



## Program Letter 12-3

**TO:** All Executive Directors  
**FROM:** James J. Sandman, President   
**DATE:** November 8, 2012  
**SUBJECT:** Criminal Proceedings in Tribal Courts

---

Congress has amended section 1007(b)(2) of the LSC Act to permit LSC recipients to use LSC funds to represent persons in all criminal proceedings in tribal courts. 42 U.S.C. § 2996f(b)(2). Previously, the LSC Act permitted such representation only for misdemeanors or lesser offenses. The LSC Act was amended as follows:

[LSC funds may not be used] to provide legal assistance with respect to any criminal proceeding, except to provide assistance to a person charged with a ~~misdemeanor or lesser~~ an offense ~~or its equivalent~~ in an Indian tribal court;

Indian Arts and Crafts Amendments Act, Pub. L. 111-211, 124 Stat. 2258, 2282 (July 29, 2010). Section 1010 of the LSC Act and Part 1610 of the LSC regulations apply this prohibition to the use of certain other funds by LSC recipients, including all private funds and any other funds that were not provided for this type of purpose. 42 U.S.C. § 2996i and 45 C.F.R. Part 1610. The amendment applies equally to the use of those other funds.

Part 1613 of the LSC regulations currently uses the original language that “[a] misdemeanor or lesser offense tried in an Indian tribal court is not a ‘criminal proceeding.’” 45 C.F.R. § 1613.2. LSC is commencing a process for the LSC Board to amend Part 1613 to conform to the new statutory language.

Pending board action, LSC Management will apply section 1007(b)(2) of the LSC Act and Part 1613 of LSC’s regulations based on the amended statutory language allowing assistance to persons charged with any offense in a criminal proceeding in a tribal court. LSC grant recipients may include all such cases in their CSR reports.