to itself or to the LSC.⁵³ Nevertheless, there are certain activities, if supported entirely by non-LSC funds, which are allowed.⁵⁴ Those are discussed below.

⁴⁵ See *Generally* 1626 (“Restrictions on Legal Assistance to Aliens”). See *Also* the discussion above on pages 2 – 3 on this document.

⁴⁶ 1637.3.

⁴⁷ 1610.6(a).

⁴⁸ 1633.3.

⁴⁹ 1612.8(a).

⁵⁰ 1612.3(a)(1).

⁵¹ 1612.3(b).

⁵² 1612.3(a)(2).

⁵³ 1612.3(a)(3).

⁵⁴ See *Generally* 1612.6.

FUND RESTRICTIONS: PROHIBITED (OR NOT) BASED ON THE FUNDS A RECIPIENT USES

Legislative or Administrative Advocacy: Recipients can use non-LSC funds to respond to a written request for information or testimony from a government agency or official thereof, elected official, legislative body or committee, or a member of such body or committee.⁵⁵ This is only allowed, however, if the response is made only to the parties that made the request⁵⁶ and the recipient does not arrange for the request to be made.⁵⁷ Recipients can also use non-LSC funds to participate in public rulemaking or negotiated rulemaking.⁵⁸

Self-help lobbying: Recipients can use non-LSC funds to affirmatively contact or communicate with State or local legislative or administrative officials with regard to pending or proposed agency proposals or legislation to fund the recipient.⁵⁹

Criminal Cases: Recipients are not permitted to use LSC funds to provide legal assistance with respect to criminal proceedings,⁶⁰ but programs may receive public funds for the purpose of handling criminal matters if such public funds were granted for that purpose. For example, this restriction, the restriction in representing prisoners, and the restriction on collateral attacking convictions do not apply to a program's separately funded public defender program.⁶¹ Further, minor violations or crimes that may be "nominally" criminal are not included in the prohibition if the only possible punishment is a fine.⁶² The LSC act similarly prohibits recipients from using LSC funds to provide legal assistance in actions which seek to collaterally attack a criminal conviction.⁶³

ADMINISTRATIVE REQUIREMENTS

Timekeeping: Attorneys and paralegals must keep contemporaneous time records on all cases and matters.⁶⁴

Priorities: Recipient boards have to set priorities including procedures for emergency cases.⁶⁵ Staff members are required to sign an agreement not to enter into cases or matters that are not within the priorities or covered by the emergency procedures.⁶⁶ Recipients are required to report annually to LSC on emergency cases or matters that were not within the recipient's

⁵⁵ 1612.6(a).

⁵⁶ 1612.6(b).

⁵⁷ 1612.6(c).

⁵⁸ 1612.6(e).

⁵⁹ 1612.6(f).

⁶⁰ 1613.3.

⁶¹ 1610.6(a).

⁶² See AO-2006-1002. See Also 41 Fed. Reg. 177, 38506 (September 10, 1976).

⁶³ 1615.2.

⁶⁴ 1635.3.

⁶⁵ 1620.3; 1620.4.

⁶⁶ 1620.6.

priorities.⁶⁷

Federal laws relating to funds: LSC funds are subject to all federal laws affecting the expenditure of federal funds, including criminal laws on fraud and embezzlement.⁶⁸

Access to records: LSC recipients are required to give LSC monitors and auditors access to financial records, time records, retainer agreements, client trust fund and eligibility records, and client names, unless they contain information that is protected by the federal attorney client privilege. Whenever possible, programs should maintain these documents in a manner that will protect client confidentiality.

Client identification: Except in emergency situations, recipients are required to identify by name to the defendant any client who is a plaintiff and obtain a signed statement of facts from such plaintiff before the recipient can file suit or engage in pre-complaint settlement negotiations on the client's behalf.⁶⁹ Access by adverse parties to the written statement of facts is governed by the law and discovery rules of the court in which the action is brought.⁷⁰

Case Disclosure: Upon request, recipients must disclose to the public⁷¹ and must report semi-annually to LSC⁷² certain information about each case that is filed by recipient attorneys in any court (not administrative agencies). The information includes (1) the name and address of each party to the legal action,⁷³ (2) the cause of action of the case,⁷⁴ and (3) the name and address of the court in which the case was filed,⁷⁵ and the case number assigned to the case.⁷⁶ Recipients do not need to file name and address information when such information is protected by an order or rule of a court or by a State or Federal law⁷⁷ or when revealing such information would put the client of the recipient at risk of physical harm.⁷⁸ This requirement applies only where a recipient represents a plaintiff in an action;⁷⁹ cases where the recipients represent defendants or third parties need not be reported.

⁶⁷ 1620.7(a); 1620.7(b).

⁶⁸ 1640.

⁶⁹ 1636.2(a).

⁷⁰ 1636.3(b).

⁷¹ 1644.4(c).

⁷² 1644.4(b).

⁷³ 1644.4(a)(1).

⁷⁴ 1644.4(a)(2).

⁷⁵ 1644.4(a)(3).

⁷⁶ 1644.4(a)(4).

⁷⁷ 1644.4(a)(1)(i).

⁷⁸ 1644.4(a)(1)(ii).

⁷⁹ 1644.3(a)(1).

***COLLABORATION WITH OTHERS:
WHAT CAN BE DONE TO ENHANCE COLLABORATION AND DEVELOP
PARTNERSHIPS AND EFFECTIVE COORDINATION***

Recipients and their staff may

- participate in joint task forces operated by other recipients or by non-LSC funded entities that include advocates from non-LSC funded programs, pro bono programs or private attorneys.
- coordinate services with other entities so that LSC recipients perform only permitted services and non-LSC providers and other organizations provide restricted services.
- train clients, human service organizations and community organizations about existing laws and regulations and about pending or proposed laws or regulations.
- participate in associations, federations, coalitions, networks, alliances or similar entities.
- participate on local governmental or private sector task forces and collaborative initiatives.
- work together with other providers in a coordinated and collaborative manner to ensure a full range of legal assistance is available to low-income persons in all civil justice forums.

DIRECTOR'S REPORT

August 27, 2018

National Developments

LSC received \$410 Million in funding for FY 2018, an increase of \$25 million from the previous two years and the highest appropriation since 2010. This resulted in an increase of \$88,114 for Legal Aid.

While the administration has asked to eliminate LSC in the 2019 budget Congress has ignored that request. The Appropriations committees in both the House and Senate have approved, \$410 Million, or level funding, for LSC in 2019. This is the first time since 2011 that the house bill has not cut LSC from the previous year.

Support for LSC has come from all fronts. A total of [181 House members](#) signed a letter in support of robust funding for LSC, the highest number in history. In the [Senate, 51 members](#) have sent letter prioritizing LSC funding. Other support has come from the [Conference of Chief Justices and the Conference of State Court Administrators](#), more than [180 law firms](#) representing every state, more than [250 General Counsels](#) of corporations (including Tyson and Walmart), [39 Attorneys General](#) (but not Arkansas), and [168 law school deans](#).

There continues to be reason for optimism as the appropriation process moves forward, with a caveat. LSC will be making its triennial census adjustment to basic field grant allocations in 2019. To do this, they will compute the number of persons living in poverty in each service area using the Census Bureau's American Community Survey estimates for 2017, which should be released in October. This does not bode well for Legal Aid of Arkansas. A review of population change data from 2014-16 reflects a 15.4% loss in poverty population in our service area, which would result in a **loss in funding of \$122,650**. Absent a major reversal in this trend, we are going to take a significant hit ([please see comparison tables attached](#)). Craighead County has had the largest decrease in poverty population, 32.23%, during the time frame

Six individuals have been nominated to the Board of Directors of LSC by President Trump:

- John G. Malcolm (Replaces Martha Minow)
- Robert J. Grey (Reappointment)
- John G. Levi (Reappointment)
- Gloria Valencia-Weber (Reappointment)
- Frank X. Neuner Jr. (Replaces Sharon Browne)
- Abigail L. Kuzma (Replaces Charles Keckler)

Nominations to the LSC Board require confirmation by the Senate so it is possible that these changes may not occur for some time. The reappointment of current Board members John Levi, Robert Grey, and Gloria Valencia-Weber will provide needed continuity within LSC governance. Frank Neuner is a partner at law firm Spencer Fane in St. Louis, and Abigail Kuzma is a former Indiana Assistant Attorney General and a current member of the Governance and Performance and Delivery of Legal Services Committees at LSC. John Malcolm is Vice President, Institute for Constitutional Government, and Director of the Meese Center for Legal & Judicial Studies at the Heritage Foundation. While the

Heritage Foundation has consistently advocated for the elimination of LSC, Mr. Malcolm has indicated his personal support.

Program and Statewide Developments

As of August 16th we have opened 4,847 new cases in 2018, about 2.5% more than the same period in 2017. Below are the top 10 case closure types, by problem code, so far for 2018.

