

# **PROCEDURE FOR ASSESSING PRIORITIES FOR CALIFORNIA INDIAN LEGAL SERVICES AND STATEMENT OF PRIORITIES**

## **INTRODUCTION**

The Board of Trustees of California Indian Legal Services (CILS) must establish a process for setting CILS' priorities for the representation of clients. 45 C.F.R. § 1620 requires that the governing body of a recipient of Legal Services Corporation (LSC) funds adopt procedures for the establishment of priorities in the allocation of its resources. The procedures adopted must include an effective appraisal of the needs of eligible clients in the geographic areas served by the recipient, based upon information received from potential or current clients, input from CILS' employees, its governing body members, the private bar and other interested persons. In addition to substantive legal problems, the appraisal must address the need for outreach, training of staff, and support services, with particular attention paid to significant segments of the client population with special legal problems or special difficulties of access to legal services.

The procedure set out below has been developed by the Board of Trustees of California Indian Legal Services for the effective appraisal of the needs of eligible clients throughout California. The purposes of the process are to:

1. Ensure compliance with HR 3019, Section 504(93(A)(I), 42 U.S.C. § 2996f(a)(2)(C)(I), and 45 C.F.R. § 1620;
2. Identify the most critical legal problems and needs facing California's low income Indian communities;
3. Ensure the best possible allocation of limited resources to address the most critical needs of the client community with legal representation; and
4. Ensure the most effective representation possible by California Indian Legal Services for special legal services to Indians and Indian tribes in California.

## **EXISTING DATA AND PRIORITY APPRAISAL EFFORTS**

As noted in CILS's 2014 "**Annual Report on Program Priorities**", CILS was directed to conduct a statewide needs assessment by LSC. To collect the necessary data needed to establish its priority of needs, CILS developed a survey which provided six major areas of Indian law (Indian trust lands, Tribal/BIA benefits, Indian child welfare, individual Indian rights, Indian specific taxation issue and Tribal governance) and asked survey participants to rate the areas in order of importance. Survey responses were collected from those surveyed fell into three categories: tribal governments; tribal organizations and individual Native Americans. Responses were then rated for averages for each of the six areas on a scale where one was the most important and five the least important:

- For tribal government: "Tribal Governance" issues ranked first with a 1.8 average rating of responding tribes placing it as the first area of importance;
- For tribal organizations: "Indian child welfare" issues ranked first with a 1.77 average rating

- the highest rating given by any group of any area; and
- For individuals: “Individual Indian rights” ranked first with a 2.38 average rating.

How each group sees itself as receiving CILS assistance was also found diversely different. Using the same rating averages, CILS’s most vital service was rated by each of the three groups as follows:

- Tribal governments saw assistance to tribal governments as CILS’s most vital service with a 2.47 rating;
- Tribal organizations saw a three-way tie of self-help materials on Indian law subjects, individual representation and assistance to organizations serving Native populations as most vital with a 3.54 rating; and
- Individuals saw representation of individuals on Indian law related cases as most vital with a 2.98 rating.

The client needs assessment, also led the Board to work toward the development of a CILS Strategic Plan which would have two purposes: what internal staffing changes were needed in order to meet the priorities set by our client communities and how to prioritize funding resources to meet our priorities. Both issues were the subject of extensive planning by Board and staff during 2013.

Upon completion of the needs assessment process and compiling of the data, in early June of 2013, CILS held a two-day Board Staff Retreat focused primarily on addressing program-wide priorities, as well as, project specific action items and overall client community needs. The result of these two days was a compilation of more focused and detailed program priorities and requisite service levels. The ongoing evaluation of this compilation lead to revision of CILS’s statement of priorities to better reflect the services provided by CILS and the needs of our client community.

For a detailed discussion of CILS’s methodology used and data collected from the needs assessment process, please see CILS’s final 2012-2013 Needs Assessment Report which was submitted to LSC in 2013.

