

# LEGAL SERVICES BULLETIN

## PUBLIC INTEREST CLEARINGHOUSE

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## California Courts Legislative Agenda Includes Focus on Access Issues



The statewide Bench Bar Coalition, in partnership with the Administrative Office of the Courts (AOC), convened regional legislative forums this month in Oakland, Los Angeles, and San Diego. The Coalition invited legislators and their district office directors to these forums for a discussion of issues affecting the Courts that are expected to come before the Legislature in 2006.

Legal services staff attended the forums to express their strong support for the Courts' legislative priorities, which overlap with some of the most pressing issues facing the legal services community – the need for additional funding for legal services, improved access to the courts, and the need for civil interpreters for our clients.

At the Oakland Forum on December 5<sup>th</sup>, William C. Vickrey, the Administrative Director of the Courts, gave a short briefing on the Court's legislative priorities for the coming year. A large portion of Mr. Vickrey's remarks focused on issues of significant interest to the legal services community, including improving access to the Courts and increasing funding for legal services programs in California. Mr. Vickrey is well known for his support of legal services, and his leadership contributed greatly to the recent successful legislation that created the statewide Uniform Civil Filing Fees system. When implemented in January 2006, this new system ensures that a small portion of each filing fee is allocated to the Equal Access Fund and is expected to result in a 50% increase in the EAF funding supporting legal services organizations in California.

Mr. Vickrey encouraged legislators and their staff to work with the Governor to continue to increase the Equal Access Fund for legal services and to support the current efforts to include the EAF in the State Appropriations Limit (SAL) so that the EAF, like other parts of the state budget, would receive yearly cost-of-living increases. He emphasized the severe need for the creation of additional judgeships through SB 56 (Dunn) and highlighted the fact that this month the Courts in Riverside County were again forced to suspend all civil trials due to a lack of sufficient judges to process the large backlog of criminal cases. Irene Morales, Executive Director of Inland Counties Legal Services, whose service area includes Riverside County, has called the lack of adequate number of judges in the region a "travesty of justice" and hopes that the legislators will pass SB 56 and finally give the county the number of judges it needs.

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# California Legislative Update

## The Year That Wasn't

### 2005 California Legislative Review

by Mike Herald  
WCLP Legislative Advocate

The special election put the brakes on progress on many issues in 2005 as both sides engaged in an all-out war for dominance. As we look forward to 2006, all the issues remain but a new political environment (plus a gubernatorial election) makes predicting outcomes as much of a guessing game as ever.

The political year ended with a thud when voters resoundingly rejected all eight initiatives placed on the ballot in the Governor's special election. Voters were especially harsh toward the *Live Within Our Means Act*, which 62 percent of the voters rejected. While labor can rightfully claim victory in the special election, it is unclear whether voters' anger is a mandate for labor's agenda as much as it is a statement of voters' discontent with the status quo.

2005 started out well. On January 1, low-income families who had drug felony convictions were eligible for Food Stamps for the first time since 1997. WCLP had sponsored AB 1796 (Leno) to remove the bar and had worked throughout the fall to get the counties to implement the new law by the beginning of the year.

#### Special Election

But the year went downhill after that. In Governor Schwarzenegger's State of the State address in early January, he proposed major changes to state employee pensions, the budget process, teacher tenure and the way legislative districts are drawn. He later endorsed another initiative that limited the ability of labor union to do political fundraising. The Governor's speech and his subsequent budget made Democrats recognize that if the Governor's agenda passed, it would gut the political base of the Democratic Party and leave the Governor with new powers to dominate the budget in future years.

#### The Governor's Budget

The Governor's budget proposed deep cuts to both families with children and to the blind, aged and disabled. The Governor's budget proposals reduced the incentive to work, reduced child care for some recipients, eliminated the statutory cost of living adjustment and cut grants. In all, the Governor's budget cuts cost each poor family with children about \$900.

Additionally, the Governor proposed to suspend the cost

of living increase for SSP and to take the federal cost of living increase for SSI rather than pass it along to the recipients as intended. He also proposed to cut the wages of IHSS workers to the minimum wage. This would drive IHSS workers into other employment fields and seriously impact those receiving care, 85% of whom also get SSI. The Governor also sought to push SSI recipients into managed care and take away their renters' tax credit. The \$518 million in cuts would cost each SSI recipient about \$430 a year.

#### Budget Bummer

But the worst fears of advocates was realized when at the end of the budget conference, the committee announced that they had suspended the cost of living adjustment for CalWORKs and SSP for not one, but two years. The rationale for the cuts, according to negotiators, was that they wanted to demonstrate out year budget savings so they could close the deal. But that was just the beginning. In order to close out the budget, the Governor demanded and the Legislature agreed to delay passing through the federal SSI COLA for the first three months of 2006 and 2007. When combined with the previous suspension of the SSP COLA for two years, SSI recipients were forced to sacrifice \$751 over two years according to the California Budget Project and CalWORKs families lose about \$1,074 over two years. In total the suspensions and delays of COLAs shifted \$650 million over two years from low income households to the state. Meanwhile the state budget was approved with no tax increases.

The Governor's *Live Within Our Means Act* would have had disastrous consequences for human service programs. It would have permitted old budgets to stay in place when budgets weren't approved on time and it would have allowed the Governor virtually unfettered discretion to cut state programs to reduce out-of-balance budgets. These provisions would have made cash assistance programs extremely vulnerable to deep cuts and reduced services.

From the wreckage of the 2005 special election, the Governor must reinvent himself if he is to be re-elected to a four year term. The special election had hardly concluded when the Governor dropped a bombshell by hiring Democrat Susan Kennedy, the former no-nonsense Cabinet Secretary for Schwarzenegger's predecessor Gray Davis. The appointment of an openly lesbian woman who advocated for abortion rights alienated conservatives who were already alarmed at the Governor's post-election statement that the special election was a mistake and at the First Lady's hiring of another openly gay former Gray

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# National Update



## Republican Congressman and a Former Architect of 1996 Restrictions on LSC Funding Now Calls for End to Private Money Restrictions



In a December 12, 2005 special article for the LegalTimes, Bob Barr supports the effort to remove the physical-separation requirement from LSC funding. He declares, “For the last nine years Congress has imposed a wasteful, anti-libertarian and downright dangerous restriction on how legal aid organizations

funded by the federal Legal Services Corp. can spend private donations and state grants.” He acknowledges his own role in imposing those restrictions in 1996 but says that the the LSC has improved since then and now deserves even conservative support. “As a member of Congress in 1996, I voted for a series of restrictions – which President Bill Clinton signed into law – that put a severe damper on the controversial LSC... I know the organization’s problems better than almost anyone. The LSC needed cleaning up, and with that done, many conservatives can and should support much of its work.”

