

**Legal Services
Trust Fund Program**

Eligibility Guidelines

LEGAL SERVICES PROJECTS ONLY

The State Bar of California
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Legal Services Trust Fund Program Eligibility Guidelines

Table of Contents

1. Requirements for All Applicants	1
1.1 Agreement Limiting Use of Funds	1
1.2 Budget and Budget Narrative	2
1.3 Required Assurance	3
1.4 Requests for Further Information	4
2. Requirements for Legal Services Projects	4
A. Mandatory Requirements for All Legal Services Projects	
2.1 Nonprofit California Corporation	4
2.2 Operated Exclusively in California	5
2.3 Primary Purpose and Function	5
2.4 Quality Control	9
B. Further Elective Requirements	
2.5 LSC or OAA-Funded Projects Presumed Eligible	10
2.6 Non-Presumption Legal Services Projects	10
2.6.1 \$20,000 Annual Cash Support	10
2.6.2 Demonstrated Community Support	11
2.6.3 Provision of Special Services	11
C. Information Necessary to Compute Amount of Allocation	
2.7 Financial Statements	12
2.8 Counties Served	14
2.9 Pro Bono Projects	15

Legal Services Trust Fund Program Eligibility Guidelines

The Legal Services Trust Fund Program Eligibility Guidelines were designed as a brief statement of factors governing eligibility for an allocation under the Legal Services Trust Fund Program. The Guidelines, together with their Commentary, are intended to incorporate provisions found in the statute (Business and Professions Code §6210, et seq.) and at Title 3, Rules 3.660-3.692 of the Rules of the State Bar of California.

Commentary follows each guideline and is designed to further assist you in seeking an allocation under the Legal Services Trust Fund Program. Bracketed references are to the Business and Professions Code (B&P Code) and Rules of the State Bar.

Requirements for All Applicants

1. **To be considered for a Legal Services Trust Fund Program grant, an applicant must submit a timely and complete application for funding in the manner prescribed by the Legal Services Trust Fund Commission (the Commission). To qualify for an allocation under the Legal Services Trust Fund Program, an applicant must be either:**
 - a. **a qualified legal services project (Legal Services Projects Guidelines 2-2.9); or**
 - b. **a qualified support center (Support Centers Guidelines 2-2.9).**

A single applicant may not qualify as both a legal services project and a support center. [Rule 3.680(D)]

Commentary:

The main distinction between a legal services project and a support center is found in the primary purpose of the organization. Compare Legal Services Projects Guideline 2.3 with Support Centers Guideline 2.3. You must indicate on your application the status under which you wish to be considered. You may complete the applications for both a legal services project and a support center. If you qualify in the category of first preference, you will not be considered in the second category. If you do not qualify in the category of your first choice, you will be considered for eligibility under the category of your second choice, if your primary purpose and function qualifies you for that category. [Rule 3.671(A)-(C)]

- 1.1. **All applicants must include with their applications an assurance that the applicant will use the funds allocated from the Legal Services Trust Fund Program for the purposes set forth in §§6210-6228 of the Business and Professions Code.**

Commentary:

The application includes an Assurances form. Execution of that form will satisfy the requirements of Guidelines 1.1 - 1.3.

1.2. Within 30 days after notice of a tentative allocation from the Commission, the applicant must submit a budget and budget narrative for the expenditure of the allocation, including but not limited to:

1.2.1. an explanation of how funds shall be utilized to provide civil legal services to indigent persons; and

1.2.2. for a qualified legal services project, a description of how the project will make significant efforts to use 20 percent of the funds allocated to increase services to disadvantaged and underserved client groups such as (but not limited to) the elderly, the disabled, juveniles and non-English-speaking persons within the project's service area. [B&P Code §6221; Rule 3.680(E)(3)]

Commentary:

Do not submit a budget with your application. Once the Commission has found your program tentatively eligible and has approved an allocation to your program, you will be notified of a tentative grant allocation. You must then prepare a budget and budget narrative in conformance with Guideline 1.2, explaining your intended use of the funds. This budget and budget narrative will be reviewed by the Commission for conformance with the statute prior to disbursement of funds.

The budget and budget narrative should identify how the proposed allocation will aid in providing civil legal services to indigent persons. The narrative should describe the expected increased benefit to indigent persons as a result of the allocation.

The statute requires that qualified legal services projects make significant efforts to use 20 percent of the allocated funds to increase the availability of service to the elderly, the disabled, juveniles, non-English-speaking persons, or other indigent persons who are members of disadvantaged and underserved groups within your service area. Your narrative should describe specifically how you intend to use 20 percent or more of the proposed allocation to increase services to such disadvantaged and underserved groups.

One method by which a project may demonstrate its use of 20 percent of allocated funds to increase services to disadvantaged and underserved client groups is to enter into subcontracts specifically utilizing 20 percent of the funds for legal services to such client groups.

If you do not demonstrate "significant efforts" through the use of subcontracts, your budget narrative should describe the clients presently served by your project, the additional clients from disadvantaged and underserved client groups that will be served in the future through the use of 20 percent of the funds allocated, and your quantifiable objectives for increased services to such groups.

If your legal services project is part of a corporation that has activities outside California, the proposed budget and budget narrative must explain how the proposed allocation will be used within the state of California, as distinguished

from an increase in the total multi-state budget. The statute prohibits the use of allocated funds outside the state of California.

If your project provides both, legal services and other types of services, your budget and budget narrative must show that the allocation will be used solely for legal services. If your project provides services in both civil and criminal matters, your proposed budget and budget narrative must show that the allocation will be used solely for civil matters. If your project serves some persons who do not fall within the statutory definition of indigent persons (Commentary 2.3.4), your proposed budget and budget narrative must show that the allocation will be used solely for persons who are indigent within that definition. [B&P Code §§6213(d), 6218(a), 6221; Rule 3.680(E)(3)]

If you receive an allocation for more than one county, the budget and budget narrative must show that each allocation will be used to provide services to clients in the county for which it is made.

1.3. All applications must include an assurance that the applicant:

Commentary:

See Commentary 1.1 above. [B&P Code §§6210, 6217, 6221; Rule 3.682]

- 1.3.1. at all times will honor the attorney-client privilege and will uphold the integrity of the adversary process; and**
- 1.3.2. will not impose restrictions unrelated to statutes and rules of professional conduct on attorneys who provide representation to indigent clients with funds provided in whole or in part from the Legal Services Trust Fund Program; and**
- 1.3.3. does not discriminate on the basis of race, color, national origin, religion, sex, handicap, or age.**

Commentary:

The Legal Services Trust Fund Commission recognizes that certain applicants will concentrate on providing legal services to members of specific disadvantaged and underserved groups within their service area, such as elderly, disabled, juveniles, or non-English-speaking persons. The statute is intended to facilitate the provision of free legal services to such disadvantaged and underserved client groups. [B&P Code §§6210 and 6221] The Commission therefore will not regard Guideline 1.3.3 as violated merely by the fact that services are concentrated on (or limited to) specific disadvantaged and underserved client groups within the meaning of Business and Professions Code §§6210 and 6221, so long as the basis for such concentration and limitation is reasonably designed to benefit distinct disadvantaged and underserved groups. The certification required by Guideline 1.3.3 does prohibit any discrimination within the targeted client groups, and prohibits any discrimination on matters other than the selection of eligible clients.

