

POLICY RESOLUTION NO. 17

**AMERICAN SAMOA LEGAL AID, INC.
BOARD OF DIRECTORS**

**POLICIES AND PROCEDURES REGARDING
ELIGIBILITY OF UNITED STATES NATIONALS, UNITED STATES CITIZENS
AND ALIENS
(45 CFR § 1626)**

Background

Legal Services Corporation regulation 45 CFR § 1626 contains restrictions on providing legal assistance to certain aliens. Under 45 CFR § 1626.12 each recipient of LSC funds “shall adopt written policies and procedures to guide its staff in complying with this part and shall maintain records sufficient to document the recipient's compliance with this part.” However, LSC’s Office of Legal Affairs has determined that “The alienage restrictions in section 504(a)(11) of LSC’s FY 1996 Appropriations Act and 45 C.F.R. Part 1626 do not apply to services provided in American Samoa by an LSC recipient because those restrictions are based on provisions of the Immigration and Nationality Act (INA) that do not apply to people entering or remaining in American Samoa.” See OLA Advisory Opinion # AO-2014-008 (Dec. 5, 2014).

The Board of Directors of American Samoa Legal Aid, Inc., enacts the following Policies and Procedures Regarding Eligibility of United States Nationals, United States Citizens and Aliens:

Policies and Procedures

This policy applies to applicants who meet all other applicable eligibility criteria and requirements. American Samoa Legal Aid, Inc., may provide legal assistance to an applicant who is a United States national, United States citizen or alien (as “alien” is defined in 41.0202(1)(a) of the American Samoa Code) who resides in American Samoa, if the person is in legal status under Title 41 (Citizenship, Alienage and Immigration) of the American Samoa Code. However, the following persons may be provided services if an applicant is not in legal status under Title 41 of the American Samoa Code:

1. Persons who are victims of significant abuse, domestic violence (as domestic violence is defined in Section 3(a) of the Violence Against Women and Department of Justice Reauthorization Act of 2005), or human trafficking (as human trafficking is defined in the American Samoa Human Trafficking Act, see American Samoa Public Law 33-12), and the legal issue is related to the abuse, domestic violence or human trafficking;

2. Persons who are allowed to remain in American Samoa as a result of American Samoa law or policy; and
3. Persons who are provided services pursuant to a court appointment of ASLA as the individual's attorney.

Provided that an applicant who current resides in American Samoa as a tourist or business person under section 41.0502(a)(3) of the American Samoa Code or as a foreign investor under section 41.0803 of the American Samoa Code, is not eligible to be provided services by American Samoa Legal Aid.

This policy does not mean that an applicant has a right to obtain services from American Samoa Legal Aid, Inc., as there are other considerations, including but not limited to, the merit of the case or claim and the time available given other work demands. This policy only determines when an applicant's citizenship, alienage, or immigration status will affect eligibility for services.