Under the LSC restrictions, an organization that wishes to spend its private funds on legal services that Congress has prohibited with federal money must first establish a physically separate office with entirely separate staff and equipment. Barr contends that such limitations are not only wasteful and inefficient but they also hinder the work of the legal services community: “State, local, and private donations get washed away. Funds are siphoned off to cover unnecessary administrative expenses. And lawyers fighting civil legal battles each year on behalf of our nation’s low-income families must turn away thousands of poor Americans who need legal representation.” For the full article, visit [www.legaltimes.com](http://www.legaltimes.com)

Source: *LSC Updates: December 14, 2005*

## Faith-based Groups Protest LSC’s Private Money Restriction

In their November 29, 2005 letter to the Chairman and Ranking Member of the House Appropriations Subcommittee, 31 faith-based groups expressed their objections to the LSC private money restriction. The faith-based groups, including the National Council of Churches and the National Baptist Convention, wrote, “We are deeply concerned that this [provision] hurts the families we serve, imposes unnecessary costs, and sets a dangerous precedent for public-private partnerships. The law closes the doors of justice for many low-income individuals and families who simply cannot afford to hire a private lawyer

to help them in civil matters.” Michael Waldman, executive director of the Brennan Center for Justice, said, “This collaborative effort by faith-based groups bolsters the fight to protect the legal resources of those otherwise unable to afford counsel.” To view the letter and a full list of signatories, visit [www.nccusa.org](http://www.nccusa.org), [www.paxchristiusa.org](http://www.paxchristiusa.org), or [www.brennancenter.org](http://www.brennancenter.org).

Source: *Brennan Center’s Legal Services E-lert December 2, 2005*

## Bush Signs Bill Containing LSC’s FY 2006 Appropriation

On November 22, 2005, the Commerce-Justice-Science spending bill was signed into law, making LSC’s \$329.8 million budget final for the fiscal year 2006 unless Congress applies an additional government-wide rescission. The Senate initially set aside \$30 million more in September but the Congressional conference committee accepted the lower, House-approved budget number. It is also \$1 million less than the \$330.9 million LSC received last year. White House, Press Release: Statement by the President on the “Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006,” Nov. 22, 2005.

Source: *Brennan Center’s Legal Services E-lert December 2, 2005*

Note: Following the October 17, 2005 release of LSC’s “Documenting the Justice Gap in America: The Current Unmet Civil Legal Needs of Low-Income Americans,” the LSC plans to increase its budget request for next year. Download the Justice Gap report at LSC’s newly designed website at [www.lsc.gov](http://www.lsc.gov). The website now includes “Program Info” on LSC-funded programs, client stories, and a resource library, including information on management practice areas, technological diversity, intake and more.

## Findings from the Justice Gap report include:

“...**LESS THAN 20 PERCENT** of the legal needs of low-income Americans are being met.”

“*There is one legal services attorney for every 6,861 low-income persons.*”

“...**for every client** who receives service, *one applicant is turned away*, indicating that 50 percent of the potential clients requesting assistance from an LSC grantee were turned away for **lack of resources** on the part of the program.”

*(Continued from California Update page 2)*

Davis adviser, Daniel Zingale, as her chief of staff.

The Governor appears to be the beneficiary of a robust economy that is producing \$4 billion more in revenue for the 2005-6 year than anticipated. This extra revenue will bridge the gap between the anticipated 2006-7 revenue and expenditures and make the budget decisions somewhat easier for the Governor. These extra funds could allow him to make a peace offering to education, which is owed some \$3 billion from the deal the Governor reneged on. Rumors abound that his January budget will include proposals to expand children's health care, to raise the minimum wage and to place a large infrastructure bond on the ballot. The extra funds may also blunt the hope of Democrats that in 2006, new revenue will be on the table.

Even with higher revenues, it is still anticipated that CalWORKs will again be a target of budget cuts. This is partly because the state continues to siphon off hundreds of millions of dollars to other state programs and refuses to spend even one penny more than required by federal law. Advocates will argue that no new cuts should be imposed given the depth of the cuts already absorbed in 2005.

It appears that the Governor has decided to move towards the middle in 2006. But how will he accomplish major initiatives in just 12 months with his own party potentially opposing him every step of the way? Despite Susan Kennedy's gifts as a problem solver and a deal cutter, will she be able to persuade Republicans to put up the votes needed for a bond, the budget or any revenue increases? If the Governor cannot get help from his own party so that he has a positive record to run on next fall, can he be re-elected? Voters may conclude that if Schwarzenegger cannot get things done, they will change Governors.

*(Continued from "California Courts Legislative Agenda" page 1)*

"The legal services community strongly supports these legislative efforts to ensure better access to the Courts, whether it is through adding the new judgeships so desperately needed, funding for civil interpreters to help our clients, or increasing the Equal Access Fund," says Julia Wilson, Director of the Legal Aid Association of California (LAAC), who attended the December 5<sup>th</sup> Oakland Forum on behalf of LAAC's member organizations. "These issues are absolutely legal services issues, and our programs are proud to be a part of the Coalition that is educating legislators about the needs of our community relating to access to justice."

The Bench Bar Coalition is a partnership of judges and bar association and legal services organization leaders dedicated to improving the justice system. The Coalition is planning another "Day In Sacramento" in early 2006 to meet with legislators and their staff about the Coalition's support for these legislative priorities. Legal services staff from around the state were key participants in the two "Days In Sacramento" in 2005 and are encouraged to play an active role in these efforts in 2006. Additional information about the BBC can be found at: [www.courtinfo.ca.gov/courtadmin/aoc/oga.htm](http://www.courtinfo.ca.gov/courtadmin/aoc/oga.htm).