- 1.4. If the Commission or staff requests any further information relating to an applicant's eligibility, or related to the amount of the allocation under the Legal Services Trust Fund Program, the applicant must supply that information. However, the Commission is not required to notify applicants if their initial application fails to include information sufficient to demonstrate eligibility. Failure to provide information necessary to the Commission's decisions on eligibility or eligible expenditures (or failure to supply requested information relevant to those decisions) will be grounds for denial of eligibility, or for refusal to recognize part of the applicant's expenditures within the allocation formula. [Rules 3.680(E) and 3.691(A)]

Requirements for Legal Services Projects

2. To be a qualified legal services project, the applicant must meet (a) each of the requirements of Guidelines 1.1-1.3 above, and (b) each of the following requirements of Guidelines 2.1-2.4, and (c) the requirements of either Guideline 2.5 or 2.6. For the Commission to determine the amount of funds to which each qualified legal services project is entitled from the Legal Services Trust Fund Program, applicants must also submit the information required in Guidelines 2.7 and 2.8 below. Applicants that meet the requirements of Guideline 2.9 below (*pro bono* programs) will be entitled to additional funds from the Legal Services Trust Fund Program.

Commentary:

A qualified legal services project must meet: (1) the requirements applicable to all applicants (see Guidelines 1.1-1.3); (2) the mandatory requirements of 2.1-2.4 applicable to all legal services projects; and (3) either the eligibility presumption described by 2.5 or the requirements for annual cash funds, community support, and special services described by 2.6. In addition to this eligibility information, the applicant must submit the information required in 2.7 and 2.8 in order that the Commission may determine the amount of the allocation. If an applicant recruits attorneys in private practice as its principal means of delivering legal services, it may qualify for an additional allocation under 2.9 below.

- 2.1. The applicant must be a California nonprofit corporation.

Commentary:

In order to demonstrate your status as a California corporation, copies of the Articles of Incorporation certified by the California Secretary of State and a current Certificate of Status from the California Secretary of State showing that the corporation is in good legal standing must be filed with the Legal Services Trust Fund Program. To demonstrate your nonprofit status, copies of (1) the determination letter from the Internal Revenue Service granting your application for exemption from the appropriate provisions of subchapter (f) of Chapter 1 of the Internal Revenue Code of 1954, as amended and (2) the determination letter from the State Franchise Tax Board granting your application for exemption from the appropriate section of the California Revenue and Taxation Code must be filed with the Legal Services Trust Fund Program. If you have not received such determination letter(s), attach

copy(ies) of your application(s) for exemption, together with an explanation of its/their status. [B&P Code §6213(a)(1); Rules 3.670(A), 3.680(A)]

If you are part of a law school, submit the information described above with respect to the law school. The school must be a nonprofit law school accredited by the State Bar of California, and your program must be an identifiable unit of the school. [B&P Code §§6213(a)(2), 6214.5; Rule 3.670(A)]

2.2. The organization must operate exclusively in California. An applicant that is part of a corporation that conducts other activities outside California can meet this requirement if all funds granted will be expended in California.

Commentary:

Your legal services project must be operated exclusively in California. If you are part of a corporation that conducts activities outside California, you must assure the Commission that all money granted from the Legal Services Trust Fund Program will be expended exclusively in California. If your corporation conducts activities outside California, explain the nature of those activities and how you propose to segregate funds allocated under the Legal Services Trust Fund Program to assure that they will be expended solely in California.

2.3. The application must demonstrate through objective information that the organization:

Commentary:

Objective information must be provided to assure that you meet the definitional provisions of Guideline 2.3. Such information must describe the organization specifically and factually, using quantitative information where needed, to demonstrate that it meets each of the requirements of Guidelines 2.3.1-2.3.5. [B&P Code §6213(a); Rules 3.670(A), 3.671(A), 3.680(E)(2)]

Quantitative information that may demonstrate how that organization's services meet the requirements includes the following: numbers of clients who were served during the previous year; hours of time spent on different kinds of services, or on services to different clients in the previous year; accounting records for expenses incurred in providing different kinds of services or services to different clients during the previous year.

If you rely on estimates to demonstrate that you have met these requirements, you must demonstrate that the estimates were derived by a method that is reasonably related to the actual expenditure of funds, and explain the basis of the estimates.

2.3.1. provides civil legal services

Commentary:

You must provide legal services within the definition of Rule 3.672(A). That rule provides that "legal services include all professional services provided by a member of the State Bar, and similar or complementary services of a law student or a paralegal under the supervision and control of a member of the State Bar in accordance with law." If your organization provides services in

addition to legal services, your application must describe those other activities, identify the percentage of the overall services provided that are not legal services, and state the basis by which you computed that percentage. [Rule 3.671(A)]

2.3.2. without charge

Commentary:

Payments by clients for costs and expenses or a processing fee of \$20 or less shall not be considered a “charge” for legal services, so long as the processing fee is administered so that it does not prevent indigent persons from receiving services. If you charge a processing fee, you must establish procedures for waiving the fee for all clients who cannot afford it. You must inform prospective clients of the availability of a waiver at the same time and in the same manner that they are informed of the fee, and in a language the client can understand.

If you charge a processing fee, your application must include information about established procedures for waiving the fee for clients who cannot afford it. The maximum of \$10 per processing fee will be regarded as a qualified expenditure.

If you charge some clients amounts in excess of costs, your application must state the percentage of your work in which such charges are made, and the basis for computing that percentage.

If attorneys’ fees are generated through court awards, such fees must be used to provide further civil legal services without charge to indigent persons. [Rule 3.673(B)]

“Costs and expenses” include any out-of-pocket expenses incurred by the organization (or by *pro bono* attorneys recruited by the organization), including recoverable costs of litigation, copying charges, telephone charges, postage charges, and other out-of-pocket expenses normally charged to clients by attorneys in private practice. An applicant may be considered as providing legal services without charge within the meaning of Guideline 2.3.2 in spite of charges to clients for such items. [Rule 3.673(B)]

2.3.3. to persons

Commentary:

You may consider legal services provided to an organization (e.g., an unincorporated association, partnership, or corporation) as services to indigent persons if the organization provides benefits primarily to persons who are indigent as described below in the Commentary on Guideline 2.3.4. In determining whether an organization so qualifies, the Commission will consider at least the following factors: (a) whether the organization is tax exempt under I.R.C. §501(c)(3); (b) the organization’s primary purpose as stated in its bylaws or articles; (c) the number and percentage of indigent persons on the board of directors or principal advisory body of the organization; and (d) the percentage of its members who are indigent persons.

If you provide more than ten percent of your services to organizations (whether qualifying or non-qualifying), your application must identify the five organizations that received the most legal services during the prior calendar year and, for each such organization, supply the information identified above. You need not disclose information protected by the attorney-client privilege. If you provide some portion of your legal services to organizations that do not so qualify, identify the percentage of overall services provided to such non-qualifying organizations, and explain the basis of your computation.

2.3.4. who are indigent

Commentary:

An indigent person is defined by the Business and Professions Code §§6213(d), 6213(g), 6213(h), and 6213(i) as follows:

“Indigent person means a person whose income is (1) 125 percent or less of the current poverty threshold established by the United States Office of Management and Budget, or (2) who is eligible for Supplemental Security Income or free services under the Older Americans Act or Developmentally Disabled Assistance Act. With regard to a project which provides free services of attorneys in private practice without compensation, indigent person also means a person whose income is 75 percent or less of the maximum levels of income for lower income households as defined in §50079.5 of the Health and Safety Code. For the purpose of this subdivision, the income of a person who is disabled shall be determined after deducting the costs of medical and other disability-related special expenses.”

Your application must state the percentage of your organization’s services that were provided during the previous calendar year to clients who did not fall within this definition. You must adopt written financial eligibility guidelines. If your eligibility criteria includes persons who are not indigent within the definition of §6213(d) above, explain how you determined the percentage of clients served that falls outside the definition. If you did not have written financial eligibility guidelines in the prior year, your application must explain the basis of your computation of percentage and supply objective support for the computation. [B&P Code §§6213(d) and 6218]

If you provide legal services for the benefit of a group or class of persons beyond the specific individuals or organizations who are your clients, you may consider the services as “legal services provided to indigent persons” only if the legal matter is primarily for the benefit of indigent persons.