<u>37 Domestic Abuse</u> flip sheet describing work done in 2017 attached	628
32 Divorce/Sep./Annul.	504
31 Custody/Visitation	207
63 Private Landlord/Tenant	200
44 Minor Guardianship	144
02 Collect/Repo/Def/Garnsh	138
87 Criminal Record Expungement	127
95 Wills and Estates	118
75 SSI	94
33 Adult Guardianship	84

We relinquished one of the two offices rented from the Center for Arkansas Legal Services in their building located at 1300 W. 6th St. in Little Rock as of September 1, 2018. The AmeriCorps VISTA who had committed to fill the second office has taken a different job and we no longer need the extra space.

Our annual statewide Legal Aid conference is scheduled for October 10-12 at the Comfort Inn & Suites Presidential in Little Rock. Unlike last year when we invited pro bono attorneys and other community members, the conference is restricted to Legal Aid staff this year.

There will be a pro bono week reception on Tuesday, October 23rd from 5:30 to 7:30 at Diamond Bear Brewing Company at 600 North Broadway in North Little Rock to raise funds for the Campaign for Legal Aid. A [sponsorship form](#) is attached, and tickets will be available online soon.

We have a criminal record sealing clinic scheduled for November 2nd at the First Assembly of God Church in West Memphis. Volunteer attorneys are welcome and encouraged to participate. We held a similar clinic at St. Vincent's in Little Rock earlier this month and assisted with creating approximately two dozen petitions.

You will find a [report from Amy Johnson](#), Executive Director of the Arkansas Access to Justice Commission and Foundation, attached. I call your attention to the IOLTA Program Trends table contained in her report. Please note that July, 2018 IOLTA income was \$24,861. This is more than the previous 42 months, and triple that of July, 2015. If this continues, our grant from the Access to Justice Foundation of IOLTA funds, which was \$20,000 for 2018, may see a sharp increase.

I have been appointed to a Civil Justice Reform Committee of the Arkansas Supreme Court by Chief Justice John Dan Kemp. So far the committee has had one full meeting and I have participated in an additional self-represented litigants sub-committee meeting.

Case Examples

Housing

Our disabled client wanted to move from her apartments after a shooting in the complex that exacerbated her PTSD. She had just signed a lease. Legal Aid drafted a reasonable accommodation request to the apartment complex asking that she be able to break her lease after finding alternative housing (she's on section 8). The accommodation was granted by agreement.

Our client was concerned about financial abuse by her son who had a Power of Attorney over her. His previous actions indicated that he would abuse the POA. She was also being physically threatened by her daughter-in-law. We assisted her in revoking the existing POA and drafted her a new set of estate planning documents. We notified all parties of the change and also provided her intensive advice about filing for a Protective Order if threats of abuse continued.

Domestic Violence

The client came to Legal Aid after being seriously abused. She had been raped and choked by her husband after she had walked 5 miles to a friend's house to get away and he talked her into going home. At a contested hearing, the Circuit Judge granted a five-year order of protection on her behalf and one year on behalf of the children with no visitation. This appears to be the longest Order of Protection this judge has granted.

We represented a client in an Order of Protection hearing who had been hit with a broom, choked, hit in the face, and threatened with suicidal statements such as "I will kill myself if you leave me." The perpetrator defended himself at trial and did not refute the physical abuse. He went with a mixed strategy of "she had it coming for being mouthy with me," "I was drunk, so I shouldn't be held accountable for what I did," and "it didn't happen the way she said." However, he did not refute that he hit her and slapped her, and dragged her around the room by her hair. The Judge granted the Order of Protection.

Economic Justice

The client came to us after having his attendant care hours reduced under the RUGs algorithm from 42 per week to 33 per week. This left him with insufficient care--he didn't have clean clothes, didn't get to go to the store, went without food, and was hospitalized multiple times for infections. Thanks to the federal litigation, we were able to get his hours restored to 42 per week, which was just enough for him to get by. Then we joined this client as a plaintiff in the on-going state court litigation, which allowed him to continue with the 42 hours per week until his death earlier this year. The client passed away earlier this year without the indignities caused by the hour reductions. He had previously been in a nursing home for around 10 years and fought to get out of it. He was able to die at home with his basic care needs met.

Consumer

Our client is a senior whose only source of income is Social Security Disability. She paid a man \$500 for a shed in February and was supposed to receive it by the end of March. By June she had still not received the shed or gotten her money back. Legal Aid sent a demand letter requesting the shed be delivered or the client receive her \$500 back. The shed was immediately delivered and the client made whole.

A young college student's loan money for school was garnished because her name was on the account with her mother. The account was set up this way when the student was a minor. Legal Aid notified the creditor that the funds were exempt and that the attachment was wrongful. The creditor continued with the garnishment of the funds. Legal Aid filed suit to set aside the garnishment and for violating the Fair Debt Collection Practices Act. The family received \$3,200 and Legal Aid received an \$800 attorney fee. The student loan funds were returned.

Grants/Contracts/Fundraising

Since the last board meeting, we have seen the following developments:

Our grants with East Arkansas Area Agency on Aging (\$35,000) and Area Agency on Aging of Northwest Arkansas (\$10,471) have been renewed for the July 1, 2018 to June 30, 2019. This is Title III (b) money under the Older Americans Act and is used to serve individuals age 60 and above, primarily through our Arkansas Volunteer Lawyers for the Elderly program. The East Arkansas grant is subject to review in December and the Northwest Arkansas grant was still pending state approval when signed, but we do not expect any problems. Our funding from the Division of Aging and Adult Services, which had previously been around \$22,000 annually, appears to be permanently lost as retaliation for our successful litigation against DHS concerning ARChoices.

We have a pending application for Victims of Crimes Act funding to assist crime victims in our service area, one for the 1st Judicial District and one to serve the Marshalllese and Latino populations in Northwest Arkansas, and should get a funding decision soon.

The United Way of Northeast Arkansas has awarded us two grants for the 2019-20 funding cycle, one for \$24,000 to provide services to victims of domestic violence and another for \$2,250 to assist clients applying to have their criminal records sealed with filing fees. The United Way of the Mid-South has awarded \$5,000 for the 2018-19 funding year to provide services in Crittenden County and the United Way of Greater Blytheville has given us \$3,000 for services in Mississippi County in 2019. We will be entering year two of Children Living in Poverty funding of \$75,000 annually from the United Way of Northwest Arkansas, while a funding decision on our applications to the United Way of North Central Arkansas is pending. We were not able to make application for a United Way of Boone County grant for this cycle.

The National Health Law Program has verbally told us that they will be renewing a grant for \$50,000 that is funding one economic justice attorney position when the current one expires at the end of October.

We are in conversation with CHI St. Vincent about the possibility of transferring the \$40,000 contract to provide MLP services at their main hospital in Little Rock to the Center for Arkansas Legal Services when the current contract expires at the end of October. This MLP is totally outside of our service area and has no nexus with Legal Aid.

Staff Changes

Staff retention in Little Rock continues to be a problem as we have had 100% turnover in staff since September, 2017. In the previous nine months, we have lost five attorneys, plus had an additional attorney bail on us prior to starting. The root of the problem appears to be salary. Our attorney salary scale starts at \$42,000 while the lowest full-time pay I can find for an attorney working for the state is \$56,039. All five attorneys who we have lost at Children's Hospital over the past four months left for jobs with the State of Arkansas, all receiving raises from a low of \$5,000 to as much as \$23,000.

A secondary but very real part of the problem is we do not have enough attorneys in Arkansas, making competition in the market keen. We have the lowest number of attorneys per capita in the nation and one of the most restrictive bar exams. The bar exam combines an unusually high cut score with the oddity of administering the Uniform Bar Exam but not allowing score transfer like 33 other states and territories do. We are reaching the point of a crisis and access to justice is suffering.

The latest defections are **Kesia Morrison** and **Taylor Dugan**, both from Children's Hospital. Ms. Morrison is now at the Attorney General office while Mr. Dugan is at the Department of Education. **Hannah Roe**, a staff attorney in our Harrison office and our Domestic Violence group leader will be transferring to Children's Hospital on October 1, 2018. She will become Supervising Attorney at our ACH office. To replace Ms. Roe in Harrison we have hired **Angie Foster**. Ms. Foster has 19 years' experience, including eight years with the Department of Human Services and eight years as a law clerk at the Court of Appeals. Our second non-fellowship position at Children's will remain open pending funding decisions. Ms. Roe will be replaced as work group leader by **Blane Swain**, a staff attorney in our Newport office. **Amy Pritchard**, a clinical professor at Bowen School of Law, has joined us part time to assist our Economic Justice Work Group in triaging cases and provide mentoring and technical assistance to our ACH staff. Ms. Pritchard has previously worked at Legal Aid, first as a staff attorney and later part-time, primarily in development.