## ***HIPAA Privacy Awareness For Employer Health Plans***

By Victor A. Deksnys, EVP with Gallagher BPI

Most small employers were subject to HIPAA Privacy Rules in April 2004, while the new HIPAA eSecurity rules take effect in April 2006. This article is to familiarize employers with how HIPAA Privacy legislation affects Health Plans -- not to outline or list all the legal requirements.

### *Overview*

First, virtually every employer that has two or more employees and offers an employee benefit health plan is subject to HIPAA Privacy Rules. HIPAA creates a curtain around the employer's Health Plan, so that any medical information (called "protected health information" or "PHI") cannot be disclosed without authorization. The rule has broad implications: For

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Stu's Views

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No, "equal justice" doesn't mean you get your way half the time.

# Public Interest Law Program

## *PI/PS Day Around the Corner*

With the end of the fall semester winding down, the Public Interest Law Program is gearing up for the 22<sup>nd</sup> Annual Northern California Public Interest/Public Sector Legal Careers Day (PI/PS Day). PI/PS Day is an annual event hosted by PIC and nine Bay Area law schools: Golden Gate University School of Law, New College of California School of Law, Santa Clara University School of Law, Stanford Law School, University of California Berkeley School of Law, University of California Davis School of Law, University of California Hastings College of the Law, University of San Francisco School of Law, and University of the Pacific McGeorge School of the Law. This year, the event will be held at the University of San Francisco School of Law on Saturday, February 11, 2006.

At PI/PS Day, students have an opportunity to meet and interview with legal services organizations, state and federal government agencies, public interest private firms and non-profit organizations. This year over 100 employers will be participating—some traveling from as far as Boston, Washington D.C. and Alaska! Legal employers will have the opportunity to conduct formal, prescreened interviews with law students for paid, work-study or volunteer positions during law school and permanent attorney positions for graduating students.

In addition, public interest legal organizations and agencies may speak informally with students by participating in *Meet the Advocates*, or table talks. In the past, *Meet the Advocates* has proved to be a great opportunity for law students to explore opportunities with organizations. According to Jennifer Ross, a University of San Francisco School of Law second-year law student, “I never would have learned about the Office of Administrative Law Judges in the Department of Labor if I hadn't attended the *Meet the Advocates* session. I dropped off my resume with them at PI/PS Day, which eventually led to a judicial externship that summer. It was an excellent first summer job!”

In addition, this year there will be a presentation by the Access Group, a nonprofit organization that assists students in financing their legal education. The Access Group will speak to students about ways to make law school more affordable while pursuing a career in public interest.

## *Pro Bono Project Takes off at McGeorge*

This academic year, the University of the Pacific, McGeorge School of Law joined USF and Hastings in the Public Interest Clearinghouse's Pro Bono Project. With help from the Career Development Office, faculty and student group leaders, the Project is finding early success. The Project includes 15 organizations, with 8 in the Sacramento region and 7 in the Bay Area that allow for McGeorge students to perform off-site work. We are working with Legal Services of Northern California to set up students at a Landlord-Tenant Intake Clinic. Two trainings are set for January, and over 30 students have signed up to take part in the pro bono work. Thus far, over 170 students have signed up for Pro Bono News of the Week, our weekly email containing information about available volunteer opportunities, summer internships, fellowships and public interest community events. With the support of the school, along with the work of our student representative (see sidebar), we are getting the word out at McGeorge that pro bono opportunities are available to connect the legal theories in the classroom with the legal realities in the world.

**22nd Annual Northern California  
Public Interest/Public Sector  
Legal Careers Day  
February 11, 2006  
9AM—5:15PM  
University of San Francisco  
School of Law**

For more information, please contact Althea Smiley  
at [asmiley@pic.org](mailto:asmiley@pic.org).

**Katharine Hardy** is a third-year law student and the student representative for the **Pro Bono Project** at **McGeorge**. She serves as the treasurer of the Public Legal Services Society as well as the treasurer of the Environmental Law Forum. She also co-founded a new Civil Rights club at McGeorge. She was a summer intern for Legal Services of Northern California (LSNC) and took part in an off-campus clinic with LSNC, conducting an outreach project with the migrant workers of Yolo county.

## LAAC LINK



Holiday greetings from LAAC! In my previous experience at a direct services program, I often felt a disconnect between the holiday expectations articulated in our culture and my clients' real life experiences. In contrast to commercials depicting stress-free family gatherings, our guardianship and family law clients would report increased violence, visitation violations, and even threats of child abduction when agreements could not be reached. Frail seniors would show up in our waiting room when their landlords illegally shut off their heat and utilities, and desperate families came in when their landlord served them with eviction notices the week before Christmas. So, in this season of celebration, I would often feel an even more acute awareness of our clients' overwhelming need for legal assistance to support their struggles to access and hold onto the most basic necessities of life.

Since coming to LAAC, I have had the truly fortunate experience of being able to view our community's accomplishments on an aggregate level – and it is nothing less than awe-inspiring. It is understandable that we tend to measure our work client by client – the win on this elder abuse case, the loss before this administrative law judge. But on a statewide level, the fact that you all are there, often having made significant financial sacrifices to do the vital work that you do, is in itself a major success. The services you provide are the core structure supporting and making real our state's safety net for some of our most disadvantaged residents. Without your choice to commit yourselves to changing lives, many of our fellow Californians would find themselves with nowhere to turn, not only in the holiday season, but in all times of crisis.

This is why LAAC exists – to support the amazing work that you all have chosen to undertake, despite obstacles and even during hard times. I am so glad to be able to report that it been a great year for LAAC. We have seen our largest membership since LAAC's creation in the early 1980s, undertaken increased advocacy efforts, seen major achievements including the projected 50% increase in the Equal Access Funding in 2006, and conducted successful trainings throughout the state. Your programs should have already received the letter inviting you to renew your membership in LAAC or become a new member, and I sincerely hope you will join us. I am excited about the work LAAC plans to undertake in 2006 and invite you to play an active part in our efforts.

In closing, I commend you all for your hard work and many accomplishments this past year, and share with you here part of a Rebecca Parker poem. For in my opinion, legal services "touches it all" – each child who now has medical care, each senior suddenly free from abuse at home, each family able to stay in their home for the holidays, each parent who will have enough food for their children – this is the gift that you all give every day to our communities. On behalf of LAAC Board and staff, I thank you for everything you do and wish you all the very best in 2006!

