



LEGAL SERVICES CORPORATION

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Alexander D. Forger
President

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June 23, 1995

Nancy S. Erickson, Esquire
619 Carroll Street
Brooklyn, New York 11215

Dear Ms. Erickson:

This is in response to your appeal of the Legal Services Corporation's ("LSC" or "Corporation") "no records" response to one item listed in your Freedom of Information Act ("FOIA") request of April 27, 1995. Your letter of appeal was received by LSC on May 31, 1995. 45 C.F.R. § 1602.12. Of all the records requested in your April 27th letter, your appeal relates only to item (2) of your request:

Any documents submitted by NCOWFL to LSC in response to the "Evaluation Report for the National Center on Women and Family Law" sent to NCOWFL under a transmission letter dated November 3, 1994, signed by Danilo A. Cardona, OPEAR, including but not limited to any documents submitted to LSC by NCOWFL at the November 10, 1994 meeting at LSC headquarters.

By letter dated May 11, 1995, LSC's FOIA Administrator informed you that the Corporation was unable to locate any records responsive to this particular request.¹ You were also notified of

¹ In this connection, LSC has provided you with ninety-six pages of documents, which were transmitted with letters dated May 11, 1995, and May 27, 1995, in response to your FOIA Request (No. 95-56).

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your right to appeal the "no records" response to item (2).² The basis for your appeal of LSC's "no records" response to item (2) is your belief that "LSC must have some documents responsive to item (2), because in the past whenever LSC has done an evaluation of NCOWFL, NCOWFL has submitted a response."

In order to respond both to your FOIA request and appeal, the Corporation has conducted searches to determine whether NCOWFL submitted any documents in response to the 1994 Evaluation Report, including any documents submitted at the November 10, 1994, meeting at LSC headquarters. Based on these searches and discussions with staff, I must inform you that NCOWFL has not submitted any documents to LSC specifically designated or characterized as its response to the Evaluation Report and, furthermore, did not submit any documents to LSC staff at the November 10, 1994, meeting.³

However, the informal report submitted by NCOWFL for the period of January 11 through April 11, 1995, previously sent in response to item (3) of your FOIA request, for example, is also responsive to item (2). Although you apparently thought that items (2) and (3) of your FOIA request asked for different documents, based on your belief that certain other documents exist and have been submitted to LSC by NCOWFL, this has not turned out to be the case.

Thus, since LSC has provided you with documents submitted by NCOWFL subsequent to the date of the Evaluation Report which are responsive to item (2), the May 11, 1995, "no records" response to item (2) is hereby modified to reflect that records provided you in connection with item (3) also respond to item (2) of your FOIA request. With this modification, the only adverse determination by LSC for purposes of this appeal relates to your request for documents submitted by NCOWFL at the November 10, 1994, meeting.

In conclusion, since no such documents were submitted, I must uphold the "no records"

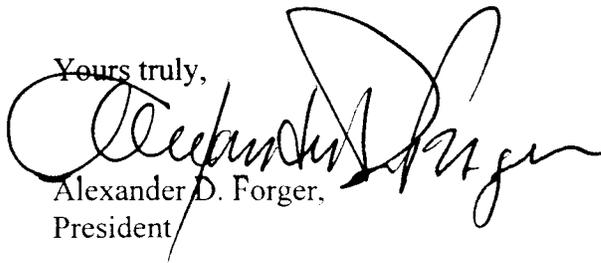
² See Oglesby v. U. S. Dept. of the Army, 920 F. 2d 57 (D.C. Cir. 1990) (a "no record" response constitutes an adverse determination and, thus, requires notification of appeal rights).

³ Please note that, even though LSC's searches have not located any documents specifically designated or characterized as NCOWFL's response to the Evaluation Report which, in your opinion, must exist based on past practice, this does not mean that the Corporation's efforts to locate such documents were unreasonable. See Oglesby v. U.S. Dept. of Army, 920 F.2d 57 (D.C. Cir. 1990). In Oglesby, the Court held that, in the absence of proof offered by the FOIA requester that documents exist, the requester's convictions or hypothetical assertions are insufficient to raise a material question of fact with respect to the adequacy of an agency's search. 920 F.2d 67, note 13, citing to Meeropol v. Meese, 790 F.2d 942, 952-53 (D.C. Cir. 1986).

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response to this part of item (2). I hope that this response clears up any misunderstanding and fully satisfies your request. If, however, you are not satisfied, you may file suit in Federal district court. 5 U.S.C. § 552(a)(4)(B).⁴

Yours truly,



Alexander D. Forger,
President

⁴ A FOIA complaint may be filed in the district court of the United States for the district in which the complainant resides, the district in which the records are maintained, or the District of Columbia. 5 U.S.C. § 552(a)(4)(B).