Other than in Little Rock, we have had staffing stability over the summer. **Kevin Rogers** joined us as a part-time transitional attorney on August 20th. He has an office in Conway and will be providing services to Legal Aid clients in Cleburne, Searcy, Stone and Van Buren counties. A 2010 graduate of the Bowen School of Law, Mr. Rogers has been practicing in Pulaski County for several years.

Cory Crawford, a staff attorney in our consumer group in Jonesboro, will be transitioning to the Springdale office at the end of the year to replace **Riley Cross** in our Housing Group, who starts a Federal Judicial Clerkship on January 1st. Funding permitting, we will be advertising for a consumer attorney in East Arkansas later this fall.

A current office directory and organizational chart is attached.

Non-priority, non-emergency case types- None

[View this email in your browser](#)



LEGAL SERVICES CORPORATION

Dear Executive Directors:

As you know, LSC will be making its triennial census adjustment to basic field grant allocations in 2019. As in the recent past, the Census Bureau will compute the number of persons living in poverty in each of our service areas using data from the Bureau's American Community Survey for 2017.

Although the public release files of the American Community Survey are available in September, the special tabulation that LSC uses to calculate Basic Field Grants will not be available until December. In the meantime, I wanted to provide you with some information that might be helpful to you as you begin to prepare your budgets for 2019.

Attached are two spreadsheets:

1. A listing of 2018 basic field grant allocations by service area, along with a listing of possible 2019 basic field grant allocations by service area. The 2019 numbers you see are based on (a) an assumed basic field appropriation from Congress for FY 2019 equal to LSC's appropriation for basic field for FY 2018 -- \$376 million, and (b) the most recent Census Bureau numbers we have for the poverty population in each service area, dating from 2016. Our assumption for the basic field appropriation for FY 2019 is based on recent action by both the Senate and the House Appropriations Committees, although neither the full Senate nor the full House has yet voted on our FY 2019 appropriation. The Census Bureau numbers are from 2016 and are the ones that will be updated this fall using the 2017 American Community Survey.
2. A comparison of the changes in the size of the poverty population in each service area between the 2015 American Community Survey and the 2016 American Community Survey. This is intended to give you a rough sense of the magnitude of the possible change between 2016 and 2017; the 2017 American Community Survey will drive our 2019 basic field grant allocations.

The listing of current grantees for the service areas is not an assurance the same grantees will have those service areas in 2019. As you know, basic field grant decisions will be made later this year.

Please keep in mind that the 2019 basic field grant allocations will change from what you see on the first spreadsheet, even if our basic field appropriation remains the same next year. That is because the poverty population numbers will change. Despite this limitation, I thought it would be useful to you for planning purposes to have the most recent information we can provide.

Jim

Comparison of FY18 and FY19 Basic Field Allocations

State and Recipient ID	Organization Name	Service Area	Funding Component	FY19 Basic Field Allocation (Estimate)		FY18 Basic Field Allocation (Actual)		Pop Change from 2014 to 2016	
				Estimated Funding (CY2019)	Poverty Population (ACS 2016)	Funding (CY2018)	Poverty Population (ACS 2014)	Percent Change in Poverty Pop	Change in Number of People
Alabama									
601037	Legal Services Alabama, Inc.	AL-4	Basic Field	\$6,271,767	790,433	\$6,486,813	890,378	-11.2%	-99,945
TOTAL FOR STATE ==>				\$6,271,767	790,433	\$6,486,813	890,378	-11.2%	-99,945
Alaska									
902000	Alaska Legal Services Corporation	AK-1	Basic Field	\$765,172	96,435	\$791,601	108,655	-11.2%	-12,220
902000	Alaska Legal Services Corporation	NAK-1	Native American	\$594,038	N/A	\$594,038	N/A	N/A	N/A
TOTAL FOR STATE ==>				\$1,359,210	96,435	\$1,385,639	108,655	-11.2%	-12,220
American Samoa									
955111	American Samoa Legal Aid	AS-1	Basic Field	\$252,391	31,809	\$231,743	31,809	0.0%	0
TOTAL FOR STATE ==>				\$252,391	31,809	\$231,743	31,809	0.0%	0
Arizona									
703030	Community Legal Services, Inc.	AZ-3	Basic Field	\$5,641,282	710,973	\$5,772,442	792,324	-10.3%	-81,351
703030	Community Legal Services, Inc.	MAZ	Agricultural Worker	\$239,220	30,149	\$219,649	30,149	0.0%	0
703050	Southern Arizona Legal Aid, Inc.	AZ-5	Basic Field	\$2,442,855	307,874	\$2,291,370	314,513	-2.1%	-6,639
703050	Southern Arizona Legal Aid, Inc.	NAZ-6	Native American	\$700,146	N/A	\$700,146	N/A	N/A	N/A
703068	DNA-Peoples Legal Services, Inc.	AZ-2	Basic Field	\$463,926	58,469	\$452,237	62,074	-5.8%	-3,605
703068	DNA-Peoples Legal Services, Inc.	NAZ-5	Native American	\$2,866,264	N/A	\$2,866,264	N/A	N/A	N/A
TOTAL FOR STATE ==>				\$12,353,693	1,107,465	\$12,302,108	1,199,060	-7.6%	-91,595
Arkansas									
604020	Legal Aid of Arkansas, Inc.	AR-6	Basic Field	\$1,434,995	180,853	\$1,557,645	213,802	-15.4%	-32,949
604061	Center for Arkansas Legal Services	AR-7	Basic Field	\$2,374,856	299,304	\$2,265,850	311,010	-3.8%	-11,706
TOTAL FOR STATE ==>				\$3,809,851	480,157	\$3,823,495	524,812	-8.5%	-44,655
California									
705158	California Indian Legal Services, Inc.	CA-1	Basic Field	\$25,984	3,275	\$22,106	3,034	7.9%	241
705158	California Indian Legal Services, Inc.	NCA-1	Native American	\$970,436	N/A	\$970,436	N/A	N/A	N/A
805010	Greater Bakersfield Legal Assistance, Inc.	CA-2	Basic Field	\$1,251,978	157,787	\$1,213,071	166,506	-5.2%	-8,719
805060	Central California Legal Services, Inc.	CA-26	Basic Field	\$3,335,302	420,349	\$3,446,979	473,132	-11.2%	-52,782
805080	Legal Aid Foundation of Los Angeles	CA-29	Basic Field	\$6,211,957	782,896	\$6,673,793	916,043	-14.5%	-133,148
805180	Neighborhood Legal Services of Los Angeles County	CA-30	Basic Field	\$4,512,325	568,690	\$4,691,409	643,942	-11.7%	-75,252
805230	Inland Counties Legal Services, Inc.	CA-12	Basic Field	\$5,396,083	680,071	\$5,584,274	766,496	-11.3%	-86,425
805240	Legal Services of Northern California, Inc.	CA-27	Basic Field	\$4,245,303	535,037	\$4,142,606	568,613	-5.9%	-33,576
805250	Legal Aid Society of San Diego, Inc.	CA-14	Basic Field	\$2,949,870	371,773	\$3,201,418	439,426	-15.4%	-67,653
805260	California Rural Legal Assistance, Inc.	CA-31	Basic Field	\$4,621,740	582,480	\$5,362,154	736,008	-20.9%	-153,528
805260	California Rural Legal Assistance, Inc.	MCA	Agricultural Worker	\$2,937,889	370,263	\$2,697,537	370,263	0.0%	0
805270	Bay Area Legal Aid	CA-28	Basic Field	\$4,463,059	562,481	\$4,439,953	609,427	-7.7%	-46,946
805310	Legal Aid Society of Orange County, Inc.	CA-19	Basic Field	\$3,891,296	490,422	\$4,125,058	566,205	-13.4%	-75,783
TOTAL FOR STATE ==>				\$44,813,222	5,525,525	\$46,570,794	6,259,095	-11.7%	-733,570
Colorado									
706060	Colorado Legal Services	CO-6	Basic Field	\$4,507,393	568,069	\$4,372,138	600,119	-5.3%	-32,050
706060	Colorado Legal Services	MCO	Agricultural Worker	\$243,324	30,666	\$223,418	30,666	0.0%	0
706060	Colorado Legal Services	NCO-1	Native American	\$105,488	N/A	\$105,488	N/A	N/A	N/A
TOTAL FOR STATE ==>				\$4,856,205	598,735	\$4,701,044	630,785	-5.1%	-32,050
Connecticut									
107000	Statewide Legal Services of Connecticut, Inc.	CT-1	Basic Field	\$2,625,168	330,851	\$2,670,054	366,491	-9.7%	-35,640
120000	Pine Tree Legal Assistance, Inc.	NCT-1	Native American	\$17,197	N/A	\$17,197	N/A	N/A	N/A
TOTAL FOR STATE ==>				\$2,642,365	330,851	\$2,687,251	366,491	-9.7%	-35,640
Delaware									
308010	Legal Services Corporation of Delaware, Inc.	DE-1	Basic Field	\$843,524	106,310	\$813,127	111,610	-4.7%	-5,300