*The desert at twilight  
colors sinking across  
its sandy shoulders  
like a silk scarf tossed*

*The sky at night  
stars skating too slowly to see  
over black ice  
tracing elegant curves*

*The old growth forest  
new shoots springing  
from the root of stumps cut down,  
an ache transformed*

*A thousand faces of human terror  
and human joy  
singing.*

*You touch it all,  
earth, life, evening sky.*

*This is the Gift.  
Open it.*

- Rebecca Parker

*Julia R. White*

# *LAAC in Action!*

*The Legal Aid Association of California is the membership organization of the legal services programs throughout California. As such, LAAC acts as the unified voice of the legal services community on issues affecting the delivery of legal services and low-income clients. "LAAC in Action" describes LAAC's recent successes in serving our community.*

## **Advocacy Regarding IOLTA Funding**

In early Fall 2006, LAAC received a request from the Legal Services Trust Fund Commission that LAAC consider and take a position on a proposal to change the calculation of the IOLTA statewide grant distribution amount. The Commission was considering a proposal to increase the amount of IOLTA cash on hand reserves by allocating a percentage of next grant cycle's projected increases to increase cash on hand.

In considering the Commission's request, the LAAC Board determined that it was essential to gather feedback from the IOLTA-funded programs before responding to the Commission's request. Accordingly, LAAC communicated with all the IOLTA-funded programs about the proposal to use a portion of the expected increases in the available funds to build up cash on hand reserves. Seventy-five programs submitted comments to LAAC about the Commission's proposed change; the majority of programs were either in support of or neutral about the change, with a small minority of programs opposing increasing the reserves. Notably, many of the programs expressed the need for a limit on the amount of reserves that could be collected over time, and a number of programs had questions about how and when the Commission would distribute reserves in times of downturns.

LAAC formed a Cash On Hand Subcommittee, consisting of **Peter Reid, Greg Knoll, Mike Pfeiffer, Linda Kilb, Gary Smith, Pegine Grayson, Mitch Kamin, and Luis Jaramillo**, who first compiled and analyzed the responses from field programs. The LAAC Board reviewed the subcommittee's analysis and recommendations and considered all the information received from programs. The LAAC Board then took the following position regarding the Commission's cash on hand proposal: LAAC expressed general support for the idea of increasing cash on hand only to buffer programs in times of funding decreases. LAAC recommended the implementation of a cap on the reserves to be collected, and requested the opportunity for further conversations with the Commission regarding distribution.

At the IOLTA Commission's meeting on November 18,

LAAC Director, Julia Wilson, presented LAAC's position to the Commissioners and Legal Services Trust Fund staff. The Commission accepted all of LAAC's advocacy points, agreed to a 75% cap on the reserves to be collected, and agreed to continue the discussion regarding what situations would trigger distribution of the reserves. The Commission's recommendation will now be forwarded to the State Bar Board of Governors. LAAC will continue to work with the Commission on issues regarding future distribution of the increased reserves. LAAC's letter to the Commission setting forth the LAAC Board's position is available on-line at the [www.CALegalAdvocates.org](http://www.CALegalAdvocates.org) website. LAAC will continue to monitor this issue and will keep the community posted on future developments.

## **Additional LAAC Actions:**

**Training:** LAAC presented two very successful trainings at the end of 2005: the Directors of Litigation & Advocacy Meeting in San Francisco at the end of September 2005, and the Sacramento Traveling Training on November 2<sup>nd</sup>. At the Sacramento Traveling Training, 19 Support Centers collaborated to create a day of innovative and interactive workshops on areas such as public benefits, housing, disability rights, services for seniors, programs affecting children & youth, effective writing skills, and critical issues facing immigrants. Advocates made connections with each other and Support Center staff throughout the day in workshops and over the networking breakfast and lunch. The training was a huge success, and as one attendee commented, "The panelists were exceptionally well prepared, excited about their training subjects, and focused on the concerns and questions from the audiences." The next Traveling Training will be in late spring in Fresno. Information about LAAC's trainings is posted on [www.CALegalAdvocates.org](http://www.CALegalAdvocates.org).

**Funding:** LAAC is extremely proud to have been a part of the strong collaborative effort that resulted in the successful passage of the Uniform Civil Filing Fee system, which is expected to result in a 50% increase in the Equal Access Fund during 2006.

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## ***LAAC in Action! cont'd***

**Statewide Coordination:** In June 2005, the LAAC Board approved the creation of LAAC's fourth Section – the Senior Legal Services Providers Section. This section consists of the legal services programs that provide services to low-income and other vulnerable seniors around the state. The Seniors Providers Section joins LAAC's three other sections as an essential framework for statewide collaboration; LAAC's three other sections are: (1) Directors of Litigation & Advocacy; (2) the LSC-Funded Project Directors Association; and (3) the Support Center Section. The Seniors Providers Section Co-Chairs, **Mitch Kamin** of Bet Tzedek Legal Services and **Katharine Hsiao** of the National Senior Citizen Law Center, look forward to working with section members in 2006 to discuss the group's training and advocacy goals and objectives.

**CALegalAdvocates.org:** LAAC has greatly expanded its new website [www.CALegalAdvocates.org](http://www.CALegalAdvocates.org), the on-line community for the legal services and pro bono programs in California. Don't forget, you can easily post your own events, trainings, news alerts, and resources on the site!

## ***LAAC Board Elections in 2006!***

The Legal Aid Association of California (LAAC) is currently seeking applications from individuals interested in serving on the dynamic LAAC Board. Applicants will be placed on the slate for the 2006 Board Member Elections. Individuals elected by LAAC's member programs to the Board serve three-year terms.

If you are interested in becoming more involved in statewide advocacy, training and coordination, please see the next page for more information about the application process.

The 2006 LAAC Board Application and Election process will take place as follows:

- |  |   |
|--|---|
| <b>December 9, 2005 to January 13, 2005:</b> | Board Applications accepted   |
| <b>January 13, 2005:</b>                     | Deadline for Board Applications or Nominations.   |
| <b>January 18, 2006 to February 1, 2006:</b> | Elections Period. Each LAAC member program receives one ballot, which can be returned either by email or through an on-line ballot. |
| <b>February 1, 2006:</b>                     | Deadline for Ballots to be returned to LAAC.  |

The newly elected Board Members will be announced on February 15<sup>th</sup> and will attend their first Board meeting in late February 2006.