In determining whether a legal matter is primarily for the benefit of indigent persons, the Commission may consider the following factors and any others that aid in making that determination: (1) the forum in which the matter is being pursued, e.g., courts, administrative agency, legislature, etc.; (2) whether named clients are indigent persons or qualifying organizations (under Commentary 2.3.3 above); (3) in the case of a class action, the definition of the class contained in the complaint and proposed or actual class certification orders; (4) a description of the group of individuals that would benefit from a favorable resolution of the legal matter; (5) whether a majority of those who

would benefit are indigent persons; (6) the relation of the legal issues raised by the matter to the needs of indigent persons; and (7) whether indigent persons are disproportionately impacted by the legal issues raised by the matter.

If legal services for the benefit of a group or class of persons beyond the specific individuals or organizations who are your clients constitute more than ten percent of your legal services, your application must identify the ten such legal matters on which you expended the largest amount of funds in the prior calendar year. For each of the matters so identified in your application, describe who would benefit from the services, state whether the matter is primarily for the benefit of indigent persons and, if so, explain the reasons you reached that conclusion. For any such matter that is primarily for the benefit of indigent persons, your description should include the information listed as items (1) through (7) in the preceding paragraph; you must quantify the percentage of your clients who are indigent persons (or organizations qualifying under Commentary 2.3.3 above) and the percentage of the persons who would benefit from the services who are indigent persons. Explain the basis of this information. You need not disclose information protected by the attorney-client privilege.

If some portion of your legal services are for the benefit of a group or class of persons beyond your specific clients and are not primarily for the benefit of indigent persons, identify the percentage of overall services provided in such matters and explain the basis of your computation.

2.3.5. as the primary purpose and function of the corporation.

Commentary:

Your application must state the net percentage of the corporation's overall expenses that were incurred in the previous calendar year to provide civil legal services without charge to persons who are indigent. You are required to demonstrate the corporation's primary purpose, and not simply the primary purpose of a part of the corporation. (If your project is operated by a law school, see the last section of this Commentary on Guideline 2.3.5.)

If more than 75 percent of the corporation's expenditure budget for the fiscal year for which it is seeking an allocation is designated for the provision of civil legal services without charge to persons who are indigent, and if 75 percent of its expenditures for the most recent reporting year were incurred for such legal services, the corporation will be presumed to meet the primary purpose and function test. In demonstrating your compliance with this 75 percent test, you cannot include the value of donated services. [Rule 3.671(A)]

An applicant not qualifying for the 75 percent presumption may nevertheless apply for an allocation, demonstrating its purpose and function by other means. An applicant not qualifying for the presumption shall state separately each purpose and function of the corporation, and state what percentage of the expenditures in the most recent calendar year, and what percentage of the budget in the upcoming year, are allocated to each of these separate purposes and functions. The application shall further state the basis for these allocations. [Rule 3.671(C)]

In addition to this submission of expenditure and of budget information, primary purpose and function can be additionally supported by historic expenditure information, by the organization's stated purpose in articles, bylaws or policy statements or case priority guidelines, or by the demonstrated track record of the applicant in providing legal services without charge to indigent persons.

An applicant that operated in previous years as a project within an organization providing substantial services other than legal services to indigent persons, or as an entity other than a corporation, but which has since become a separate California nonprofit corporation whose primary purpose and function is the provision of legal services without charge to indigent persons, may establish its status as a qualified legal services project and its proportionate entitlement to funds based upon financial statements which strictly segregate that portion of the organization's expenditures in prior years which were devoted to civil legal services for indigents. Thus, if you are recently incorporated and previously operated as a part of an umbrella organization, you may utilize the expenditures of your predecessor organization so long as financial statements strictly segregate the expenditures for such legal services.

If your legal services program is operated by an accredited nonprofit law school, you are required only to demonstrate the program's primary purpose, and not the corporation's primary purpose. Your program must be operated exclusively in California and the law school must be accredited by the State Bar of California. The program must have operated for at least two years at a cost of at least \$20,000 per year, as an identifiable law school unit with the primary purpose and function of providing civil legal services without charge to indigent persons. The program may meet the primary purpose test according to the 75 percent test described above or by demonstrating its purpose and function through other means described above. [B&P Code §6213(a)(2)]

2.4. The application must include a description of the organization's quality control procedures and standards, including but not limited to the matters described in Guidelines 2.4.1-2.4.4:

Commentary:

The American Bar Association's *Standards for the Provision of Civil Legal Aid* are the quality control standards for the Legal Services Trust Fund Program, pursuant to Business & Professions Code §6225 and Rule 3.661(C). These standards are the State Bar's guidelines for review and approval of applicant and recipient program practices.

If you are already subject to quality control reviews by the Legal Services Corporation or the California Department of Aging, describe the quality control review procedures to which you are subject.

Describe your quality control standards and how compliance with each of the subjects listed in Guidelines 2.4.1-2.4.4 is ensured. The Commission is particularly interested in your standards and procedures regarding supervisorial structure, procedures, and responsibilities. [B&P Code §§6123(a) and 6217(a); Rule 3.680(E)(2)]

- 2.4.1. the minimum experience and education requirements for attorney and paralegal employees;
 - 2.4.2. the current salaries and job descriptions for all filled and unfilled management and professional positions, including paralegal personnel;
 - 2.4.3. the minimum experience and educational requirements for attorney supervisors; and
 - 2.4.4. the supervisory structure, procedures and responsibilities.
- 2.5. Applicants must meet the requirements of this, Guideline 2.5, or the requirements of Guideline 2.6. To meet the requirements of this, Guideline 2.5, the applicant must receive at least some funding either:
- 2.5.1. from a grant made to the organization by the Legal Services Corporation or by an Area Agency on Aging distributing Older Americans Act funds; or
 - 2.5.2. from an approved contract with another organization that is a grant recipient meeting the terms of Guideline 2.5.1.

Commentary:

In order to qualify under Guideline 2.5 (and thereby waiving the requirements of 2.6), you must receive at least some funding either directly from the Legal Services Corporation (or from an Area Agency on Aging) or by contract with an LSC-funded organization (or by a contract with an Area Agency on Aging-funded organization). If your funding is by contract, the contract must have been approved by LSC or by the state or local agency administering the Older Americans Act funds.

Legal Services Corporation is defined in the Business and Professions Code §6213(f) as the Legal Services Corporation established under the Legal Services Corporation Act of 1974 (Public Law 93-355; 42 U.S.C. 2996 and following). *Older Americans Act* is defined in the Business and Professions Code §6213(g) as the Older Americans Act of 1965, as amended (Public Law 89-73; 42 U.S.C. 3001, and following). [B&P Code §§6213(f), 6213(g), 6214(a)]

- 2.6. An applicant that does not meet the requirements of Guideline 2.5 must meet each of the requirements of Guidelines 2.6.1-2.6.3 below:
- 2.6.1. The applicant must receive at least \$20,000 annual cash funds from sources other than the Legal Services Trust Fund Program to support the program described in Guideline 2.3 above, and

Commentary:

In order to qualify under Guideline 2.6.1, you must demonstrate at least \$20,000 annual cash funds from sources other than the Legal Services Trust Fund Program to support the provision of civil legal services without charge to indigent persons. If you did not receive at least \$20,000 cash funds from such sources in the year immediately preceding the application, you must

demonstrate that your average annual cash funds over some period of years have been at least \$20,000 per year. This computation cannot include the value of any donated services or equipment.

You cannot include money received from fee-generating cases or from court-awarded attorneys' fees. [B&P Code §6214(b)(1)]

If you are applying as a law school program, you must demonstrate the program has operated for at least two years at a cost of at least \$20,000 per year. [B&P Code §6213(2)(A)]

2.6.2. The applicant must have demonstrated community support for the operation of a viable ongoing program, and

Commentary:

If you have received at least \$20,000 per year annual cash funds from local sources in the community in which you provide your services, such support is sufficient to meet the requirements of Guideline 2.6.2. You may not count contributions from employees of your organization toward the local support requirement of this Guideline 2.6.2, though it can be counted for 2.6.1.

