

LEGAL AID SOCIETY OF SAN BERNARDINO

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September 1, 2020

Doan Nguyen, Acting Director
Office of Access & Inclusion
State Bar of California
180 Howard Street
San Francisco, CA 94105-1639

Re: Legal Aid Society of San Bernardino
2019 Monitoring Visit Report dated February 19, 2020

Dear Ms. Nguyen:

This letter constitutes the final status report of the Legal Aid Society of San Bernardino (LASSB) addressing the State Bar's findings and recommendations made in the Site Monitoring Memo dated February 19, 2020.

COVID-19 EFFECT ON LASSB

In accordance with Governor Newsom's March 4, 2020 declaration of a state of emergency and the March 10, 2020 County of San Bernardino's declaration deeming the COVID-19 pandemic an emergency and a local health emergency, LASSB continues to remotely provide services through telephonic consultations utilizing the services of volunteer attorneys and office staff. All former satellite sites remain closed, while client contact in our home office remains restricted to pre-arranged appointments for file retrieval, subject to COVID-19 safety measures. We do have direct client contact on a restricted basis within our partnership project located in the Justice Center. Such contact is limited by the court's reduced public hours, and is subject to COVID-19 safety protocol, including the use of masks or face shields, gloves, and frequent sanitation with items supplied by LASSB. All persons entering that site are subject to COVID-19 temperature screening, completion of a self-evaluation and completion of a COVID-19 waiver.

Program Findings

1. Accurate Tracking of Pro Bono Hours

LASSB implemented a volunteer pro-bono time-tracking system which was explained in greater detail in our April 30, 2020 letter. The system has been adapted to include pro bono hours of volunteer attorneys who render legal services via phone, since the COVID-19 closure of LASSB.

We will continue to use this newer system until the installation of LegalServer, a cloud-based program is installed. This program will allow LASSB staff to effect live-timekeeping of all volunteer and staff functions from any location. New procedures will be implemented once that program is installed and launched.

Although our pro bono hours have significantly declined with the COVID-19 closure, but we remain vigilant with the recruitment and use of volunteers to in serving the public.

2. Collection of “Mandatory Donations” by Non-eligible Clients

The LAS SB implemented its modified policy, which was reported in length in our April 30, 2020 letter to you. Staff has been adhering religiously to the policy, and we intend to continue utilizing the policy when the office re-opens.

3. Reporting of Non-Legal Activities

LASSB has implemented the modified system outlined in our April 30, 2020 letter to you. Staff are inputting funding codes while tracking and recording their time. This form of tracking has worked well in the few months it was implemented, and we will continue with that protocol. Staff has also spoken at length with our State Bar Program Analyst, to better define and report non-legal activities and the expenditures thus incurred. The use of LegalServer will also allow accurate tracking of all tasks performed by staff, volunteers or interns.



4. **Lack of Board Oversight**

Our Board has continued to meet at least monthly, with additional committee meetings set throughout the month to address specific tasks. A few State Bar representatives have attended our Board Zoom meetings. We will continue to invite their participation and input.

Since our last report, LASSB has joined BoardSource to access the resources continually available.

In addition to the training presented by Selena Copeland (LAAC) and Hellen Hong (as a representative of the State Bar), our Board has now completed formal training on governance and oversight. This training, provided by John Epps, consisted of three two hour sessions covering the various duties and responsibilities of non-profit Boards. That insightful training led to vigorous conversations and renewed excitement in addition to updated information.

We have now hired a Executive Director who has great experience in legal services, contract compliance, and program development. He has numerous ideas involving advancement through technology. Based upon his experience and review of the product, we have decided to acquire a new database, LegalServer, which will allow case management, administrative tools, client intake and qualification, workflow and task management, mobile access, timekeeping, calendar and scheduling, reporting, outcome data, document management, communication, and accurate tracking of grantor requirements.

We have also secured GrantHub, a program for grant administration, which will aid in managing grant opportunities, proposal building, administration, and reporting of project progress. We also plan to acquire Microsoft 365e, a program which will enhance security, better facilitate team functions, allow remote document access and signatures, and allow access to shared, encrypted data. We are exploring HR software which will include HR Management, Comprehensive HR Audit, HR Complaint Policies, Employee Onboarding and Terminations, expert guidance, etc.