If you have any questions about the Board application or elections process, please contact LAAC Director, Julia R. Wilson, at [jwilson@pic.org](mailto:jwilson@pic.org) or (415) 834-0100 x 306.

# Join LAAC's dynamic Board of Directors!

Are you interested in making a difference in the legal services community?

Being on the LAAC board is a great opportunity to:

- Represent legal services programs interests within the broader legal community
- Contribute to exciting advocacy work through legislative efforts and amicus briefs
- Develop affordable training opportunities for legal services advocates
- Facilitate new statewide technological developments and collaborations

## Who can apply:

Any staff of a LAAC member legal services program is strongly encouraged to apply for the opportunity to join our strong and vibrant board!

## Desired Qualifications:

We are looking for dedicated advocates and directors who are eager to work collaboratively to further LAAC's mission. We would like board members who contribute to the diversity of programs *and staff* represented on the LAAC board.

## Responsibilities:

- √ Participate in approximately five to six board meetings per year, including four in person meetings (which alternate between Southern and Northern California).
- √ Serve on two of LAAC's Committees: Advocacy, Recognition/Awards, Training Curriculum, Client, Website, Support Center, LRAP, Law Student, and Ad Hoc Committees created as needed to further LAAC's mission.

## To apply:

Please send a short statement of interest, resume and a list of five references who are staff at a California legal services program and can speak to your qualifications by **January 13, 2006** by mail, fax, or email to:

Legal Aid Association of California  
47 Kearny Street, Suite 705  
San Francisco, CA 94108  
Fax: (415) 834-0202  
jwilson@pic.org

## 2005 LAAC Board

**Gary Smith, President**  
Legal Services of Northern California

**Bob Capistrano, Vice President**  
Bay Area Legal Aid

**Linda Kilb, Treasurer**  
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California Rural Legal Assistance, Inc.

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**Gary McGaha**  
Public Law Center

**Lee Meyerzove**  
Client Representative

**Jose Tello**  
Neighborhood Legal Services of LA

# Eight Reasons Why Your Program Should Join LAAC:

## It's Time to Join LAAC for 2006!

LAAC sent out its membership letters to legal services programs in mid-December, and we already have multiple member programs that have sent in their 2006 LAAC dues. This year, the LAAC Board has implemented some important discounts! All organizations that submit their dues before **February 1<sup>st</sup>, 2006** will receive a **5% discount**, and all programs joining in 2006 that were not members in 2005 will receive a **10% discount**. If your organization is a new member, *and* you submit your dues before February 1<sup>st</sup>, you will receive a **15% discount!**

Here are eight reasons to renew your membership, or join us for the first time:

- 1. Advocacy:** As a unified voice for the legal services community, LAAC advocates on behalf of member programs on important statewide issues, such as funding. LAAC also submits amicus briefs in cases affecting legal services, and invites member programs to alert the LAAC Board about possible advocacy issues on which LAAC could take a position to benefit the legal services community.
- 2. Creating Connections:** LAAC annually publishes the Legal Services Directory for all of California's legal aid programs. Only LAAC members have access to a searchable online version of the Directory!
- 3. Trainings:** LAAC continues to develop and sponsor high-quality, affordable MCLE trainings. In June 2005, LAAC cosponsored the Pathways to Justice conference in San Francisco. LAAC also provides Traveling Trainings, which connect Support Center trainers to legal services advocates in rural areas. The November 2005 Sacramento Traveling Training featured trainers from 19 different Support Centers! As a member of LAAC, you will be helping to ensure continued innovative, comprehensive and affordable training opportunities for legal services advocates. In addition, member programs receive significant discounts on all LAAC sponsored trainings.
- 4. Online Community:** LAAC has created [www.CALegalAdvocates.org](http://www.CALegalAdvocates.org), the new website for the legal services and pro bono community! It features a statewide training calendar, legal services news and events, job postings, a resource library, and a searchable pro bono database. Your support of LAAC enables us to expand this online community, plus only LAAC members can access the online Legal Services Directory and post jobs listings at no cost!
- 5. Supporting Law Students:** Every year, LAAC awards Dan Bradley Fellowships to law students who work with California legal aid programs during the summer. LAAC will sponsor up to SIX Dan Bradley Fellows in 2006. Only LAAC organizational members are eligible to apply to host a Dan Bradley Fellow. The Fellowships not only provide an opportunity for your program to host a qualified and dedicated law student, but also help to foster the next generation of legal services attorneys!
- 6. Honoring Our Colleagues:** Through its Awards of Merit and Annual Reception, LAAC creates an important forum for honoring outstanding leaders in our community. Only LAAC organizational members are eligible to make nominations for these Awards, which are one of the few honors to focus solely on celebrating the achievements of the California legal services community!
- 7. Guide LAAC's Work-Board and Elections:** Only staff at LAAC member programs are eligible to serve on the LAAC Board of Directors and only LAAC member organizations may vote in the Board elections to decide whom within the community will represent the legal services community on a statewide level.
- 8. We Need Your Active Involvement:** Our strength as an organization is directly related to your participation and support! Please join and play an active part in LAAC's advocacy, training, coordination, and technology efforts in 2006!

## LAAC Law Student Corner

LAAC is pleased to present this second edition of our new feature for law students interested in legal services and public interest law – the LAAC Law Student Corner. LAAC has served law students since 1991 with its Dan Bradley Fellowship Program, which offers vital funding to law students working at LAAC member organizations over the summer. LAAC has expanded its programming for students during 2005, including:

- Tips on Building a Career Helping Low-Income Children and Youth:** LAAC Board Members and staff from LAAC member programs participated in this educational forum for law students at the University of San Francisco Law School. The forum was presented in partnership with the Public Interest Law Project of the Public Interest Clearinghouse, and panelists included **Eve Herschopf** of the Child Care Law Center and LAAC Board Member, **Brooke Heymach** of Legal Aid Society of San Mateo, **Angie Schwartz** of the National Center for Youth Law, and **Melissa Frydman** of Legal Services for Children. The forum was well-attended, and panelists discussed their current advocacy work, their career paths, and their advice for law students interested in legal issues affecting children and youth. LAAC plans to hold similar informational panels at different law schools around the state in 2006.
- LAAC at the Shaking the Foundations Conference:** LAAC staff participated in a “Meet the Organizations” tabling session at the popular Shaking the Foundations Conference for progressive law students in the San Francisco/Bay Area in early November. LAAC staff answered questions about the legal services delivery system in California and demonstrated the features and resources available at the [www.CALegalAdvocates.org](http://www.CALegalAdvocates.org) website.
- Supporting Pro Bono:** LAAC Director, Julia Wilson, was invited to speak to law students at a recent event on pro bono efforts at Stanford Law School. Ms. Wilson discussed the overwhelming need for more attorneys to become involved in the statewide pro bono efforts to serve low-income Californians, reported on new and innovative pro bono projects around the state, and urged students to become involved in pro bono even during law school.
- Law Student Listserv at [www.CALegalAdvocates.org](http://www.CALegalAdvocates.org):** In January 2006, LAAC will launch a new listserv for public interest law students at [www.CALegalAdvocates.org](http://www.CALegalAdvocates.org), the new statewide legal services and pro bono website. “We hope that the listserv will become something like Craigslist.org but focused on the unique needs of law students interested in legal services,” says Julia Wilson, LAAC Director. “For example, we envision that students who are attending law school in Northern California but looking for a summer position elsewhere in the state would use the listserv to post questions about different legal services programs in that area or post requests for temporary housing for the summer.” Starting in mid-January 2006, LAAC welcomes students to join the listserv and become an active part of its development. The listserv can be found online at [www.calegaladvocates.org/laac/groups.cfm](http://www.calegaladvocates.org/laac/groups.cfm).



2005 Dan Bradley Fellow  
Angélica Nohemi Quiñónez and  
Eve Herschopf



- 2006 Dan Bradley Fellowships:** LAAC will once again be offering financial support to six law students working at LAAC member programs over the summer! Applications must be submitted jointly by the applicant and a representative of the LAAC member program by **April 14, 2006**. For more information and an application, please visit [www.calegaladvocates.org/link.cfm?4747](http://www.calegaladvocates.org/link.cfm?4747).

2005 Dan Bradley Fellow Brian O'Toole

# LAAC Testifies on Need for Additional Funding

On November 16th, the State Assembly Committee on Judiciary and the Judicial Council co-sponsored a full-day, informational hearing on “Actions and Obstacles to Achieving Equal Access in California.” LAAC Director, **Julia R. Wilson**, gave testimony on behalf of LAAC member programs on a panel addressing the “Justice Gap in Legal Services” with **Ken Babcock**, Executive Director of the Public Law Center, and **Robert Hawley**, Deputy Director of the State Bar. LAAC’s testimony focused on the existing gap between the need for legal services and the current available funding levels; below is a portion of Julia’s testimony advocating for additional funding for legal services in California.

“Every day legal aid programs in our state face a mind-boggling variety of client needs. Many of these needs relate to life’s most basic necessities. Facially with this radically diverse set of legal needs, legal services programs offer a broad continuum of services designed to best meet client needs while ensuring efficient and cost-effective services.

In an ideal world, legal aid organizations would have sufficient staff and resources to serve every qualified prospective client. Programs would make decisions about the level of services to undertake in each case based solely on client’s needs and abilities, the underlying substantive issues, and the outside resources available to the client. Instead, programs are often forced by lack of funding to limit the services available to clients - and even then must still turn eligible clients away.

The most recent data tracking the impact of this lack of funding comes from a September 2005 report from the federal Legal Services Corporation, entitled *Documenting the Justice Gap in America*. According to this report, at least 80% of the civil legal needs of low-income Americans are not being met. Fifty percent of the qualified prospective clients seeking assistance from LSC-funded programs are being turned away for lack of program resources. This means that for every two eligible clients that come to a legal aid program, one of them cannot be served due to lack of program resources. And even for the people who do receive some help, programs are often not able to offer the level of service the client truly needs.

Preliminary results from some of LAAC’s member programs indicate that the gap between funding and client need is even greater. The funding gap forced programs to turn away between 50 to 75% of their eligible clients due solely to lack of sufficient resources. Large numbers of the clients who were turned away were seeking assistance with housing and family law needs, two core areas of basic subsistence.

Although these statistics are striking enough on their own, we simply cannot underestimate the human impact of this funding gap. Low-income parents of children with special needs can attend an educational seminar describing their children’s legal rights to certain services, but the attorney doing the presentation cannot offer them any legal representation despite their horror stories about the barriers they face in trying to meet their children’s most basic needs. Attorneys conducting intake with frail elders are forced to make the unconscionable decision about which of that day’s worthy clients can be served and which equally worthy clients must be turned away. Victims of domestic violence call an afternoon family law phone intake system, only to be turned away because the intakes were completely filled in the first five minutes. And these heart-wrenching stories do not even capture the clients who never contact legal services programs in the first place because of the discouraging word on the street that legal aid is simply too busy and too overwhelmed to help.

It is true that we have seen significant improvement in the overall funding for legal services for the poor in recent years . . . resulting in great benefits for the legal services community and most importantly for the clients that we serve. Nevertheless, the funding available today has not kept pace with the escalating poverty rate in California and remains woefully inadequate. Despite gains over the last five years, significantly more funding is necessary. This reality is, as shown by the recent Justice Gap report, at current levels of funding legal services providers simply cannot meet the overwhelming demand for assistance.”

### Study on Discrimination in the Workplace

A national Gallup poll on discrimination in today's workplace indicates that 15% of all workers perceived that they had been subjected to some sort of discriminatory or unfair treatment. When broken down into sub-groups, 31% of Asians surveyed reported incidents of discrimination, the largest percentage of any ethnic group, with African Americans constituting the second largest group at 26%. There was a large discrepancy between the perceptions of discrimination of white women (22%) versus white men (3%). The overall rate of perceived discrimination for persons identified as Hispanic was 18%. The full EEOC press release can be found: <http://www.eeoc.gov/press/12-8-05.html>

*Continued from "HIPAA Privacy" page 4*

example, a HR Director may know of someone's medical condition because he helped resolve a claims problem, but he is prohibited from discussing or revealing the issue or medical condition to the President or CFO of the company. HIPAA Privacy Rules are quite detailed and require Plan Document amendments, employee notices, written policies and procedures, and even a Privacy Officer for the Health Plan. Under HIPAA, employers need to make conscious decisions re. the location of fax machines, mailroom procedures, access to employee/personnel files, disposal of and or storage of PHI, etc.