Legal Problem Code	F - Negotiated							Totals	
	A - Counsel and Advice	B - Limited Action (Brief Service)	F - Negotiated Settlement w/out Litigation	G - Negotiated Settlement with Litigation	H - Administrative Agency Decision	IA - Uncontested Court Decision	IB - Contested Court Decision		L - Extensive Service
01 Bankruptcy/Debtor Relief	57	3	0	0	0	12	0	1	73
02 Collect/Repo/Def/Garnsh	90	28	4	9	0	1	2	4	138
03 Contract/Warranties	34	4	2	1	0	0	0	0	41
04 Collection Practices / Creditor Harassment	0	1	0	0	0	0	0	0	1
06 Loans/Installment Purchases	1	0	0	0	0	0	0	0	1
07 Public Utilities	10	1	0	0	0	0	0	0	11
08 Unfair and Deceptive Sales Practices	3	1	0	1	0	0	0	0	5
09 Other Consumer/Finance	9	1	0	0	0	0	1	1	12
	204	39	6	11	0	13	3	6	282
12 Discipline (Including Expulsion and Suspension)	3	0	1	0	0	0	0	0	4
13 Special Education/Learning Disabilities	41	18	1	1	0	0	0	4	65
16 Student Financial Aid	1	0	0	0	0	0	0	0	1
19 Other Education	11	1	1	0	0	0	0	0	13
	56	19	3	1	0	0	0	4	83
21 Employment Discrimination	16	1	0	0	0	0	0	0	17
22 Wage Claims and Other FLSA Issues	5	0	0	0	1	0	0	0	6
23 EITC	0	1	2	0	0	0	0	0	3
24 Taxes	7	18	47	3	1	0	0	2	78
25 Employee Rights	21	1	0	0	0	0	0	0	22
29 Other Employment	15	2	0	1	0	0	0	0	18
	64	23	49	4	2	0	0	2	144
30 Adoption	12	1	0	0	0	4	2	1	20
31 Custody/Visitation	183	11	1	10	0	0	1	1	207
32 Divorce/Sep./Annul.	354	19	0	29	0	66	11	25	504

Legal Problem Code	F - Negotiated							Totals	
	A - Counsel and Advice	B - Limited Action (Brief Service)	Settlement w/out Litigation	G - Negotiated Settlement with Litigation	H - Administrative Agency Decision	IA - Uncontested Court Decision	IB - Contested Court Decision		L - Extensive Service
33 Adult Guardianship / Conservatorship	53	8	0	1	0	20	2	0	84
34 Name Change	1	1	0	0	0	0	0	0	2
36 Paternity	4	1	0	1	0	0	0	1	7
37 Domestic Abuse	50	3	1	125	1	131	103	214	628
38 Support	19	0	0	1	0	0	0	0	20
	676	44	2	167	1	221	119	242	1,472
42 Neglected/Dependent	11	0	0	0	0	0	0	0	11
43 Emancipation	3	0	0	0	0	0	0	0	3
44 Minor Guardianship	114	4	0	1	0	16	4	5	144
49 Other Juvenile	16	3	0	0	0	0	0	0	19
	144	7	0	1	0	16	4	5	177
51 Medicaid	28	20	0	0	1	0	0	0	49
52 Medicare	5	1	0	0	0	0	0	0	6
53 Government Children's Health Insurance Programs	0	1	0	0	0	0	0	0	1
54 Home and Community Based Care	10	3	0	0	11	0	1	4	29
56 Long Term Health Care Facilities	1	1	0	0	0	0	0	0	2
57 State and Local Health	3	3	0	0	0	0	0	0	6
59 Other Health	13	3	0	0	0	0	0	0	16
	60	32	0	0	12	0	1	4	109
61 Federally Subsidized Housing	31	3	0	1	0	0	0	0	35
62 Homeownership/Real Property	40	7	0	0	0	0	2	3	52
63 Private Landlord/Tenant	176	17	0	7	0	0	0	0	200
64 Public Housing	10	3	0	0	1	0	0	0	14
65 Mobile Homes	0	1	0	0	0	0	0	0	1
66 Housing Discrimination	12	2	1	1	0	0	0	1	17
67 Mortgage Foreclosures	10	1	0	0	0	0	1	1	13
68 Mortgage Predatory Lending/Practices	3	0	0	0	0	0	0	0	3
69 Other Housing	6	1	0	0	0	0	0	1	8

Legal Problem Code	F - Negotiated							Totals	
	A - Counsel and Advice	B - Limited Action (Brief Service)	Settlement w/out Litigation	G - Negotiated Settlement with Litigation	H - Administrative Agency Decision	IA - Uncontested Court Decision	IB - Contested Court Decision		L - Extensive Service
	288	35	1	9	1	0	3	6	343
71 TANF	1	0	0	0	0	0	0	0	1
72 Social Security	4	2	0	0	0	0	0	0	6
73 Food Stamps	18	3	2	1	1	0	1	0	26
74 SSDI	20	5	1	0	2	0	0	0	28
75 SSI	71	13	0	0	9	0	0	1	94
76 Unemployment Compensation	3	0	0	0	3	0	0	0	6
77 Veterans Benefits	2	0	0	0	0	0	0	0	2
	119	23	3	1	15	0	1	1	163
85 Civil Rights	1	0	0	0	0	0	0	0	1
87 Criminal Record Expungement	89	18	0	1	0	18	0	1	127
89 Other Individual Rights	2	0	0	0	0	0	0	0	2
	92	18	0	1	0	18	0	1	130
94 Torts	1	0	0	0	0	0	0	0	1
95 Wills and Estates	79	32	1	0	0	1	0	5	118
96 Advanced Directives/Powers of Attorney	8	23	0	0	0	0	0	0	31
99 Other Miscellaneous	4	1	0	0	0	0	0	0	5
	92	56	1	0	0	1	0	5	155
Grant Totals	1,795	296	65	195	31	269	131	276	3,058
	58.70%	9.70%	2.10%	6.40%	1%	8.80%	4.30%	9%	

THE WORK WE DO: SERVICES PROVIDED TO SURVIVORS OF DOMESTIC VIOLENCE

The final hearing in this divorce case lasted approximately 9 hours. Police were called to attend the final custody hearing, and our client retained full custody of her daughter with her husband receiving no visitation. During court, testimony was taken that her husband had broken her leg in a chair, had pulled her by the hair so hard that her scalp was dislocated from her skull, and would kick her in front of the parties' minor child while telling her that "this is what b**** dogs get." The child was scared to sleep by herself as she worried that he would come through her window and kill her. In addition to retaining custody, our client retained the .95 acres of land that was purchased during the marriage.

Our client suffered at the hands of her spouse and his family members. Her husband tried to convince the court that she was a drug-using "runaway," neglectful, unfaithful spouse and mother. Our client survived many spousal beatings, especially where he'd refuse to let her visit with their two children. The older child died while in spouse's care, an autopsy was performed, which disclosed an unusual cause of death. The divorce trial lasted two days and the court ultimately decided in our client's favor even though attorney ad litem was unable to make a conclusive recommendation on custody. Our client gained a divorce, custody, protection, and closure.

Our client was married to her abuser for 33 years. He tortured her, her children, and tortured the children's dogs to death. He indicated on numerous occasions his intentions of killing them and himself. We obtained an Order of Protection for the client, and with the help of law enforcement, the husband now resides in the Arkansas Department of Corrections for three years and our client and her family can sleep through the night. We obtained a divorce, custody, the marital home, and a lump sum payment in lieu of spousal support.

We represented a client against the father of her son. After physically abusing her, he was calling 10-20 times a day, placed a dead cat in her car, and slashed her tires. A contested court hearing resulted in client receiving an Order of Protection and child support. Visitation to the father was restricted and the Respondent was ordered to pay \$1,000 in attorney fees.

2017 DOMESTIC VIOLENCE CASES AT A GLANCE

Total Household Members Benefiting 4,065		Total Children Benefiting 2,810		Average Poverty Percentage Divorce/Custody/ Visitation 67%		Percentage of Legal Aid Cases with Domestic Violence Present 27%	
Average Domestic Violence Case Household Income \$16,102		Divorces Obtained for Survivors of Domestic Violence 144		Protective Orders Obtained for Survivors of Domestic Violence 490		Other Restraining Orders Obtained for Survivors of Domestic Violence 59	
Monetary Recoveries for Avoidances for Domestic Violence Survivors \$502,432		Total Value of Attorney Services \$1,909,075		Legal Aid Costs per Domestic Violence Case \$201.73		Pro Bono Attorneys Accepting Domestic Violence Cases 152	
Disabled Domestic Violence Survivors Represented 286		Total Value of Attorney Services \$1,909,075		Legal Aid Costs per Domestic Violence Case \$201.73		Pro Bono Attorneys Accepting Domestic Violence Cases 152	

BY COUNTY

Craighead - 207
Benton - 178
Washington - 175
Independence - 121
Boone - 113
Crittenden - 111
Greene - 107
Mississippi - 68
Lawrence - 61
Jackson - 60
Sharp - 58

Poinsett - 57
Outside of Service - 40
Phillips - 39
Randolph - 35
Baxter - 35
Clay - 33
Saint Francis - 29
Cross - 25
Carroll - 20
Madison - 15
Lee - 14

Cleburne - 13
Marion - 12
Van Buren - 11
Izard - 10
Stone - 9
Fulton - 9
Searcy - 7
Monroe - 7
Newton - 5
Woodruff - 3

1,687
CASES CLOSED IN
2017

	Advice or Limited Action	Full Representation	
Consumer and Employment Income	4	3	7
Family Stability (custody, guardianship, adoption)	28	9	37
Divorce	437	177	614
Domestic Abuse	63	951	1,014
Healthcare, Disability, and End of Life Issues	5	2	7
Housing	6	2	8
Totals	543	1,144	1,687



Help someone get a fresh start..