If you cannot show \$20,000 annual local community financial support, you may demonstrate community support through the donation of services or other non-cash contributions, by service of local community leaders on your board of directors, fundraising committees, etc., or by otherwise demonstrating that the community actually supports the operation of a viable ongoing program.

Letters of support from local community leaders are not sufficient to demonstrate the community support required by Guideline 2.6.2. [B&P Code §6214(b)(2)]

2.6.3. The applicant must provide at least one of the following special services:

2.6.3.1. Recruiting substantial numbers of attorneys in private practice who serve without compensation providing the legal services referred to in Guideline 2.3 above, or

Commentary:

In deciding whether you are eligible to apply as a project that recruits substantial numbers of attorneys, the Legal Services Trust Fund Commission will consider several factors. At a minimum you must meet at least one of the following tests:

- a. you recruited at least 30 attorneys who provided services in the previous calendar year; or
- b. you recruited at least five percent of the licensed attorneys in the county you serve who provided services in the previous calendar year; or
- c. the attorneys you recruited donated at least 1,000 hours of legal services for your clients in the previous calendar year.

Provided you meet one of these minimum tests, you may demonstrate your project's recruitment of substantial numbers of attorneys in one or more of the following ways:

- a. the number of attorneys recruited;
- b. the percentage of attorneys in your local service area that donated services through your project;
- c. the verified value of donated civil legal services in comparison to your expenditures and budget;
- d. the number of hours donated by each attorney;
- e. the number of attorneys in your area who have special expertise needed to provide the services your project offers; or
- f. other considerations that may affect the availability of volunteer attorneys in your service area.

Any attorney who is not an employee of the applicant can be considered in private practice, and attorneys may be considered in private practice even though they work for government agencies, corporations, or in non-legal occupations.

Attorneys can be considered to serve without compensation even when they are reimbursed for out-of-pocket expenses, whether by the client, the applicant, or other sources. [B&P Code §6214(b)(3)(A); Guideline 2.3.2 and supporting Commentary]

2.6.3.2. Providing legal representation, training, or technical assistance on matters concerning special client groups or on matters of specialized substantive law important to special client groups.

Commentary:

Special client groups include any underserved or disadvantaged groups, including, without limitation, the elderly, disabled, juveniles, or non-English-speaking persons. [B&P Code §6214 (b)(3)(B)]

2.7. The application must include a financial statement that includes the total expenditures of the applicant. The financial statement must meet the requirements of Guideline 2.7.1 below.

2.7.1. The statement must show expenditures for the completed fiscal year ended most recently before the application deadline, and must be audited or reviewed by an independent certified public accountant. A financial review, in lieu of an audited financial statement, may be submitted by an applicant whose gross corporate expenditures were less than the amount specified in the Schedule of Charges and Deadlines. Applicants must submit a financial statement no later than 90 days after the end of their fiscal year. The required financial statement must be received prior to the disbursement of any funds from the Legal Services Trust Fund Program.

Commentary:

Independent CPA-audited or reviewed statements are required of organizations with gross expenditures of less than \$500,000. Organizations with gross

expenditures in excess of \$500,000 must submit audited statements. If such a statement is unavailable at the time of the application, you may substitute an approximated financial statement, but you must submit an audited or reviewed statement no more than 90 days after the end of their fiscal year. [B&P Code §6222; Rule 3.680(E)(1); Schedule of Charges and Deadlines]

- 2.7.2. The financial statement need not distinguish between legal services without charge to persons who are indigent (within the definition of Guideline 2.3.4 above) and other services performed by the project. However, if an applicant does provide other services, the application must include the approximated information requested on the expenditure form(s) identifying expenses incurred providing any of the following services: legal services/other activities, civil/criminal, free/charged, indigent/non-indigent clients, in-state/out-of-state expenditures.**

Commentary:

The amount of your grant will be based in part on the amount of your expenditures in your previous fiscal year for civil legal services without charge to indigent persons. See Guidelines 2.3.1 through 2.3.4 for the definitions the Commission will use to determine the portion of your expenditures that are qualified to be counted in determining your grant allocation. [B&P Code §6216(b)]

Records that may be used to demonstrate the portion of the organization's expenses that qualify to be counted in determining the grant allocation include the following: records of the numbers of clients served during the previous year; records reflecting time spent on different kinds of services or on services to indigent/non-indigent clients in the previous year; accounting records reflecting expenses incurred providing different kinds of services or on services to indigent/non-indigent clients during the previous year.

If you rely on estimates to establish the amount of your qualified expenditures, you must make the estimates by a method that is reasonably related to the actual expenditure of funds and explain the basis of the estimates.

- 2.7.3. The financial statement must disclose and segregate any amounts paid to or received from another program applying for an allocation under the Legal Services Trust Fund Program.**

Commentary:

In order to avoid double counting, funds contributed by one program to another program, when both are applicants for an allocation from the Legal Services Trust Fund Program, must be disclosed in the financial statements of both programs. In determining allocations, such funds will be counted only for the program receiving the funds, unless those programs have executed a contrary agreement differently allocating the credit for the contributed funds between the two programs. If an agreement is made, both programs must provide a copy of such agreement to the Commission.

- 2.8. The application must state the counties in which the legal services described in Guideline 2.3 above are provided. An applicant that provides such services in more than one county must state the total expenditures made for services in each county and explain the basis of the by-county allocation. In allocating total expenditures among counties on Legal Services Trust Fund Program applications, an applicant must use a method that is reasonably related to the actual expenditure of funds and explain the basis of the allocation.**

Commentary:

You may qualify for allocations only in counties you are presently serving. If you are presently serving more than one county, allocate the expenditures that meet the requirements of Guideline 2.3 by county, explaining the basis for your allocation. The Commission will evaluate whether your allocation is reasonably related to the actual expenditure of funds in light of the particular characteristics of your organization and your services. The allocation information does not need to be audited. [B&P Code §6216(b)]

The following are some of the bases for allocation of expenses among counties served that the Commission has found in past years to be reasonable under appropriate circumstances: numbers of clients served who reside in each county; number of cases handled in each county; actual or estimated hours of service provided in each county, or provided to clients who reside in each county; actual expenses of providing service to clients in each county, including both personnel and non-personnel expenses; statistics that establish the geographic distribution by county of persons who will benefit from the services provided. In certain circumstances, it may be necessary to use a combination of these or other methods to arrive at an allocation method that is reasonably related to the actual expenditure of funds. If you rely on estimates, you must make the estimates by a method that is reasonably related to the expenditure of funds and explain the basis of the estimates.

If you allocate expenses to counties other than those in which your individual or organizational clients reside, or those in which you provided the services, the allocation must be reasonably related to the geographic distribution of the indigent persons who will benefit from the services. In evaluating the reasonableness of such allocations, the Commission may consider the following factors and any others that aid in making that determination: (1) the forum in which the matter is being pursued, e.g., courts, administrative agency, legislature, etc.; (2) whether the matter can be expected to establish a precedent and the anticipated scope or breadth of that precedent; (3) in the case of a class action, the definition of the class contained in the complaint and proposed or actual class certification orders; (4) a description of the group of individuals that would benefit from a favorable resolution of the legal matter; and (5) the legal issues raised by the matter.

For a legal matter or matters for which you allocate expenses based on residence of persons other than your individual clients, your application must identify the legal matters and, for each matter, provide the information listed in items (1) through (5) in the preceding paragraph. You should also identify the geographic and numeric distribution of the persons the matter may benefit and your approximate expenditures for the matter. Explain the basis of this

information. You need not disclose information protected by the attorney-client privilege.