5. **Internal Policies**

The Employee Handbook Committee is meeting and reviewing the proposed Employee Handbook and policies. The Board then retained an attorney to review the Handbook.

He has proposed removal of a few provisions and expects to present the modified Handbook to our Board for review and approval prior to October 1, 2020.

LASSB engaged Eadie & Payne to review our recent administrative action. A copy of their report of that review is attached. As indicated in said report, review of policies and By Laws is ongoing. We anticipate finalization of updated policies by October 1st, with updated staff training to commence as soon as the policies are finalized.

Fiscal Findings

1. Cost Allocation

LASSB has implemented a revised cost allocation plan, as outlined in our April 30, 2020 letter to you, which was reviewed by Eadie & Payne.

2. Grant Reports

As stated in our April 16, 2020 letter, the inaccurate allocation of expenses to the EAF/IE-MLP project was orchestrated by the former Executive Director. LASSB has examined and will continue to utilize the Standards for Financial Management Systems and Audits and the State Bar grant agreements. LASSB now appropriately allocates expenses according to our contract and the approved budget for the contracted program. The Board's Oversight and Compliance Committee will continue to review and oversee funder requirements to ensure adequate and proper compliance. This October, LASSB will review the year-to-date budget v. actual expenditures, and will notify the Office of Access and Inclusion if there are any expenditure deviation that exceed \$10,000.

3. Contracts

LASSB has implemented a policy concerning payment upon receipt of contracts which was described in our letter of April 30, 2020.

4. Bank Accounts

LASSB continues to hold our PPP loan funds with the lending institution, Beneficial State Bank to better facilitate management of those funds we hope to have forgiven through appropriate reporting.

We continue to maintain accounts with two other financial institutions to insure appropriate FDIC protection, as necessary.

5. Debit Card

As previously reported within our May 27, 2020 letter to the State Bar, the debit card previously used has been destroyed. A credit account was established with Premier Pacific Bank Inst. for use in ordering office supplies and such other purchases that require immediate payment; i.e., on-line purchase of masks and other PPE supplies. The Interim Executive Director has sole access to the credit card. Invoices and receipts for such transactions are immediately delivered to the bookkeeper for entry into the general ledger and allocated to the appropriate funding sources.

PPBI that it does not offer any type of deposit-only debit cards; any card they can provide to allow deposits would also allow withdrawal. LASSB has elected to forego use of such card.

6. Donation & Cash

LASSB is adhering to the policy reported in our April 30, 2020 letter with one exception. The report of donations received is being emailed to our Board President and Vice President weekly, not daily. The remote-service model implemented in deference to COVID-19 restrictions has resulted in a large decrease in client donations.

7. Internal Control

As stated in our April 30, 2020 letter, LASSB has implemented tighter controls of the program and fiscal procedures.

Our new Executive Director starts working with LASSB on September 1, 2020. He has already reviewed our Conditional Funding terms and has begun researching methods to ensure full compliance in the most efficient manner. His preliminary recommendations include the use of Foundant GrantHub for grant management. We have purchased the program and have started entering all funding terms into that database. We anticipate it will enhance grant acquisition and management.

Our Board has continued to meet at least monthly. Our staff meets weekly (with few exceptions), and will continue this practice to facilitate training on new policies and procedures and program function.

8. Employee Reimbursements for Office Supplies

As relayed in our May 27, 2020 letter to the State Bar, this is no longer an issue. LASSB's Interim Executive Director has exclusive use to the only credit card held by LASSB and uses such card for purchase of supplies. This card allows LASSB to purchase supplies from the vender who offers the best purchase price, without the necessity of reimbursing any staff person.

The LASSB and staff are dedicated to providing services to the impoverished families. We have grown through the suggestions offered by State Bar agents and we welcome any additional insights you may wish to offer.

Sincerely,

THE LEGAL AID SOCIETY OF SAN
BERNARDINO

By: Michael A. Scafiddi
Michel A. Scafiddi, Esq.
President of the Board of Directors

MAS/djad
Enclosure



Report on Policies & Procedures



LEGAL AID SOCIETY OF SAN BERNARDINO COUNTY, INC.
REPORT ON POLICIES & PROCEDURES
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Executive Summary

The Board of Directors of Legal Aid Society of San Bernardino, Inc. (LASSB) engaged Eadie and Payne, LLP (E+P) to provide limited consulting services to assist in analyzing and making recommendations on LASSB’s internal controls. We worked with Michael Scaffiddi, Board Chairman, Deborah Davis, interim Executive Director, and other members of LASSB in the conduct of our services.