EXPUNGEMENT CLINIC

NOVEMBER 2, 2018

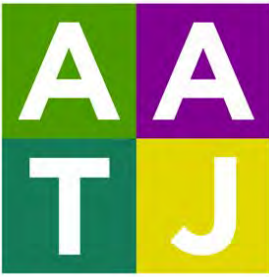
9:00 AM- 12:00 PM

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ARKANSAS
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JUSTICE
REPRESENTING HOPE

Pro Bono Week Reception Sponsorship Form

Your donation helps us represent hope for survivors of domestic violence, elders who have fallen victim to fraud, and children in need of a stable home, thank you!

Sponsor Name: _____

Contact Person: _____

Address Line 1: _____

Address Line 2: _____ City: _____ State: _____ Zip: _____

Sponsorship Level:

- Platinum-\$2,000, includes ten tickets.
- Gold-\$1,000, includes five tickets.
- Silver-\$500, includes two tickets.
- Bronze-\$250, includes one ticket.

I am contributing by: Cash Check Credit Card

Credit Card Type (Visa, Mastercard, American Express, etc): _____

Credit Card Number: _____ Expiration: _____

Signature: _____ CVV: _____

Sponsors will receive recognition at the event, in pre-event and post-event publicity, and on the Arkansas Access to Justice website. For more information or to buy tickets, visit www.arkansasjustice.org/probonoweek.

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Arkansas Access to Justice Foundation
1111 West 6th Street, Suite D
Little Rock, Arkansas 72201



ARKANSAS
ACCESS TO
JUSTICE
REPRESENTING HOPE

Arkansas Access to Justice Foundation & Commission
Joint Business Meeting
June 1, 2018
4:00 p.m.

Board of Directors:

Brian Clary (present)	Stacey Pectol (unavailable)
Dave Dickson (present)	Frank Sewall (unavailable)
Angela Duran (phone)	Hillis Schild (present)
Tyler Ginn (unavailable)	Sainabou Sonko (present)
Don Hollingsworth (present)	Vicki Smith, <i>Vice Chairperson</i> (unavailable)
Cliff McKinney (present)	Katie Stephens (present)
Kristin Pawlik (unavailable)	Bill Waddell, <i>Chairperson</i> (present)

Commissioners

Rep. Bob Ballinger (phone)	Rod Nagel, <i>Chairperson</i> (unavailable)
Judge Kim Bridgforth (unavailable)	Karama Neal, <i>Vice Chairperson</i> (present)
Jean Carter, <i>ex officio</i> (present)	Kelly Browe Olson, <i>ex officio</i> (present)
Judge Teresa French-Coleman (unavailable)	Lee Richardson, <i>ex officio</i> (present)
Sen. Jeremy Hutchinson (unavailable)	Kerri Sernel (phone)
Samantha Leflar (unavailable)	Judge Thomas Smith (unavailable)
Skye Martin (present)	Prof. Tim Tarvin, <i>ex officio</i> (unavailable)
Mark Mayfield, <i>Secretary</i> (unavailable)	Bill Waddell, <i>ex officio</i> (present)
Jim McLarty (present)	Andrea Walker (present)
Prof. Tiffany Murphy (unavailable)	Justice Robin Wynne (unavailable)

Guests:

Jason Auer
Fuller Bumpers
Carlos Manjarrez

Staff:

Erin Jacobson
Amy Johnson
Jordan Rogers

MEETING MINUTES

Joint Business

Introductions

Dr. Neal welcomed everyone and introductions were given from folks present in person and from those participating by phone.

Executive Director's Report

Ms. Johnson first touched on Legal Services Corporation funding and the good news of the Omnibus Bill passing in March that increased LSC funding by \$25 million. She added that in addition to the work of the National Legal Aid Defender Association, 251 corporate legal departments and 88 law firms nationwide provided their support in letters addressed to all members of Congress, including Walmart and Tyson, as well as Friday, Eldredge & Clark.

In April she and Mr. Nagel traveled to Washington, DC to visit members of Arkansas's congressional delegation. She would like the Commission and Foundation to submit comments to LSC on how funding impacts Arkansas, indicating the draft letter contained in the meeting packet. She next touched on the loss of four long-time advocates at national level from the American Bar Association and the associated elimination of Commission on IOLTA. She encouraged members to consider attending the upcoming NAIP workshop in August.

She mentioned the launch Bowen's of rural practice incubator program and serving on the associated committee with Justice Wynne. She indicated the article in the board packet regarding the ARChoices litigation, Legal Aid of Arkansas's involvement, and deferred to Mr. Richardson. He summarized that the Arkansas Department of Human Services may now be in contempt in regard to their use of an algorithm to determine and allocate hours of care for individuals with disabilities. In addition to continuing issues with DHS and the case, both programs previously received DHS funds to help with elderly clients, but funding has since been revoked. Ms. Carter clarified that these elder funds are supposed to be pass-through federal funds that should not be affected by the current litigation.

Ms. Johnson next revealed that Commissioner Mark Mayfield will receive the Equal Justice Distinguished Service Award from the Arkansas Bar Association in the next few weeks.

Ms. Johnson and Commissioner Judge Smith are both serving on the Supreme Court's Strategic Planning Committee, which is working on a draft plan that it will circulate for comments once issued. She cited the judiciary's outlined goals, which include shared priorities from the National Center for State Courts' Civil Justice Reform Initiative.

She touched on accomplishments and near-term plans of the Foundation, including the next phases of bank compliance review which will entail a push to increase the Preferred Bank rate. The first phase helped to yield an increase of \$126,000 in revenue for the program. The Foundation will also work to help the Supreme Court finalize its updates to the ongoing iMIS project. The QuickBooks conversion is also in progress and is anticipated to be complete over the summer. The Foundation has also established its endowment account with the Arkansas Community Foundation.

Near-term plans for Commission include: a revamp of its operating rules as well as its committee restructure, developing and holding a training for congressional constituent services staff, and utilizing the assistance of a Clinton School student to finish the data visualization/mapping project. The Commission will also consider supporting initiatives related to universal bar admission, as well as CLE for pro bono.

Ms. Johnson concluded her report by stating the major needs of both entities, which are staff support for resource development and administrative functions. Planning for 2019 Strategic Plan update will also soon be underway and require input from both the Commission and Foundation.

Mr. Clary asked about status of employees as state employees. Ms. Johnson clarified structure and funding, which entail legislative appropriation and Supreme Court approval.

Comments to LSC on FY 2020 Federal Funding

Mr. Waddell called for review of the letter to LSC on page 49 of the board packet. Mr. Dickson moved to approve the letter. Ms. Schild seconded the motion. All members voted in favor of the motion.

Commission Business

Approval of Minutes of March 16, 2018 Meeting

Dr. Neal moved on to the first order of Commission business, asking for review and approval of the meeting minutes from the Commissions March 16th meeting. Ms. Walker moved to approve the minutes. Ms. Martin seconded the motion. All members voted in favor of approving the minutes.

2018-19 Commission Budget

Next, she moved to the Commission budget. Ms. Johnson prepared a budget request memo to go with the budget proposal, contained on pages 59 & 60 in the board packet.

Strategic Priorities Update

Mr. Rogers touched on highlights of the strategic priorities updates. Five CLE presentations have been given by staff since March 5, 2018; he encouraged members to participate in holding these presentations, which do not just need to be legal organizations and can include other civic organizations.

He touched on social media statistics and ad buying, and sponsorship opportunities for the upcoming unbundling conference, adding that he believes the conference will sell out. He will be helping to plan the training for federal congressional delegation staff members of how legal aid can be a resource. He indicated

the growing directory of lawyers who offer unbundled services, located on arkansasjustice.org. He is also planning a webinar in July for court staff, librarians, and social workers of how to connect people with legal needs to resources. Outreach events and clinics continue with both legal aid organizations planning and hosting their own throughout the state.