2.9. An applicant wishing to qualify for the additional allocation reserved for organizations that demonstrate the volunteer services of private lawyers as their principal means of delivering legal services must meet each of the following requirements:

2.9.1 the requirements of Guideline 2.6.3.1 above; and

2.9.2 the applicant's principal means of delivering legal services is the recruitment of attorneys in private practice.

Commentary:

See Commentary concerning Guideline 2.6.3.1. One method by which you may demonstrate that such recruitment is your project's principal means of legal services delivery is to show by objective evidence that the attorneys recruited actually provided substantial free civil legal services and that the number of hours of services so provided in the previous calendar year by attorneys recruited exceeded the number of hours of services provided by lawyer staff employed by the applicant.

An alternative method by which you may demonstrate that such recruitment is your project's principal means of legal services delivery is to show by objective evidence (1) that the attorneys recruited actually provided substantial free civil legal services; (2) that the combined number of hours of service by volunteers, both attorneys and paralegals, exceeds the combined number of hours of service by staff attorneys and paralegals; and (3) that the number of hours of service by volunteer attorneys is more than half as many as the combined number of hours of service by staff attorneys and paralegals.

If you do not use either of these methods to demonstrate your principal delivery means, you should describe and explain in your application the method used.
[B&P Code §6216(b)(1)(B)]

**Legal Services
Trust Fund Program**

Eligibility Guidelines

SUPPORT CENTERS ONLY

The State Bar of California
180 Howard Street
San Francisco, CA 94105-1617

Legal Services Trust Fund Program Eligibility Guidelines

Table of Contents

1. Requirements for All Applicants	1
1.1 Agreement Limiting Use of Funds	1
1.2 Budget and Budget Narrative	2
1.3 Required Assurance	2
1.4 Requests for Further Information	2
2. Requirements for Support Centers	2
A. Mandatory Requirements for All Support Centers	
2.1 Nonprofit Corporation	3
2.2 Current Provision of Significant Level of Services	3
2.3 Primary Purpose and Function	7
2.4 Plan for Added Services	8
2.5 Agreement Limiting Use of Funds	8
2.6 Resolution Establishing Priorities	8
2.7 Range of Services	8
B. Further Elective Requirements	
2.8 Centers Existing December 31, 1980 Presumed Eligible	8
2.9 Non-Presumption Support Centers	9
2.9.1 Deemed of Special Need	9
2.9.2 Quality Control	10
3. State Bar of California Districts Prior to July 1, 2010	11

Legal Services Trust Fund Program Eligibility Guidelines

The Legal Services Trust Fund Program Eligibility Guidelines were designed as a brief statement of factors governing eligibility for an allocation under the Legal Services Trust Fund Program. The Guidelines, together with their Commentary, are intended to incorporate provisions found in the statute (Business and Professions Code §6210, et seq.) and at Title 3, Rules 3.660-3.692 of the Rules of the State Bar of California.

Commentary follows each guideline and is designed to further assist you in seeking an allocation under the Legal Services Trust Fund Program. Bracketed references are to the Business and Professions Code (B&P Code) and Rules of the State Bar.

Requirements for All Applicants

1. **To be considered for a Legal Services Trust Fund Program grant, an applicant must submit a timely and complete application for funding in the manner prescribed by the Legal Services Trust Fund Commission (the Commission). To qualify for an allocation under the Legal Services Trust Fund Program, an applicant must be either:**
 - a. **a qualified legal services project (Legal Services Projects Guidelines 2-2.9); or**
 - b. **a qualified support center (Support Centers Guidelines 2-2.9).**

A single applicant may not qualify as both a legal services project and a support center. [Rule 3.680(D)]

Commentary:

The main distinction between a legal services project and a support center is found in the primary purpose of the organization. Compare Legal Services Projects Guideline 2.3 with Support Centers Guideline 2.3. You must indicate on your application the status under which you wish to be considered. You may complete the applications for both a legal services project and a support center. If you qualify in the category of first preference, you will not be considered in the second category. If you do not qualify in the category of your first choice, you will be considered for eligibility under the category of your second choice, if your primary purpose and function qualifies you for that category. [Rule 3.671(A)-(C)]

- 1.1. **All applicants must include with their applications an assurance that the applicant will use the funds allocated from the Legal Services Trust Fund Program for the purposes set forth in §§6210-6228 of the Business and Professions Code.**

Commentary:

The application includes an Assurances form. Execution of that form will satisfy the requirements of Guidelines 1.1-1.3.

- 1.2. **Within 30 days after notice of a tentative allocation from the Commission, the applicant must submit a budget and budget narrative for the expenditure of the allocation.**
 - 1.2.1. **For support centers, the budget and budget narrative must show that all funds allocated from the Legal Services Trust Fund Program will be used in support of qualified legal services projects providing free legal services in California.**
- 1.3. **All applications must include an assurance that the applicant:**
 - 1.3.1. **at all times will honor the attorney-client privilege and will uphold the integrity of the adversary process; and**
 - 1.3.2. **will not impose restrictions unrelated to statutes and rules of professional conduct on attorneys who provide representation to indigent clients with funds provided in whole or in part from the Legal Services Trust Fund Program; and**
 - 1.3.3. **does not discriminate on the basis of race, color, national origin, religion, sex, handicap, or age.**

Commentary:

See Commentary 1.1 above. [B&P Code §§6210, 6217, 6221; Rule 3.682]

- 1.4. **If the Commission or staff requests any further information relating to an applicant's eligibility, or related to the amount of the allocation under the Legal Services Trust Fund Program, the applicant must supply that information. However, the Commission is not required to notify applicants if their initial application fails to include information sufficient to demonstrate eligibility. Failure to provide information necessary to the Commission's decisions on eligibility or eligible expenditures (or failure to supply requested information relevant to those decisions) will be grounds for denial of eligibility, or for refusal to recognize part of the applicant's expenditures within the allocation formula.**
[Rules 3.680(E) and 3.691(A)]

Requirements for Support Centers

2. **To be a qualified support center, the applicant must meet (a) each of the requirements of Guidelines 1.1-1.3 above, and (b) each of the following Guidelines 2.1-2.7, and (c) the requirements of either Guideline 2.8 or 2.9.**

Commentary:

The qualified support center must meet: (1) the requirements applicable to all applicants (see Guidelines 1.1-1.3); (2) the mandatory requirements of Guidelines 2.1-2.7 applicable to all support centers; and (3) either the eligibility presumption established by Guideline 2.8, or the requirements for quality control and "special need" set forth in Guideline 2.9.

The mandatory requirements applicable to all support centers (Guidelines 2.1-2.7) contain two separate requirements. A support center must demonstrate that it provides a significant level of legal support services to qualified legal services projects in California (the “significant level” test). Additionally, a support center must demonstrate that its primary purpose and function is the provision of legal support services (the “primary purpose and function” test). [Rule 3.680(A)]

2.1. The applicant must be a nonprofit corporation (in California or another state).

Commentary:

In order to demonstrate your status as a California corporation, copies of the Articles of Incorporation certified by the California Secretary of State and a current Certificate of Status from the California Secretary of State showing that the corporation is in good legal standing must be filed with the Legal Services Trust Fund Program. To demonstrate your nonprofit status, copies of (1) the determination letter from the Internal Revenue Service granting your application for exemption from the appropriate provisions of subchapter (f) of Chapter 1 of the Internal Revenue Code of 1954, as amended and (2) the determination letter from the State Franchise Tax Board granting your application for exemption from the appropriate section of the California Revenue and Taxation Code must be filed with the Legal Services Trust Fund Program. If you have not received such determination letter(s), attach copy(ies) of your application(s) for exemption together with an explanation of its/their status. [B&P Code §6213(a)(1); Rules 3.670(A), 3.680(A)]

2.2. The application must demonstrate through objective information that the organization currently:

Commentary:

The statute requires that applicants must **currently** be providing the services described in Guidelines 2.2.1-2.2.4.