Our review was focused primarily on the policies and procedures adopted to satisfy the State Bar’s Compliance Requirements and Conditions. Our recommendations, however, will assist the Board of Directors and LASSB management establish sound and effective internal controls to support LASSB’s mission, strategies and objectives. The following report consists of our procedures, findings, and recommendations.

Background

LASSB is a nonprofit corporation engaged in providing legal aid services to low income citizens of San Bernardino. It is principally funded through grants and contracts from the Legal Services Trust Program of the State Bar of California as well as federal programs, including the Legal Services Corporation Pro Bono Private Attorney Involvement Program passed through from the Inland Counties Legal Services (ICLS).

In October 2019, the Board Chairman received a whistleblower report alleging among other things fraudulent reporting by the former Executive Director. An investigation ensued which resulted in both the Executive Director and Human Resources manager resigning.

At the same time, the ICLS and the State Bar also launched their own investigation, which uncovered more findings. As a result of its investigation, ICLS would withhold over one third of its 2019 grant and discontinue any funding for 2020.

The State Bar determined that LASSB was in violation of a number of statutes, rules, guidelines and agreements governing the grants it administers. However, it concluded that LASSB continues to provide valuable and much-needed civil legal services to the Inland Counties, and accordingly offered limited grant funding in 2020 subject to conditions. These conditions were set forth in the Conditional Funding Agreement Between the State Bar of California and Legal Aid Society of San Bernardino, Inc. for First Quarter of 2020 Grant Year and the Conditional Funding Agreement Between The State Bar Of California And Legal Aid Society Of San Bernardino, Inc. For Quarters Two Through Four Of The 2020 Grant Year.

In July 2020, E+P issued a qualified opinion on LASSB’s financial statements ended December 31, 2019 because we were unable to obtain sufficient audit evidence to support contributed legal service revenues. E+P also reported that LASSB did not comply with requirements of the Pro Bono Private Attorney Involvement Program for the year ended December 31, 2019. E+P reported a total of 12 findings – 4 material weaknesses, 6 significant deficiencies, and 2 non-compliance.

TIMELINE	
October 2019	<ul style="list-style-type: none"> • Whistleblower phone call • Emergency meeting of board of directors • Outside attorney hired (internal investigation) • Executive Director & HR Manager placed on administrative leave
October - December 2019	<ul style="list-style-type: none"> • ICLS Investigation (loss of remaining 2019 funding and 2020) • OIG investigation begins and internal investigation stops • State Bar investigation • Executive Director & HR Manager resigned
March 2020	<ul style="list-style-type: none"> • LASSB Board engages E+P • Delay due to lack of general ledger reconciliations
April 2020	<ul style="list-style-type: none"> • Fieldwork commenced • Slow progress due to delays in access to supporting documentation
May 2020	<ul style="list-style-type: none"> • Discovery and discussion of fraud and audit issues with Board President, Treasurer, and Interim Executive Director
June 2020	<ul style="list-style-type: none"> • Work with State Bar to extend date of audit report filing to July 31, 2020 • Revise audit approach based on audit and fraud issues
June - July 2020	<ul style="list-style-type: none"> • Completion of revised audit procedures • Issuance of draft audit reports

The Board of Directors has taken a proactive approach in handling the investigations and audit, and the resulting findings. The Board members have put hundreds of hours to cooperate with the investigations and audit, develop and implement new policies and procedures, recruit a new executive director, and ensure that LASSB continues its operations with reduced revenue and in the midst of a pandemic.

In addition, in order to steer LASSB towards a sustainable future, the Board of Directors sought the assistance of E+P to evaluate the governance and financial policies and procedures adopted by LASSB to comply with the State Bar agreement and offer recommendations for improvement, if necessary.

