

AMERICAN SAMOA LEGAL AID, INC.

Financial Eligibility (45 CFR Part 1611)

Approved by the ASLA Board of Directors on February 25, 2021

1. Eligibility for Legal Assistance Utilizing Legal Service Corporation (“LSC”) Funding

Only individuals and groups determined to be financially eligible under the following policies and LSC regulations may receive legal assistance supported by LSC funds.

However, nothing shall prohibit ASLA from providing legal assistance to an individual without regard to that individual’s income and assets if the legal assistance is wholly supported by funds from a source other than LSC, and is otherwise permissible under applicable law and regulation.

2. Income Eligibility

A. 2021 Annual Income Ceiling

The official United States Federal Poverty Guidelines are published annually in the Federal Register and referenced in 45 CFR Part 1611, Appendix A. These guidelines are calculated differently for the 48 contiguous states and the District of Columbia, Alaska, and Hawaii. There is no specific reference to a poverty guideline to use for American Samoa. The ASLA Board has determined that the applicable poverty guidelines for ASLA’s service area are the set of figures calculated for Hawaii in the U.S. Federal Poverty Guidelines. The annual income ceiling for households and individuals may not exceed 125% of the current Federal Poverty Guideline for Hawaii, unless the household or individual meets income exceptions. For 2021, these amounts are:

Household Size	Annual Income Ceiling 125% of Federal Poverty Guidelines
1	\$18,525
2	\$25,050
3	\$31,575
4	\$38,100
5	\$44,625
6	\$51,150
7	\$57,675

8	\$64,200
Each Add'l Household Member Add	\$6,525

ASLA's procedures shall include both annual and monthly income ceilings.

B. Income Exceptions

There are two ways in which an applicant whose income exceeds the set income ceilings may be eligible for legal services with LSC funding.

First, an applicant is income eligible, with **any amount of income**, if they are (i) seeking legal assistance to maintain benefits provided by a governmental program for low income individuals or families, or (ii) the applicant's income is primarily committed to medical or nursing home expenses and, in considering only that portion of the applicant's income which is not so committed, the applicant would otherwise be financially eligible for services.

Second, an applicant is income eligible, if their income is within 200% of the Federal Poverty Guidelines¹ and they are (i) seeking legal assistance to obtain governmental benefits for low-income individuals and families or (ii) seeking legal assistance to obtain or maintain governmental benefits for persons with disabilities, or (iii) should be considered financially eligible based on consideration of one or more of the following factors:

- Current income prospects, taking into account seasonal variations;
- Un-reimbursed medical expenses and medical insurance premiums;
- Fixed debts and obligations, including unpaid taxes;

¹ 200% of the Federal Poverty Guidelines are as follows:

Household Size	200% of Federal Poverty Guidelines
1	\$29,640
2	\$40,080
3	\$50,520
4	\$60,960
5	\$71,400
6	\$81,840
7	\$92,280
8	\$102,720
Each Add'l Household Member Add	\$10,440

- Expenses such as dependent care, transportation, clothing and equipment expenses necessary for employment, job training, or educational activities in preparation for employment;
- Non-medical expenses associated with age or disability;
- Other significant factors related to the applicant's ability to afford legal assistance.

The determination of eligibility for an income exception shall be made by the Executive Director or her designee, and records noting the determination and containing support for the determination shall be maintained.

C. Determining Income

1. Household Size

Household size includes those people living under the same roof. Persons living under the same roof who are legitimate renters or roommates, or who are temporary guests, are not counted in the household size.

2. Income

Income is actual current annual total cash receipts before taxes of all persons who are members of the household. Income includes cash receipts from any source, including:

- Employment
- Pension
- Financial assistance from the Territory or Federal government
- Child support/alimony
- Workers comp
- Any other allowance or payments that are **regularly** received by and are **available** to the applicant, including, but not limited to regular insurance or annuity payments; income from dividends, interest, rents, royalties or from estates and trusts.

Excluded from income are:

- In-kind income
- Tax refunds
- Gifts
- Non-cash benefits, such as Food Stamps
- Compensation and/or one-time insurance payments for injuries sustained
- Up to \$2000 per year of funds received by individual Native Americans that is derived from Indian trust income or other distributions exempt by statute.

- For victims of **Domestic Violence**, financial eligibility shall be based only on the income of the members of the applicant’s household and **exclude** the income of the alleged perpetrator of violence.

3. Asset Eligibility

A. 2021 Asset Ceiling

The asset ceiling for households and individuals may not exceed \$8,000 for a single individual and for each additional household member the limit is increased by \$3,000, unless the household or individual meets an asset exception.

B. Asset Exemptions

Asset Eligibility guidelines may be waived under unusual circumstances. The determination of eligibility for an income exception shall be made by the Executive Director or her designee and records noting the determination and containing support for the determination shall be maintained.

C. Determining Assets

“Assets” means cash or other resources of the applicant or members of the applicant’s household that are readily convertible to cash and which are actually available to the applicant.

The following assets are excluded:

- An applicant’s single residence, if they own a home, live in it and it is their permanent residence
- All vehicles used for transportation
- Other assets which are exempt from attachment under Federal and/or American Samoa Territorial law, including:
 - necessary household furnishings, appliances, books and wearing apparel used by members of household. (11 U.S.C. §522(d)(3));
 - tools, equipment and other personal property used in trade, business or profession (11 U.S.C. §522(d)(6));
 - federal pensions, retirement and disability benefits (5 U.S.C. §8346); and
 - ERISA qualified pension annuity retirement or disability benefit plans, (Patterson v. Shumate, 504 U.S. 753, 112 S. Ct. 2242 (1992)).
 - Protected communal and individually owned land, as set forth in American Samoa Territorial law.
- For victims of **Domestic Violence**, financial eligibility shall be based only on the assets of the members of the applicant’s household and **exclude** the assets of the alleged perpetrator of violence, or assets jointly held by applicant and the alleged perpetrator of violence.

4. Group Eligibility

ASLA may provide legal assistance to a group, corporation, association or other entity if it provides information showing that it lacks, and has no practical means of obtaining, funds to retain private counsel and either:

- The group, or for a non-membership group, the organizing or operating body of the group, is primarily composed of individuals who would be financially eligible for LSC-funded legal assistance, **or**
- The group has as a principal activity the delivery of services to those persons in the community who would be financially eligible for LSC-funded legal assistance and the assistance sought relates to such activity.