The new eSecurity rules effective April 2006 address the employer's computer networks and systems protocols where any PHI exists in an electronic format. For example, Excel spreadsheets, emails, text files, etc. that contain PHI must be safeguarded under a completely different set of policies and procedures, in addition to the appointment of a Security Officer within the organization.

#### *Safe Harbors and Sanctions*

The good news is that fully insured employer Health Plans that maintain no PHI (except for census data and enrollment information) has limited compliance requirements under HIPAA Privacy Rules. The bad news is that a Section 125 medical flexible spending account (FSA) is considered a self-funded Health Plan, which requires full compliance.

Unfortunately, eSecurity has no safe harbor provisions. If the law is read literally, a company with a single Excel spreadsheet that contains census data, must be fully compliant with all the eSecurity protocols and requirements.

As for sanctions, it's much like an EEOC violation. The Department of Health and Human Services (HHS) is responsible for investigating complaints and enforcing sanctions. Persons responsible for violation of HIPAA

Privacy Rules may face sanctions that include prison terms ranging from one to ten years. Employers should not take HIPAA compliance lightly.

#### *What's Next In HIPAA Privacy Compliance?*

The next challenge is eSecurity. This requires IT personnel to thoroughly examine all computer access, security, data integrity, and storage features associated with any electronic PHI (or ePHI).

The requirements set forth three basic areas to safeguard: administrative, physical, and technical. The rules and regulations, likely written for insurance companies, regional hospital systems, and large third-party claims administrators, does **not** differentiate between a multi-million dollar computer network and four or five employees hooked up to a local area network.

The rules require written documentation of the employer's risk analysis, sanction policy, disaster recovery plans, emergency mode operation criteria, etc. Additionally, there should be limited computer access for people specifically working with ePHI, device/media disposal procedures, and procedures established to determine who accessed systems during the course of normal business.

One approach that many employers are taking is to establish a separate HR server to house all HR related materials. Then, both HR and IT staff are screened to determine the appropriate people who will be given specific access to ePHI via the network.

#### *What Should Employers Do?*

Obviously, compliance with the law is required. However, on a practical level, there is a significant difference between doing the right thing and simply disregarding the law. Employers should take steps, document its progress and implement safeguards to assure the security and integrity of an employee's PHI.

Victor Deksnys has practiced employee benefits brokerage and consulting for over 30 years and may be contacted at Gallagher BPI in Larkspur, CA at 415.925.2079. Victor has graciously agreed to provide a training about HIPAA compliance on January 18, 2006 at 1:00 at the Public Interest Clearinghouse. See last page for registration information.

### **Increasing College Access Will Triple Returns for California Taxpayers, Study Finds**

According to a new study commissioned by the Campaign for College Opportunity, achievable gains in college enrollment of eighteen-year-old Californians will yield \$3 billion in additional net tax revenue over their lifetimes. To read or download an executive summary of the report, visit: <http://www.collegecampaign.org/CalROI-ExSum.pdf>.

# Technology Tips

The **CalJustice Advisory Committee of PIC** is doing a survey of self-help centers, family law facilitators and legal services programs to identify which computer software programs and websites you use in your office to serve clients. Effective use of technology is clearly a critical element in the delivery of legal aid, but are we using technology effectively? Your answers to this CalJustice survey will help us understand in which situations software tools work well and how to make them more useful to you. The survey is available via the CALegalAdvocates.org library (<http://www.calegaladvocates.org/link.cfm?4768>) or by emailing [jsteiner@pic.org](mailto:jsteiner@pic.org).

## HOTDOCS and the Courts- The California Model

By Harry Jacobs

One of the features that is now available on LawHelpCalifornia.org, is the ability to use a server and software donated by Lexis to LSC to create and house document assembly templates created using HotDocs software. This allows us to create programs to complete Judicial Council forms, but also other documents such as declarations, letters and stipulations. The California courts are creating programs that support the work of self-help centers and legal aid programs, as well as creating programs for pro per litigants to use outside of self-help centers.

### Programs that Support Self-Help Centers

These programs are designed for center staff and volunteers for use primarily at self-help center computers. Currently, we are working on a set of programs to support a series of workshops in Los Angeles that help litigants with marital dissolutions. We are also working with other self-help centers on programs that assist litigants with tasks that involve a large number of court forms (e.g., starting a probate guardianship or a conservatorship). Without computer assistance, filling out the forms necessary to start these cases typically demands four to eight hours of a litigant's time and require a great deal of staff assistance. Using a HotDocs program, a self-help center volunteer can assist a litigant to start his or her case in less than half the time (typically, 1 ¼ to 1 ½ hours). Using HotDocs, a litigant has more time to focus on difficult concepts and tasks. The staff member is also available to assist a greater number of litigants. These programs will be available at no charge to both court-based and approved legal services programs.

### Programs for Use Outside of Self-Help Centers

The California courts are also creating programs primarily for litigants to use outside of a self-help center. These programs perform many different tasks. Some programs help litigants to prepare letters, declarations, and agreements. Other programs help litigants to fill out forms. Still other programs help litigants with difficult calculations such as the interest due on a small claims judgment. Finally, the courts are developing programs to assist litigants to evaluate their cases and work out a plan for handling their cases. These programs are available on both [www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp) and [www.LawHelpCalifornia.org](http://www.LawHelpCalifornia.org).

To see examples of these programs, please see: <http://www.courtinfo.ca.gov/programs/equalaccess/natlegsvcs>.