Mr. Rogers concluded the strategic priority updates, mentioning that in reviewing the current attorney statistics and answer rates on AR Free Legal Answers, Mr. McKinney is the most active attorney on the site. Mr. Rogers stated he wanted to recognize and thank Mr. McKinney for this.

Draft Updates to Commission Operating Rules

Dr. Neal moved on to the draft updates to the Commission's operating rules. She stated that due to there being no quorum today no decisions can be made, but requested volunteers to read through the rules and to offer feedback.

Upcoming Meeting Dates

- September 21, 2018
- January 18, 2019

Foundation Business

Minutes of February 16, 2018 Meeting

Mr. Waddell moved on to Foundation business, asking for review and approval of the minutes from the foundations February 16th meeting. Mr. McKinney moved to approve and Mr. Dickson seconded the motion. All members voted in favor of approving the minutes.

Financial Report

Ms. Johnson covered the year to date financial report. Current assets are just over \$3 million and are primarily comprised of Bank of America settlement funds held at Simmons in an ICS account and at Stephens. She reviewed all of the Foundation's accounts: Simmons operating account contains IOLTA funds and bills; Centennial account for orphan funds; Southern Bancorp CD account, and the Simmons campaign accounts for donations.

She indicated that expenses are skewed and appear high, but are due to grant payments being made to the two legal aid organizations.

She touched again on the IOLTA compliance review resulting in increased IOLTA revenue of over \$100,000. Members discussed rate increase and current upswing after many years of low rates. Mr. Dickson offered his perspective as a banker. Mr. Richardson mentioned recently receiving an offer for a 2% increase on Legal Aid's checking account.

Ms. Johnson concluded her report with a brief review of the endowment fund and a review of its background and on how it is set up. Next the Foundation will move on to making asks to raise the additional \$500,000 and will need to enlist board members and Commissioners to help.

Mr. Dickson moved to approve the financial report and Mr. McKinney seconded. All members voted in favor of approving the financial report.

Grants Committee Report

Ms. Stephens presented the grants committee report. She touched on the two legal aid programs' work with their special project funding, and highlighted the committee's request for new funding levels.

Mr. Clary made a motion to approve the proposal. Mr. Dickson seconded the motion. All members voted in favor of approving the grant committee's proposal.

Cy Pres Committee Report

Mr. Waddell touched on the work of the cy pres committee. Going to call "court awards" committee so that people will know what it means. The committee has drafted a brochure, but he posited that they may need a more creative eye to improve it.

Upcoming Meeting Dates

- August 24, 2018
- November 16, 2018

Adjourn

The meeting adjourned at 5:31 p.m.

Joint Board Retreat
June 1, 2018
Planning Session - SWOT Analysis

Strengths

- Knowledgeable, dedicated staff
- Multi-spectrum opportunities for service-systematic intentionality
- Good branding, goodwill in community
- Enthusiasm of all justice community participants
- Willingness to legal aid to partner with outside agencies
- Legal aid attorneys have solid subject matter expertise and are good at their work

Weaknesses

- Need for succession planning
- Confusing to tell the story of our work in a clear, understandable way because involvement of multiple entities
 - Mission creep
- Lack desirable level of volunteer and financial support
- Many opportunities and ideas, but not enough resources to prioritize and fully staff
- Unless we have a complete story of what we do, it's hard to get support

Opportunities

- Opportunities to attract supporters, people who are motivated
- Access to data, resources (short-term) to use
- IOLTA revenues are increasing, room to grow (other sources)
- Awareness of attorneys, other constituents of ATJ/legal aid as a worthwhile cause
- Small state advantage. Two or three degrees of separation to people in power

Threats

- Potential for political retribution when policies being challenged in lawsuits
- Federal funding uncertainty
- Political climate
 - Have to be nonpartisan at all times
- Change in composition of Arkansas Supreme Court; periodic turnover necessitates continual cultivation of relationships and support

**IOLTA Program Trends Report
April 2018**

NET IOLTA REVENUE - BY DEPOSIT MONTH

	January	February	March	April	May	June	July	August	September	October	November	December	TOTAL
2015	11,264	9,149	8,486	9,092	8,549	9,086	7,973	8,371	8,046	7,803	8,867	8,590	105,276
2016	10,349	10,961	8,800	9,495	9,729	9,528	10,343	9,515	10,032	10,089	10,439	10,486	119,766
2017	9,979	10,816	9,416	11,170	10,681	11,031	10,939	10,886	10,909	13,128	15,527	14,198	138,680
2018	15,246	14,843	14,001	15,825	20,241	22,718	24,861						127,735

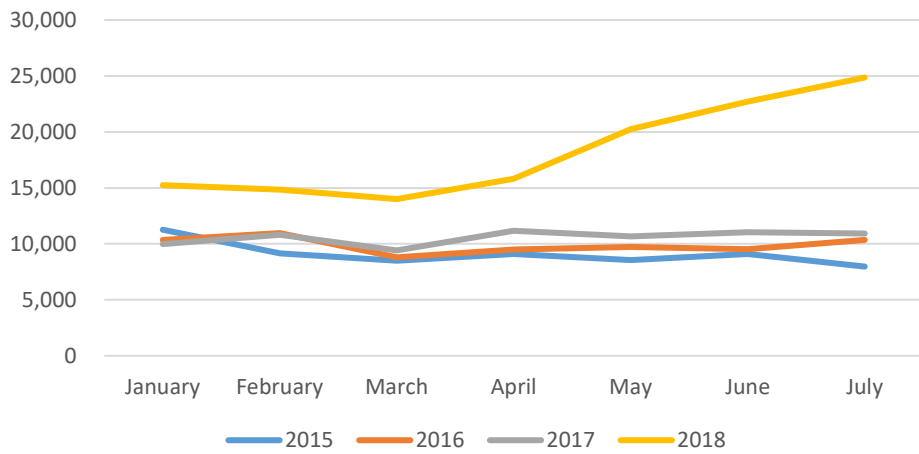
AVG YIELD % - BY EARNINGS PERIOD

	January	February	March	April	May	June	July	August	September	October	November	December	
2015	0.10%	0.10%	0.10%	0.10%	0.10%	0.10%	0.10%	0.09%	0.09%	0.08%	0.09%	0.10%	0.10%
2016	0.11%	0.10%	0.10%	0.10%	0.10%	0.10%	0.10%	0.10%	0.09%	0.10%	0.10%	0.10%	0.10%
2017	0.11%	0.10%	0.10%	0.11%	0.11%	0.11%	0.10%	0.11%	0.12%	0.11%	0.12%	0.12%	0.11%
2018	0.13%	0.13%	0.15%	0.12%	0.18%	0.19%							0.13%

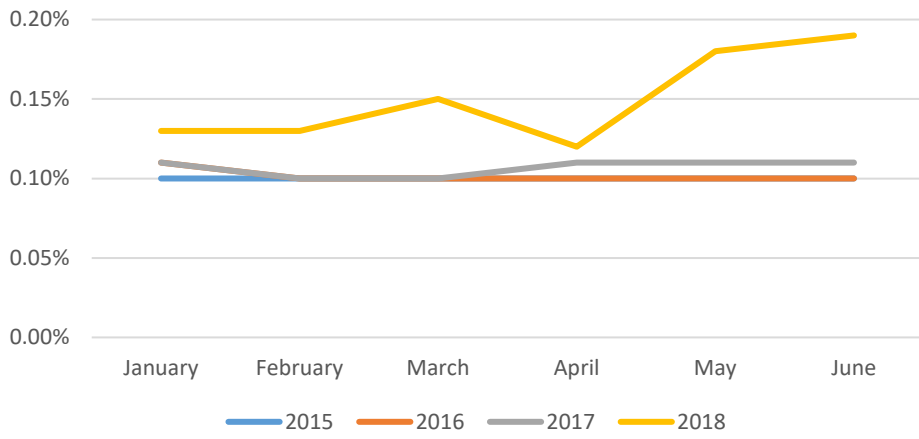
AVG BALANCES - BY EARNINGS PERIOD

	January	February	March	April	May	June	July	August	September	October	November	December	
2015	111,066,311	102,700,007	108,657,236	106,610,554	100,201,458	104,438,766	102,318,795	99,893,957	103,613,634	123,271,628	110,904,939	118,325,415	107,666,892
2016	116,704,964	109,783,580	112,904,223	110,086,373	111,123,229	113,968,514	114,023,793	117,874,407	129,642,480	119,929,151	121,654,976	126,639,608	117,027,942
2017	118,518,546	124,391,600	120,573,838	121,929,594	124,551,122	124,263,971	121,719,641	123,953,335	134,312,703	144,863,319	144,162,162	153,786,006	131,057,584
2018	132,152,938	130,592,931	119,068,161	189,803,250	146,114,731	158,925,911							142,904,320