The regulations require that you demonstrate with “objective information” that you provide the required services. Objective information that can be used to demonstrate your services is described in Guidelines 2.2.1-2.2.3. See also Commentary 2.3. [B&P Code §6213(b); Rule 3.670(B), 3.671(B), 3.680(E)(2), 3.680(E)(4)]

2.2.1. provides a significant level of legal training, legal technical assistance, or advocacy support to qualified legal services projects

Commentary:

You must demonstrate that you are currently providing **a significant level** of legal training, legal technical assistance, or advocacy support to programs that are qualified for Legal Services Trust Fund Program allocations as legal services projects. In order to meet this test, the services provided must be offered on a regular and consistent basis.

Such training, assistance or support include, but are not limited to, the direct provision of civil legal services to an indigent person, either as co-counsel with

an attorney employed or recruited by a qualified legal services project, or at the request of an attorney employed or recruited by a qualified legal services project that is unable to assist the client [see Rule 3.672(B)(2)], provided that:

- a. you keep written records to demonstrate that the direct provision of services was either as co-counsel with an attorney employed or recruited by a qualified legal services project, or at the request of such an attorney [Rules 3.672(B), 3.682]; and
- b. you establish and use policies and procedures that encourage qualified legal services projects to participate in the organization's representation of persons referred by them.

Support services provided to organizations that are not qualified legal services projects, or to attorneys in private practice who were not recruited by a qualified legal services project, will not be taken into consideration for purposes of demonstrating that a support center provides a significant level of services to qualified legal services projects.

In deciding whether you meet the "significant level" test, the Legal Services Trust Fund Commission will consider several factors. At a minimum, you must demonstrate that in the last year you have provided legal training, legal technical assistance, or advocacy support to at least ten qualified legal services projects. For purposes of this test, services provided to more than one office of a multi-office legal services project shall only count as services to one project. In addition, for purposes of this test, you **cannot** count the distribution of newsletters, general mailings, or the provision of other materials of general distribution. You must maintain written records of requests for services to demonstrate the number of projects to which you provided services.

You must provide services to at least ten projects to qualify as a support center. Applicants that fail to meet this test will be found not to have provided a significant level of services to qualified legal services projects.

Provided you meet this minimum test, you must also demonstrate through objective information that the nature and content of the services you provided were significant. In determining whether a support center's services were significant, the Commission may consider the following factors and any others that aid in making that determination:

- a. The provision of legal training, legal technical assistance, and advocacy support to a large number of projects is relevant data for demonstrating a significant level of support. However, numbers alone will not be the sole test.
- b. Services must be substantial in nature, not merely simple or intermittent responses to requests for assistance. For example, responding to ten simple requests for assistance will not itself demonstrate a significant level of support services. One large-scale complex lawsuit that takes a substantial amount of attorney time to complete will demonstrate a more significant level of services than a simple individual action. However,

handling a substantial number of individual actions may also demonstrate a significant level of work. Distribution of newsletters or other educational material will not itself meet the “significant level” test, but development of useful resources for qualified legal services projects is relevant data for demonstrating a significant level of support.

2.2.2. and such training, assistance, or support is not only actually available statewide

Commentary:

Your services must actually be available statewide. You must hold your services available on request on a statewide basis to all qualified legal services projects irrespective of where they are located within the state and publicize the availability of such services on a statewide basis. This publicity should ordinarily include at least two written communications during each calendar year, directed to every qualified legal services project in California, in which you describe the availability of your services. These written communications may be included in newsletters or other regular publications. You should send a copy of the communications to the Legal Services Trust Fund Program when you send them to the legal services projects.

Second, you must also demonstrate through objective information that your services are actually available and publicized throughout the state. In determining whether this requirement is met, the Commission may consider such factors as your staff’s participation in task forces and other training forums, your distribution of newsletters and general mailings, and any other efforts you make to give notice of the availability of services.

2.2.3. but is also actually provided statewide

Commentary:

You must also demonstrate that you provide services on a statewide basis. Your services must have actually been utilized within the last year in a majority of the nine State Bar Districts that existed prior to July 1, 2010, and in at least two Northern California counties and two Southern California counties. Southern California counties shall include the counties of San Luis Obispo, Kern, San Bernardino and counties further south. At the end of these Guidelines, is a list of the counties assigned to each of the nine State Bar Districts.

In determining whether a support center’s services were statewide, the Commission may consider the following factors and any other objective information that aids in making the determination:

- a. The provision of support services to a number of State Bar Districts or counties larger than the minimum stated above would be relevant data for demonstrating a geographic distribution of service. However, numbers alone will not be the sole test.
- b. Statewide services must be substantial in nature, not merely simple or intermittent responses to requests for assistance. For example, providing

most services in one or a few counties but occasionally responding to inquiries from other parts of the state will not itself demonstrate a statewide distribution of services.

For purposes of determining whether your services were actually provided on a statewide basis, the Commission will consider only the provision of legal training, legal technical assistance, and advocacy support. Other services provided, such as general information, the distribution of newsletters, and general mailings, will not be sufficient to demonstrate that an applicant is not local but statewide, or that an applicant has provided services in a majority of the State Bar Districts.

2.2.4. without charge

Commentary:

The “without charge” standard is fully met when services are provided without imposing any fee or requiring any payment. However, training services may still be considered “without charge” when the fee imposed is directly tied to the actual additional expense incurred in training an individual and does not include general expenses that are incurred in providing the training to the community at large. To illustrate:

- a. Direct expenses that can be charged to individuals participating in training events include the actual cost of their own refreshments, lodging, materials distributed (including manuals, workbooks, and binders), per participant webinar fees, and similar costs associated with individual participation.
- b. Training expenses that should not be charged to participants include the costs of facilities rental for the training event; general costs of materials, equipment, and services necessary to conduct trainings (such as visual aids, projectors, IT services, licensing fees, and delivery charges); expenses associated with travel, food, or lodging for staff or outside trainers; costs of developing materials (including staff salaries and consultant fees/expenses); and organizational expenses, including but not limited to insurance, audit costs, library costs, overhead, or telecommunications expenses.

Under Business and Professions Code §6213(b), the “without charge” standard applies to assistance provided to qualified legal services projects. It would be consistent with the spirit of the Legal Services Trust Fund statute, whenever possible, to also extend this consideration to fellow qualified support centers.

2.2.5. through an office in California.

Commentary:

You must actually have a regularly functioning office physically located in California and provide these services through that office. The office must have been in existence and operating prior to your application for a Legal Services Trust Fund Program grant.

2.3. The provision of legal training, legal technical assistance, or advocacy support without charge must be the primary purpose and function of the corporation.

Commentary:

You must demonstrate that it is the primary purpose and function of the **corporation** viewed as a whole, and not simply that of part of the corporation, to provide free legal training, legal technical assistance, or advocacy support. You may consider the provision of similar services in other states when determining the primary purpose and function of the corporation.

To be considered legal training, legal technical assistance, and advocacy support, the services must meet the following criteria:

- a. Services must be provided (1) to attorneys or lay advocates or others involved in the direction or operation of legal services projects that provide legal services to indigent persons; or (2) to attorneys in private practice who are providing legal services without charge to indigent persons; or (3) directly to indigent persons when requested to do so by a qualified legal services project.
- b. The content of the training and technical assistance must be directed toward meeting the legal needs of indigent persons or the functioning of the legal services project.
- c. The direct provision of legal services to clients is not a “support service” unless it is delivered (1) as co-counsel with a qualified legal services project; or (2) as co-counsel at the request of a private attorney representing indigent clients without charge; or (3) after a referral from a qualified legal services project.
- d. The provision of similar legal support services in states other than California will be considered in determining the primary purpose and function of the corporation.