### **PRIORITY APPRAISAL PROCESS**

CILS’ priority appraisal process consists of the following:

1. Review of the most recent formal client needs assessment and other needs data;
2. Review of the current priorities being utilized by the program;
3. Review of the latest census and other demographic data on the client population;
4. Consideration of the LSC-recommended priorities;
5. Appropriate formal Board Action.

### **PRIORITIES**

The priorities adopted as a result of this process are listed below. These priorities will be fulfilled

through the provision of extended service, limited service, counsel and advice, and other services.

1. Preserve and enhance the California Indian land base in California;
2. Protect tribal sovereign immunity from state infringement;
3. Protect and preserve tribal self-determination and control over tribal lands and reservation programs in California;
4. Develop and/or enhance tribal public safety through tribal courts, law enforcement and cooperation with local and state authorities;
5. Protect and secure federal and state benefits for tribes and California Indians;
6. Secure and protect the civil rights of Indians in California;
7. Protection of Indian families and children under the Indian Child Welfare Act;
8. Assist with tribal economic development to enhance Indian community;
9. Protection and preservation of Indian cultural resources, sites and sacred objects;
10. Assist Indian allottees with protecting their land from trespassing, taxation, and the federal probating process;
11. Tracking statutory, administrative, and legislative initiatives and changes that impact California Indian Country;
12. Provide community education and training to California Indian communities, tribal and Indian organizations on issues impacting California Indians;
13. Develop additional self-help materials and other client information and education materials to empower tribal members;
14. Seek additional funding for CILS activities and implement our funded contractual and grant obligations;

The priorities adopted for our Eastern Sierra Legal Assistance Project (ESLAP) are as follows: Provide counsel and advice and brief services; and work collaboratively with appropriate agencies, groups, and task forces, in the following areas:

1. Landlord Tenant, Eviction Defense
2. Public Benefits
3. Consumer Protection

4. Elder Law
5. Employment Law
6. Education

**EMERGENCY SITUATIONS FOR UNDERTAKING REPRESENTATION OUTSIDE PRIORITIES - PROCEDURE**

The above priorities shall be the established priorities for the allocation of CILS resources. Congress recognizes that occasionally there are emergency situations will arise when it is in the best interest of the client to secure immediate representation on a matter not specifically within one of the priority areas. In such cases, ethical and other considerations may compel CILS to undertake representation.

**Accordingly, and pursuant to 45 C.F.R. § 1620.4, pending further Board action, such emergency representation is allowable, with prior written approval of the Executive Director, under the following conditions:**

1. Client is financially eligible for legal services; and
2. Client is unable to negotiate the legal process due to disability, language or cultural barrier; and, significant legal rights or interests would be lost in the absence of immediate representation; or
3. Client's health or safety is at risk and would be further endangered without immediate representation;
4. The statute of limitations or other imposed procedural requirements are about to expire and immediate legal assistance is necessary to secure the client's legal rights; or
5. Failure to represent would place staff at risk of violating the Code of Professional Responsibility; or
6. For other reasons that would reasonably be considered an "emergency", in light of all the circumstances presented, and when the client's legal rights and interests are substantially affected.

Authorization to undertake cases or matters in emergency situations shall be obtained in writing from the Executive Director or other person designated by the Executive Director for this purpose. A copy of the written authorization shall be retained in the client's file and, to the extent the information supporting the emergency is confidential, shall be subject to the attorney-client privilege and shall not be released without the client's written consent.

**AGREEMENT TO ABIDE BY CILS PRIORITIES**

I, a staff attorney, paralegal, or other case handler employed by CILS, have reviewed the Procedure for Assessing California Indian Legal Services Priorities/Statement of Priorities, and hereby agree not to undertake cases or matters other than in accordance with the specific priorities approved by the Board of Trustees of California Indian Legal Services (Board) on **December 5, 2015**, unless I have obtained written authorization in situations presenting an emergency on behalf of a specific client under circumstances established by the Board.

Date: \_\_\_\_\_

Advocate Signature: \_\_\_\_\_