Procedures and Findings

We obtained and reviewed the Conditional Funding Agreement Between The State Bar Of California And Legal Aid Society Of San Bernardino, Inc. For Quarters Two Through Four Of The 2020 Grant Year and noted the following compliance requirements and conditions. We determined the progress toward satisfying the compliance requirements and conditions by interviewing members of the Board of Directors and management as well as obtaining corroborating evidence such as minutes of Board of Directors meetings, copies of written policies and procedures, and walk-throughs of processes, if applicable.

Compliance Requirements & Findings	Status	Source
1. BOD training in non-profit governance	In progress - Board training is being performed and underway. In addition, there appears to be continuing progress over nonprofit governance through research and utilization of resources obtained from LASSB's Board Source's Board Support Program for Nonprofit Organizations. LASSB appears to be complying with the condition imposed.	June 11, 2020 Board Meeting: Board approved to retrain John Epps in-depth Board training; Board Training and Development Schedule by John Epps, approved and authorized by Deborah Davis, Interim Executive Director, dated 7/6/20.
2. BOD Training to be provided by the State Bar regarding compliance	Completed – training was completed in April 2020.	Per inquiry with Deborah Davis, Interim Executive Director on 8/14/20;
3. Search for new Executive Director	Completed – Pablo Ramirez Esq. was hired, starting September 2020.	Per inquiry with Deborah Davis, Interim Executive Director on 8/14/20; action was approved in August 2020 Board meeting; Pablo Ramirez Esq. resume;
4. Create a Finance Committee that shall develop and approve a financial strategic plan	In progress – Finance Committee was created. LASSB hired John Epps to assist in developing a Financial Strategic Plan.	February 20, 2020 Board Meeting: Finance Committee was created; June 11, 2020 Board Meeting: Board approved to retrain John Epps in-depth Board training;
5. Create compliance, legal oversight and audit committees. Audit Committee to complete an investigation of the compliance issues and develop recommendations to correct the issues.	Completed – Compliance, Legal Oversight, and Audit Committees were created. Audit Committee investigation was stopped when OIG started a separate investigation.	February 20, 2020 Board Meeting: Compliance, Legal Oversight, and Audit Committees were created

Compliance Requirements & Findings	Status	Source
6. Expand the membership of the Board	In progress – Forensic accountant has been interviewed and will be joining the Board; Board is actively recruiting additional members with business management, accounting, marketing, retirement plan/investments background.	Per inquiry with Deborah Davis, Interim Executive Director on 8/18/20;
7. BOD to meet regularly, no less frequently than every quarter	Completed.	Board Meeting minutes;
8. Develop, approve and implement policies relating to: <i>i) Actions requiring Board approval</i>	In progress – E+P noted procedures to have been drafted and appear adequate. Written procedures have yet to be approved by Board.	Draft procedure; per inquiry with Deborah Davis, Interim Executive Director on 8/18/20;
<i>ii) Whistleblower</i>	Completed.	Administrative Policies of Legal Aid Society of San Bernardino – Whistleblower, approved 2/27/19;
<i>iii) Nepotism</i>	Completed.	Nepotism Policy, approved/ revised March 2020;
<i>iv) Fiscal controls</i>	In progress – E+P noted recommendations to strengthen fiscal controls that LASSB intend to implement.	Accounting Procedures Summary 2019; E+P performed walkthrough with Deborah Davis, Interim Executive Director and Michelle Dodd, Case Management Director on 8/18/20;

Compliance Requirements & Findings	Status	Source
v) <i>Case handling procedures</i>	In progress – Adequate procedures appear to be in place, however, written procedures are yet to be approved to ensure standardized case handling.	E+P performed walkthrough with Michelle Dodd, Case Management Director on 8/18/20; Draft Process for Opening and Closing Files Within Kemps Caseworks; Draft Standards of Conduct Policy Re: Practice of Law, dated revised August 2020;
vi) <i>Verifying and recording pro bono work</i>	Completed.	Policy & Procedure on Timekeeping Volunteer Hours, dated revised March 2020; E+P performed walkthrough with Michelle Dodd, Case Management Director on 8/18/20;
vii) <i>Grant reporting</i>	In progress – Adequate procedures appear to be in place, however, we recommend that the written procedures are to be expanded and approved to include reporting over various types of grants, listing of reports to be prepared, respective due dates, personnel responsible over reporting, and personnel responsible over review.	Accounting Procedures 2018 – Grant Reporting; Accounting Procedures Summary 2019 – Grants & Awards; E+P performed walkthrough with Deborah Davis, Interim Executive Director and Michelle Dodd, Case Management Director on 8/18/20; Draft Grant Due Dates & Procedures: 2020 & 2020/2021, dated revised August 2020;
9. Develop and approve an employee handbook	In progress – Draft is pending Board approval.	Legal Aid Society of San Bernardino Employee Handbook, draft dated 3/31/20;