A support center shall be presumed to meet the “primary purpose and function” test if the services described above constitute more than 75 percent of the corporation’s expenditure budget in the year for which it is seeking an allocation from the Legal Services Trust Fund Program.

If the organization cannot meet the “primary purpose and function” test by complying with this presumption, you may demonstrate the primary purpose and function by other means. You will need to demonstrate that the primary purpose of the organization is to assist legal services advocates who provide direct civil legal services to indigent clients through the provision of legal training, legal technical assistance, and advocacy support. You must show that the primary purpose is not the direct provision of legal services to clients and that the support services consist of training, technical assistance, and advocacy support. [B&P Code §6213(b); Rule 3.671(B), (C)]

- 2.4. If the organization receives funds from sources other than the Legal Services Trust Fund Program, the applicant must submit a plan assuring that the services funded from the Legal Services Trust Fund Program are in addition to those already funded from other sources.**

Commentary:

Describe the sources, amounts, and conditions of your funding other than the Legal Services Trust Fund Program and the additional services you intend to provide with the monies allocated by the Legal Services Trust Fund Program. You must also submit a plan to maintain your current level of funding from sources other than the Legal Services Trust Fund Program. [B&P Code §6216(c)]

- 2.5. The application must include an agreement by the organization to use all funds allocated from the Legal Services Trust Fund Program in support of qualified legal services projects providing free legal services in California, and to restrict use of funds allocated from the Legal Services Trust Fund Program to matters directly related to the needs of legal services clients.**

Commentary:

You may meet this requirement by signing the Assurances form that is part of the application. [B&P Code §6216(c)]

- 2.6. The application must include a resolution of the board of directors of the corporation establishing the organization's priorities for the provision of legal support services. The adoption of this resolution must have followed consultation with legal services attorneys, members of the private bar, and eligible clients.**

Commentary:

You must attach to your application a resolution adopted by your board of directors within the last two years establishing the organization's priorities. In addition, you must describe the manner in which legal services attorneys, members of the private bar, and eligible clients were consulted for purposes of establishing priorities. Those consulted to meet this requirement must include persons who are not members of your board of directors. [Rule 3.680(B)]

- 2.7. The organization must offer a range of services including more than one of the following: consultation, representation, information services, and training.**

Commentary:

Describe the manner in which the organization offers services falling under at least two of the headings: consultation, representation, information services, and training. [Rule 3.680(B)]

- 2.8. The organization must meet either the requirements of this Guideline 2.8, or the requirements of Guideline 2.9. To meet the requirements of this Guideline 2.8, the organization must have met the requirements of Guidelines 2.2-2.3 on December 31, 1980.**

Commentary:

If the organization has met the general requirements applicable to all applicants, Guidelines 1.1-1.4, and has met the requirements of Guidelines 2.1-2.7, it must also meet either the requirements of this Guideline 2.8, or the requirements of Guideline 2.9.

In order to meet the requirements of Guideline 2.8 (and thus avoid the necessity of complying with Guideline 2.9), the organization must, on December 31, 1980, have been a nonprofit organization which had as its primary purpose and function the provision of legal training, legal technical assistance, or advocacy support without charge, and which was actually providing a significant level of such services to qualified legal services projects, and such training, assistance, or support must have been available statewide without charge through an office in California at that time. [B&P Code §6215(a)]

If the organization has previously been determined by the Commission to meet this requirement, you do not need to reestablish it each grant year.

2.9. An applicant that does not meet the requirements of Guideline 2.8 must meet the requirements of Guidelines 2.9.1 and 2.9.2 below:

2.9.1. The organization must be deemed to be of special need by a majority of the qualified legal services projects. If an applicant was affirmatively deemed of special need for one grant period, the Commission will assume (without need for further information) that it continues to be so deemed for the immediately following two grant periods.

Commentary:

If you do not meet the presumption established by Guideline 2.8, the organization must be deemed of special need by a majority of legal services projects which receive allocations from the Legal Services Trust Fund Program. The statute requires that the organization presently be so deemed.

Evidence of such deeming in prior years, while it may be considered by the Commission as relevant evidence, is not determinative of the issue before the Commission except in the two funding periods after the grant period for which you were so deemed. The Commission itself intends to solicit the views of qualified legal services projects as to whether the organization is presently deemed of special need in every third year, starting with their application for the first funding period. Therefore, you must (for your first, fourth, seventh, etc., funding periods) supply the Commission with a one-page description of the organization.

The Commission will solicit advice from qualified legal services projects whether they presently deem the organization to be of special need. More than one-half of those whose advice is solicited must respond affirmatively in order for the organization to be eligible. Upon request, the Commission will make available to you a list of the names and addresses of the qualified legal services projects from which the Commission will solicit views.

In deciding whether they deem a support center to be of special need, projects will be instructed to consider what support the legal services projects in California need in delivering legal services to indigent persons, and to evaluate how the organization's services meet that need, including such issues as the quality and/or quantity of the organization's work. Project directors will be encouraged to consult with service providers or others associated with the project in making their decision. [B&P Code §6215(b)(2); Rule 3.680(C)]

2.9.2. The application must include a description of the organization's quality control procedures and standards, including, but not limited to, the matters described below:

Commentary:

The State Bar's Board of Governors adopted the American Bar Association's Standards for the Provision of Civil Legal Aid as the quality control standards for the Legal Services Trust Fund Program, pursuant to Business & Professions Code §6225 and Rule 3.661(C). These standards are the State Bar's guidelines for review and approval of applicant and recipient program practices.

If you are already subject to quality control reviews by any non-Trust Fund Program funding source or entity, describe the quality control review procedures to which you are subject, and attach the most recent comprehensive written quality control review by that entity in lieu of the information requested by Guidelines 2.9.2.1-2.9.2.4. (It is not necessary to explain in detail the review procedures followed.)

If you are not subject to such review procedures, describe your quality control standards and how compliance with each of the subjects listed in Guidelines 2.9.2.1–2.9.2.4 is ensured. The Commission is particularly interested in the standards and procedures regarding supervisory structure, procedures, and responsibilities. [B&P Code §§6123(b) and 6217(a); Rule 3.680(E)(2)]

- 2.9.2.1. the minimum experience and education requirements for attorney and paralegal employees;**
- 2.9.2.2. the current salaries and job descriptions for all filled and unfilled management and professional positions, including paralegal personnel;**
- 2.9.2.3. the minimum experience and educational requirements for attorney supervisors;**
- 2.9.2.4. the supervisory structure, procedures, and responsibilities.**

State Bar of California Districts Prior to July 1, 2010

District 1

Butte
Colusa
Del Norte
Glenn
Humboldt
Lake
Lassen
Mendocino
Modoc
Nevada
Placer
Plumas
Shasta
Sierra
Siskiyou
Sutter
Tehama
Trinity
Yuba

District 2

Napa
Sacramento
Solano
Sonoma
Yolo

District 3

Alameda
Contra Costa

District 4

Marin
San Francisco
San Mateo

District 5

Alpine
Amador
Calaveras
El Dorado
Fresno
Inyo
Kern
Kings
Madera
Mariposa
Merced
Mono
Monterey
San Benito
San Joaquin
San Luis Obispo
Santa Cruz
Stanislaus
Tulare
Tuolumne

District 6

Santa Clara

District 7

Los Angeles

District 8

Orange
Santa Barbara
Ventura

District 9

Imperial
Riverside
San Bernardino
San Diego

Revision to Guidelines for Support Centers with respect to determination of whether or not the Support Center is providing services “statewide” in California.