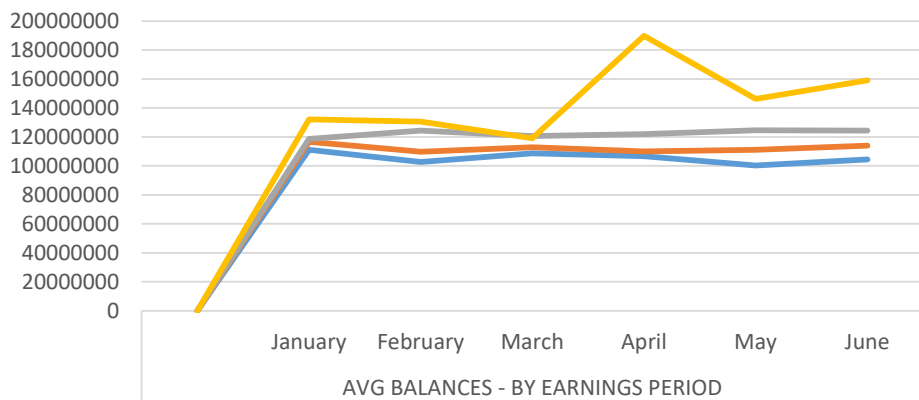
Monthly IOLTA Revenue 2015-2017



Average Interest Rates 2015-2017



Average IOLTA Balances (all banks, all accounts)





Ms. Amy Johnson
 Executive Director
 Arkansas Access to Justice Foundation
 1111 West 6th Street
 Suite D
 Little Rock, AR 72201

Arkansas Justice Fund
Fund ID: arajt
Fund Statement
April 1, 2018 to June 30, 2018

Fund Activity

<i>Balance as of 4/1/2018</i>	\$111,539.82
Additions:	
Contributions	816.66
Returned Grants	0.00
Investment Activity:	
Interest & Dividends	328.03
Realized Gains(Losses)	380.79
Unrealized Gains(Losses)	-389.47
Disbursements:	
Grants*	0.00
ARCF Administrative Grant	-288.94
Miscellaneous Fund Expense	-7.50
<i>Balance as of 6/30/2018</i>	\$112,379.39
<i>Available to Grant @ 6/30/2018</i>	<u>\$62,379.39</u>

*Grants deducted from the fund include grants that have been approved for payment. Grants that appear on detail page include grants in process.

Arkansas Unclaimed/Unidentifiable Funds Summary
(as of July 31, 2018)

2015:

Unclaimed Funds Received:	\$2814.54
Unidentifiable Funds Received:	\$6999.41
TOTAL:	\$9813.95

Claims Made-Unclaimed:	(\$0)
Claims Made-Unidentifiable:	(\$0)

2016:

Unclaimed Funds Received:	\$3330.72
Unidentifiable Funds Received:	\$25,313.76
TOTAL:	\$28,644.48

Claims Made-Unclaimed:	(\$17.00)
Claims Made-Unidentifiable:	(\$0)

2017:

Unclaimed Funds Received:	\$21,350.87
Unidentifiable Funds Received:	\$3247.53
TOTAL:	\$24,472.22

Funds Released From Restrictions: \$9813.95

Claims Made-Unclaimed:	(\$0)
Claims Made-Unidentifiable:	(\$0)

2018 (as of 7/31/2018):

Unclaimed Funds Received:	\$8644.12
Unidentifiable Funds Received:	\$2586.50

Funds Released From Restrictions: \$14,954.92 (YTD total)

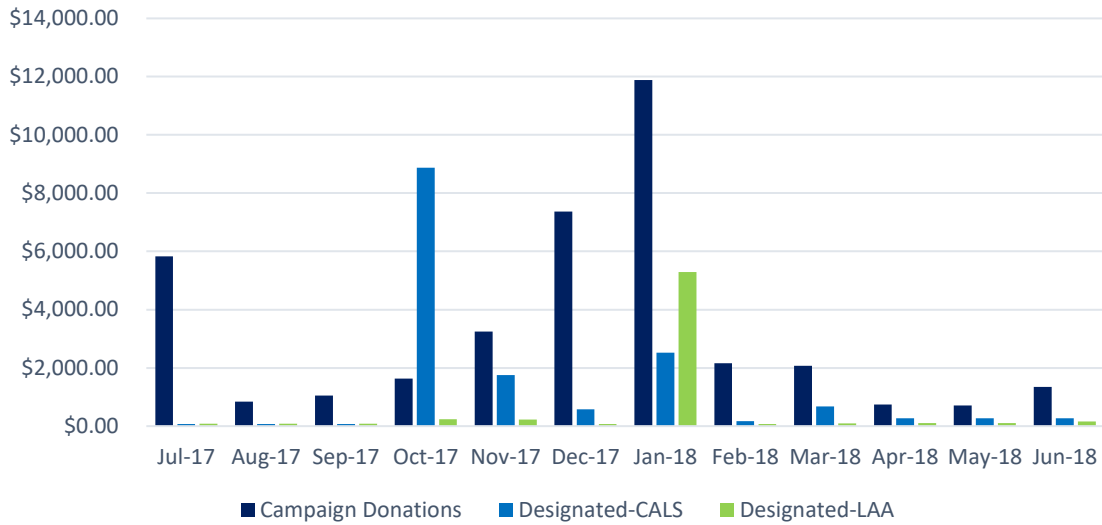
Claims Made-Unclaimed:	(\$0)
Claims Made-Unidentifiable:	(\$0)

2017-18 Campaign for Legal Aid Distribution

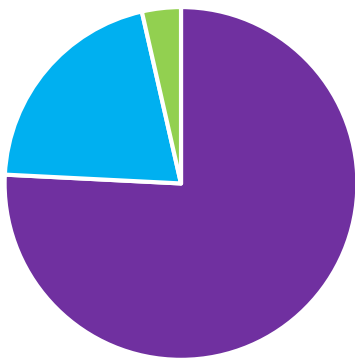
Month	Campaign Donations	Designated-CALS	Designated-LAA	TOTALS
July 2017	\$5,827.00	\$75.00	\$85.00	\$5,987.00
August 2017	\$839.08	\$75.00	\$85.00	\$999.08
September 2017	\$1,047.00	\$75.00	\$85.00	\$1,207.00
October 2017	\$1,632.51	\$8,875.00	\$235.00	\$10,742.51
November 2017	\$3,243.72	\$1,755.00	\$230.00	\$5,228.72
December 2017	\$7,372.00	\$575.00	\$75.00	\$8,022.00
January 2018	\$11,887.00	\$2,525.00	\$5,295.00	\$19,707.00
February 2018	\$2,164.59	\$175.00	\$75.00	\$2,414.59
March 2018	\$2,072.00	\$675.00	\$95.00	\$2,842.00
April 2018	\$742.00	\$275.00	\$110.00	\$1,127.00
May 2018	\$706.11	\$275.00	\$110.00	\$1,091.11
June 2018	\$1,342.00	\$275.00	\$160.00	\$1,777.00
TOTALS	\$38,875.01	\$15,630.00	\$6,640.00	\$61,145.01
Campaign Total = \$38,875				
Distribution Formula (per MOU):				
10% to Endowment				\$3,887.50
Remainder by Poverty Population (59.3% to CALS, 40.7% to LAA)				\$34,987.51
			CALS	\$20,747.59
			LAA	\$14,239.92

Month	Campaign Donations	Designated-CALS	Designated-LAA	TOTALS
July 2017	\$5,827.00	\$75.00	\$85.00	\$5,987.00
August 2017	\$839.08	\$75.00	\$85.00	\$999.08
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June 2018	\$1,342.00	\$275.00	\$160.00	\$1,777.00
TOTALS	\$38,875.01	\$15,630.00	\$6,640.00	\$61,145.01
			Average Gift Amount	
Total Number of Gifts		535	\$114.00	
Total Number of Online Gifts		404	\$93.00	
Total Number of Cash/Check Gifts		129	\$51.00	
Total Number of Individual Gifts		514	\$109.00	
Total Number of Law Firm Gifts		12	\$554.00	
Total Number of Corporate/Foundation Gifts		8	\$653.00	
Top Five Counties	Pulaski	296	\$140.00	
	Craighead	38	\$40.00	
	Benton	34	\$69.00	
	Washington	33	\$94.00	
	Faulkner	28	\$179.00	