Compliance Requirements & Findings	Status	Source
10. Establish a bookkeeping system that ensures proper & appropriate cost allocation methodology	In progress – Procedures have been drafted, pending Board approval.	Accounting Procedures Summary 2019 – Cost Allocation Procedures, as submitted to State Bar in October 2019; E+P performed walkthrough of written procedures with Dorothy Fergon, Bookkeeper on 8/18/20;
11. Search for and hire new accountant	In progress – Active recruitment of an accountant (independent contractor) ongoing.	Per inquiry with Deborah Davis, Interim Executive Director on 8/18/20;
12. Develop and implement policies for tracking and recording all work and expenditures that are non-qualifying for purposes of using State Bar grant funds	In progress – Procedures appear to be in place, but there are no approved written policies and procedures.	Per inquiry with Dorothy Fergon, Bookkeeper on 8/18/20;
13. Take steps to reduce the “silo” effect	In progress – The Interim Executive Director has been cross-training the team, however, written procedures are yet to be established and approved.	Per inquiry with Deborah Davis, Interim Executive Director on 8/14/20;
14. Develop and implement written cash handling procedures,	Completed.	Accounting Procedures Summary 2019 – Monetary Receipts and Bills & Payments; E+P performed walkthrough of written procedures with Dorothy Fergon, Bookkeeper on 8/18/20;
15. Investigate each area of possible fraud and/or loss	In progress – Attorney Jamie Wrage was hired, whose investigation stopped when OIG started investigation in March 2020.	Per inquiry with Deborah Davis, Interim Executive Director on 8/14/20;

Finding 001 – Capital Assets Capitalization Threshold

Finding – Current accounting procedures summary regarding capital assets does not include capitalization threshold.

Recommendation – We recommend that the LASSB establish a capitalization threshold to avoid grey areas and uncertainty in processing capital asset acquisitions.

Finding 002 – Bank Reconciliation Review

Finding – There is lack of verbiage defining the timeliness of review in the procedures.

Recommendation – We recommend that the LASSB continue to complete bank reconciliations in a within a week after month-end to ensure that all transactions are accounted for, errors are caught, and necessary adjustments are made in a timely manner. We also recommend that the definition of timeliness be defined in the procedures to enforcement and best practice.

Finding 003 – Written procedures

Finding – While procedures in place appear to be in place and functioning adequately, there are no written procedures to standardize the process for bank transfers, review of manual journal entries, and period-end closing, and reconciliation of internal financial reporting review against audited balances.

Recommendation – We recommend that the LASSB develop written procedures and have these approved by the Board to ensure standardized practice in the above mentioned procedures.

Finding 004 – IT Security

Finding – The LASSB is allowing case workers to work on their personal computers, which results in sensitive client information being stored on there. The LASSB currently has no procedures in place to address the IT security risk.

Recommendation – We recommend that the LASSB develop and implement procedures to ensure the security of sensitive client information and manage the use of any personal equipment by employees and volunteers.

Finding 005 – Vendor List

Finding – Authorized vendors should be approved by Board to ensure that disbursements are only made to valid payees. The LASSB does not maintain an active vendor list, which could result in invalid disbursements or delayed disbursement due to manual verification process of vendors.

Recommendation – We recommend that the LASSB maintain an active vendor list to allow for efficient disbursement processing and prevention of invalid cash disbursements.

Conclusion

The LASSB has successfully completed eight out of the 21 requirements identified in the Conditional Funding Agreement Between The State Bar Of California And Legal Aid Society Of San Bernardino, Inc. For Quarters Two Through Four Of The 2020 Grant Year. The remaining 13 are in progress, of which the substantial work has been completed and are currently pending review and approval by the Board. We did not note any additional compliance findings, however, we have communicated six best practice recommendations to enhance the LASSB's internal controls.

Very truly yours,

Eddie and Payne LLP

Riverside, CA
August 21, 2020