*Harry Jacobs is an attorney with the Center for Families, Children & the Courts and has been employed by the Administrative Office of the Courts (AOC) since June 2002. Before joining the AOC, Mr. Jacobs worked at the Center for Families, Children, and the Courts as a consultant on a variety of projects including the California Courts Self-Help Center.*

# Community News

## ***Important Awards/Recognition***

PIC is proud to announce that LAAC director, **Julia Wilson**, received recognition from the Bench Bar Coalition for her work in ensuring the participation of the statewide legal services community in the Bench Bar Coalition's 2005 "Days in Sacramento" and in coordinating testimony from members of the public and legal services representatives from across the state at legislative and Judicial Council hearings on access to justice. We would also like to congratulate other awardees **Mr. John Van de Kamp**, President of the State Bar of California, **Mr. Wilfred "Will" Schneider, Jr., President**, San Bernadino County Bar Association, the **Hon. Brad Hill**, Judge of the Superior Court of Fresno County, the **Hon. James Mize**, President of the California Judges Association, **Ms. Dia Poole**, Administrative Office of the Courts' liaison to the BBC, and particularly, **Mary Viviano**, Legal Services Outreach Director for the State Bar of California and staff of the California Commission on Access to Justice for their BBC awards.

Legal Services for Prisoners with Children's founding director, **Ellen Barry**, was selected to be among the "1,000 Women for Nobel," joining 13 other Bay Area women. Her name has been submitted to the Nobel Peace Prize selection committee.

Thanks to the leadership and advocacy of **Dorothy Ehrlich** of the ACLU- Northern California and **Jeff Selbin** of the East Bay Community Law Center, the United Way has rescinded its requirement that funding recipients fill out a "counterterrorism compliance" form. To comply with the USA Patriot Act, the United Way had been asking beneficiaries to promise they won't support terrorism and declare that they were not on federal terrorism "watch lists." More than 20 San Francisco Bay Area legal advocacy organizations, including the Public Interest Clearinghouse, joined the ACLU and the East Bay Community Law Center in protesting the policy.

In response to a class action lawsuit filed by the **Lawyers' Committee for Civil Rights**; the New York law firm **Schulte Roth & Zabel LLP**; **John Pierre**, Attorney and Professor at Southern University Law Center; the **Public Interest Law Project**; and the **Equal Justice Society**, U.S. District Judge Stanwood R. Duval, Jr. overturned FEMA's unjustified decision to force people out of hotels without alternative housing options. In the first federal court decision against FEMA's federal housing assistance program, he extended the January deadline for hurricane evacuees to remain in hotel rooms and also required FEMA to notify all displaced person who were incorrectly told that they must apply for a SBA loan in order to obtain temporary housing assistance.

Please visit [www.equaljusticesociety.org](http://www.equaljusticesociety.org) for the full article and to join their mailing list

## ***New Faces***

On September 12, **Patricia Arthur** joined the National Center for Youth Law as senior attorney along with Skadden fellow **Bryn Martyna**, Equal Justice Works fellow **Laura Townsend**, and **Carin Ward**. With thanks for his incredible vision, balanced with grounded practicality, we say farewell and stay in touch to **Bruce Iwasaki**, who will step down from his role as Executive Director at the Legal Aid Foundation of Los Angeles in January. Coming from the Legal Aid Society of Hawaii and before that, the Legal Services of Northern California, **Victor Geminiani** will take over as the head of the foundation. **Nancy Ramirez** became Executive Director at the Los Angeles Center for Law and Justice in September 2005 after serving as the Managing Attorney of LACLJ's Consumer Unit for several years. On October 18, 2006, **Public Counsel** celebrated the dedication of their new headquarters: 610 South Ardmore Avenue, Los Angeles, CA 90005. **California Women's Law Center** also recently moved to their new office at 6300 Wilshire Blvd., Suite 980, Los Angeles, CA 90048.

## ***Keep in Mind...***

The **Western Center on Law & Poverty** is now accepting nominations for its **2006 Fair Shake Awards**. At the Annual Fair Shake event (June 8, 2006), WCLP honors two young professionals who are "unsung heroes" for their demonstrated commitment to improving the lives of low-income Californians. Please submit nominations to Rebecca Goldstein ([rgoldstein@sidley.com](mailto:rgoldstein@sidley.com)) and Nicole Hancock ([Nicole.hancock@warnerbros.com](mailto:Nicole.hancock@warnerbros.com)) by January 15, 2006.

## ***PIC News***

**Sheila Myung** is the PIC Program Associate and the new editor of the **Legal Services Bulletin**. She joined the PIC team in October 2005 and is also new to the Bay Area, having moved here from New Jersey in September.

## Legal Services Bulletin

The Legal Services Bulletin (previously the Legal Services Bulletin and Training Calendar) is published quarterly by the Public Interest Clearinghouse.

This issue of the Legal Services Bulletin has been published in coordination with Mary Viviano, Chris Zupanovich and Judy Garlow of the State Bar of California, and Julia R. Wilson and Justine Wolitzer of the Legal Aid Association of California.

As always, your submissions and comments are welcome.

Please send them to Sheila Myung at [smyung@pic.org](mailto:smyung@pic.org)

**Happy New Year from all of us at PIC!!**

### **Free Training: The Ins and Outs of HIPAA Compliance with a focus on the new security requirements effective April 2006.**

The Public Interest Clearinghouse is pleased to offer a training on the Health Insurance Portability and Accountability Act (HIPAA) presented by Victor Deksnys, Gallagher BPI. This training, first presented by Management Information Exchange (MIE) will give you all the information you need to understand and comply with HIPAA requirements, including the new e-security requirements that will go into effect in April 2006. The workshop will also provide web links to HIPAA compliance tools and forms. You must register. See registration information below.

Place: Public Interest Clearinghouse, 47 Kearny Street, Suite 705, San Francisco (limited slots available through WebEx)

Date: January 18, 2006, 1:00 - 3:00 pm

## **Save the Date!**

### **Directors of Litigation & Advocacy Meeting February 2 and 3, 2006 at Public Counsel's Office in Los Angeles**

The Directors of Litigation & Advocacy meetings involve substantive roundtables, group discussion, and high-quality MCLE presentations. Topics for the February 2006 meeting include: Best Practices and Forms in Co-Counseling and Litigation Teams; Elimination of Bias in Serving Clients with Mental Health Conditions; How Legal Services Programs Can Be Involved in the Prop 63 Implementation Process; and How To Use Focus Groups as a Program Evaluation Tool. The meeting will also include ample opportunities for networking and resource sharing!

Registration materials will be available at [www.CALegalAdvocates.org](http://www.CALegalAdvocates.org) the first week of January – save the dates! Contact LAAC Director, Julia R. Wilson, with any questions or for more information at [jwilson@pic.org](mailto:jwilson@pic.org) or (415) 834-0100 x 306.