2017-18 Campaign for Legal Aid

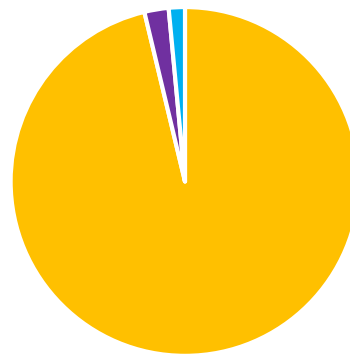


Gift Type



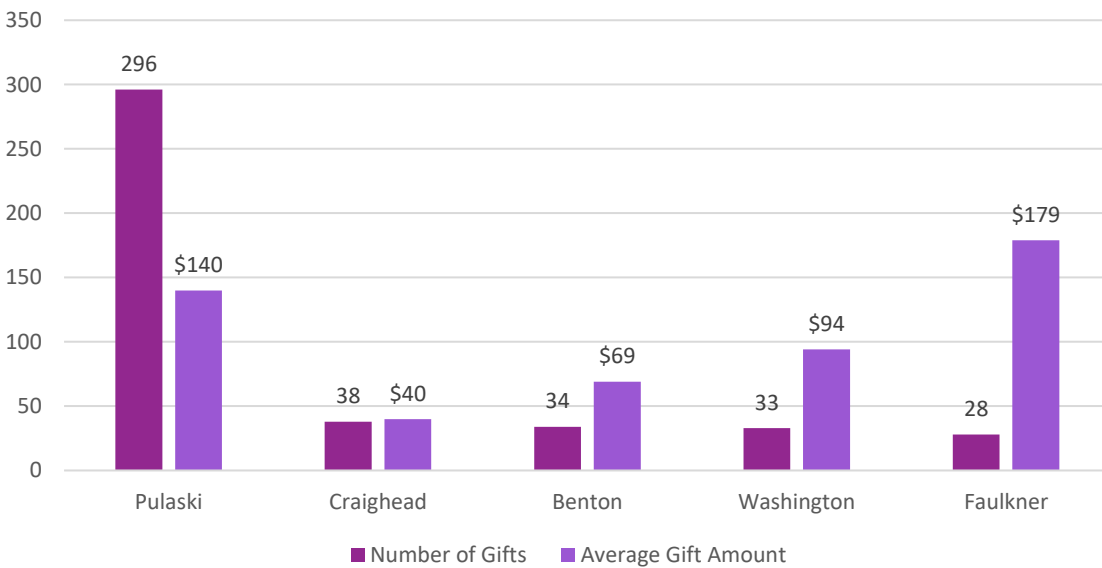
■ Online Gifts ■ Checks ■ Cash

Donor Type



■ Individual ■ Law Firm ■ Corporate/Foundation

Top Five Counties



■ Number of Gifts ■ Average Gift Amount

LEGAL AID OF ARKANSAS OFFICE DIRECTORY

All Offices 870-972-9224 or 1-800-967-9224

*office point of contact

Arkansas Children's Hospital

Brandon Building	501-364-1541 – Phone	
11 Children's Way	501-978-6479 - Fax	
Little Rock, AR 72205		
Vacant	Staff Attorney	4305
Goodwin, Jennifer	EJW Attorney	6311
Amy Pritchard	Staff Attorney	6306
Ramsey, Donna	Legal Support Specialist	4310

Harrison

205 W. Stephenson Avenue	800-967-9224 – Fax	
Harrison, AR 72601		
Davis, Samantha	Legal Support Specialist	5304
Roe, Hannah*	DV WG Leader	5303
Morato, Valerie	EJW Attorney	5302

Little Rock-Conway

Abrams, Pamela	Staff Attorney - CALS office	6319
Hill, Ryan	Staff Attorney St. Vincent-CHI	4326
Rogers, Kevin	Transitional Atty-Conway	3304

Helena-West Helena

622 Pecan		
Helena-West Helena, AR		
Vann, Alex	Legal Support Specialist	1301

Jonesboro

714 S. Main St.	870-910-5562 – Fax	
Jonesboro, AR 72401		
Crawford, Cory	Staff Attorney	5305
Franklin, Teresa*	Regional Manager	6310
Gratil, Helen	Capacity Building VISTA	6302
Hawkins, Trevor	Staff Attorney	6313
Meador, Jordan	Staff Attorney	6314
Richardson, Lee	Executive Director	6305
Shoupe, Beth	Dom. Violence Paralegal	6307
Taylor, Vivian	Communications VISTA	6308
Thomas, Deedra	Intake Paralegal	6312
Tong, Liz	Pro Bono/Communications	6315
Walker, Andrea	Deputy Director/HelpLine	6303

Newport

202 Walnut St.	870-523-9892 – Fax	
Newport, AR 72112		
Grady, Kathy	Economic Justice Paralegal	3301
Griffin, Barbara*	Staff Attorney	3303
Swain, Blane	Staff Attorney	3302

Springdale

1200 Henryetta St.	479-751-0002– Fax	
Springdale, AR 72762		
Alden, Gaylynn	Housing Paralegal	4315
Allison, Scot	Staff Attorney	6309
Auer, Jason	Housing WG Leader	6318
Barnett, Sarah	Staff Attorney	4309
Bien, Molina	Marshallese Liaison	7303
Bowling, Spencer	EJW VOCA Fellow	4312
Bowman, David	Fiscal Officer	4308
Cross, Riley	Staff Attorney	4323
Anderson, Aaron	Receptionist	4319
Sims, Karsen	Receptionist	4319
Galvez, Neyra	Spanish Interpreter	4317
Hussein, Chris	Staff Attorney	4306
King, Elizabeth*	Human Resources	4311
Lancaster, Kori	Comm. Education Specialist	4320
Liguori, Jennifer	Tax Clinic Director	6304
Norman, Ashley	Staff Attorney	4302
Purtle, Susan	Consumer WG Leader	4301
Ramsfield, Kris	Staff Attorney	4304
Ware, Lynda	Intake Paralegal	4307

West Memphis

310 Mid-Continent Plaza	870-732-6373 – Fax	
Suite 420		
West Memphis, AR 72301		
Bakowicz, Rachael	Staff Attorney	2203
Davison, Lela*	Staff Attorney	2207
De Liban, Kevin	Economic Justice WG Leader	2206
Johnson, Grededa	Pro Bono Director	2202
Willis, Katheenya	Legal Support Specialist	2201

Legal Aid of Arkansas
Organizational Chart
 August 22, 2018

Lee Richardson
Executive Director

Andrea Walker
HelpLine Manager
Deputy Director

<u>Domestic Violence</u>	<u>Consumer</u>	<u>Housing</u>	<u>Economic Justice</u>	<u>Pro Bono</u>	<u>Administration</u>
Blane Swain <i>Group Leader</i> <i>Staff Attorney</i>	Susan Purtle <i>Group Leader</i> <i>Staff Attorney</i>	Jason Auer <i>Group Leader</i> <i>Staff Attorney</i>	Kevin DeLiban <i>Group Leader</i> <i>Staff Attorney</i>	Elizabeth Tong <i>Communications</i> <i>Pro Bono</i> <i>Coordination</i>	David Bowman <i>Fiscal Officer</i>
Jordan Meador <i>Staff Attorney</i>	Barbara Griffin <i>Staff Attorney</i> <i>Part Time</i>	Rachel Bakowicz <i>Staff Attorney</i>	Trevor Hawkins <i>Staff Attorney</i>	Greneda Johnson <i>Pro Bono Manager</i> <i>AVLE Coordinator</i>	Elizabeth King <i>Human Resources</i>
Ashley Norman <i>Staff Attorney</i>	Jennifer Liguori <i>LITC Director</i>	Riley Cross <i>Staff Attorney</i>	Kathy Grady <i>Paralegal</i>		Deedra Thomas <i>Legal Support</i>
Kris Ramsfield <i>Staff Attorney</i>	Cory Crawford <i>Staff Attorney</i>	Gaylynn Alden <i>Paralegal</i>	Jen Goodwin <i>EJW Attorney</i>		Katheenya Willis <i>Legal Support</i>
Beth Shoupe <i>Paralegal</i>	Chris Hussein <i>Staff Attorney</i>	Teresa Franklin <i>Delta Regional</i> <i>Managing Attorney</i>	Valerie Morato <i>EJW AmeriCorps</i> <i>Elder Justice</i>		Neyra Galvez <i>Support Liaison</i>
Lela Davison <i>Staff Attorney</i>	Ryan Hill <i>Staff Attorney</i>	Kori Lancaster <i>Community</i> <i>Education Specialist</i>	Lynda Ware <i>Paralegal</i>		Samantha Davis <i>Legal Support</i>
Hannah Roe <i>ACH</i> <i>Supervising Attorney</i>	Kevin Rogers <i>Transitional Attorney</i>	Pamela Abrams <i>Staff Attorney</i>	Scot Allison <i>Staff Attorney</i>		Aaron Anderson <i>Legal Support</i> <i>Part Time</i>
Sarah Barnett <i>Staff Attorney</i>			Amy Pritchard <i>Staff Attorney</i>		Molina Bien <i>Support Liaison</i>
Spencer Sims Bowling <i>EJW Attorney</i>			Donna Ramsey <i>Paralegal</i> <i>MLP Coordinator</i>		Helen Gratil <i>Capacity Building</i> <i>Vista</i>
		KEY			Vivian Taylor <i>Communications</i> <i>Vista</i>
		Ozark Region			Alex Van <i>Legal Support</i>
		Delta Region			Karsen Sims <i>Legal Support</i> <i>Part Time</i>