Background: Support Centers must establish that their services are available, and are actually provided, on a “statewide” basis. Since the Program’s inception, the Trust Fund Program has been using State Bar Board of Trustee districts to demonstrate that a Support Center’s breadth of service is “statewide.” For reasons unrelated to Trust Fund Program grants, the Board of Trustees revised its districts in 2012 in a way that did not work for Trust Fund Program purposes. Therefore, the Commission determined to use the old districts (2010 Map attached) pending a resolution adopting a new regional map to define “statewide” for support centers.

At its June 2016 meeting, the Commission defined new regions for viewing “statewide” support, and after vetting the recommendations at LAAC Support Center meetings, and at a State Bar bi-monthly call with Legal Services programs, adopted the resolution at its December meeting. The new map for defining “statewide” better achieves its intended goals than the previous criteria, including assuring services outside the Bay Area and Los Angeles corridors.

Beginning 2017, Support Centers must demonstrate that they provide services in 5 of the 7 attached regions.

Previous Eligibility Guideline 2.2.3 for Support Centers:

Commentary:

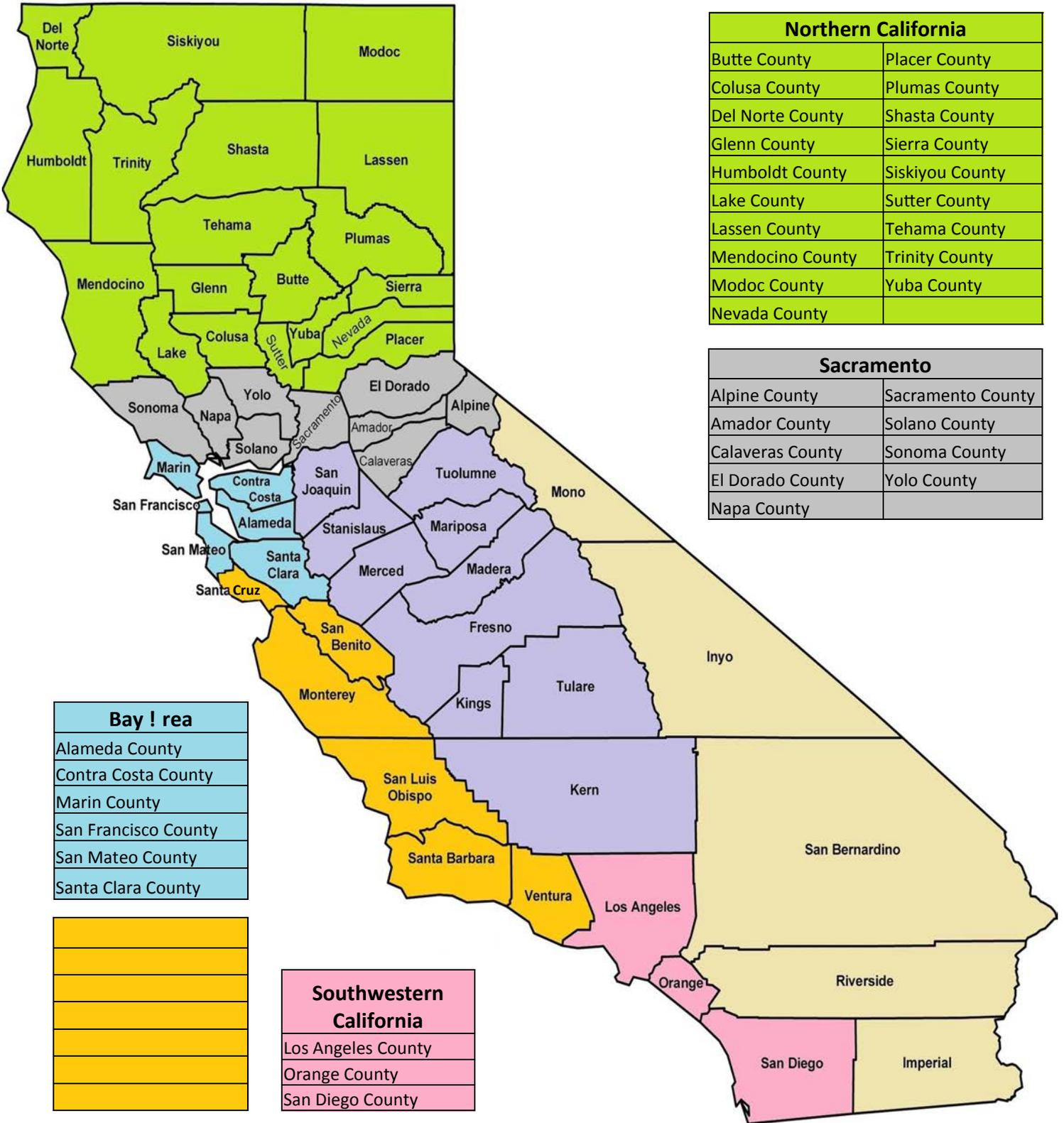
You must also demonstrate that you provide services on a statewide basis. Your services must have actually been utilized within the last year in a majority of the nine State Bar Districts that existed prior to July 1, 2010, and in at least two Northern California counties and two Southern California counties. Southern California counties shall include the counties of San Luis Obispo, Kern, San Bernardino and counties further south. At the end of these Guidelines, is a list of the counties assigned to each of the nine State Bar Districts.

Approved Revision to Eligibility Guideline 2.2.3 for Support Centers:

Commentary:

You must also demonstrate that you provide services on a statewide basis. Effective January 2017, your services must be utilized in five of the following seven districts: Northern California, Sacramento Area, Bay Area, Central Coast, Central Valley, Eastern California, and Southwestern California. At the end of these guidelines is a list of the counties assigned to each of the regions. (see, Legal Services Trust Fund Program, Support Center – 2017 Regional map)

Note: For services provided in 2016, Support Centers may apply the new regions, or rely on the prior requirement that the services were utilized within the last year in a majority of the nine State Bar Districts that existed prior to July 1, 2010, and in at least two Northern California counties and two Southern California counties. (see State Bar Districts, 2010 map)



Northern California	
Butte County	Placer County
Colusa County	Plumas County
Del Norte County	Shasta County
Glenn County	Sierra County
Humboldt County	Siskiyou County
Lake County	Sutter County
Lassen County	Tehama County
Mendocino County	Trinity County
Modoc County	Yuba County
Nevada County	

Sacramento	
Alpine County	Sacramento County
Amador County	Solano County
Calaveras County	Sonoma County
El Dorado County	Yolo County
Napa County	

Bay Area
Alameda County
Contra Costa County
Marin County
San Francisco County
San Mateo County
Santa Clara County

Southwestern California
Los Angeles County
Orange County
San Diego County

Central Valley	
Fresno County	Merced County
Kern County	San Joaquin County
Kings County	Stanislaus County
Madera County	Tulare County
Mariposa County	Tuolumne County

Eastern California
Imperial County
Inyo County
Mono County
Riverside County
San Bernardino County

**Legal Services Trust
Fund Program**
Support Center — 2017 Regional Map

STATE BAR DISTRICTS

The composition of State Bar Districts and the number of elected seats (in parentheses) on the Board of Governors in each District are as follows:



TITLE 3. PROGRAMS AND SERVICES

Adopted July 2007

DIVISION 5. PROVIDERS OF PROGRAMS AND SERVICES

Chapter 2. Legal Services Trust Fund Program

Article 1. Administration of the Legal Services Trust Fund Program

Rule 3.660 Legal Services Trust Fund Commission

The Board of Trustees of the State Bar of California has established a Legal Services Trust Fund Commission ("Commission") to administer, in accordance with legal requirements and these rules ("Trust Fund Requirements"), revenue from IOLTA (Interest on Lawyers' Trust Accounts) and other funds remitted to the Legal Services Trust Fund Program of the State Bar.

Rule 3.660 adopted effective March 6, 2009; amended effective January 1, 2012.

Rule 3.661 Duties of the Legal Services Trust Fund Commission

- (A) The Commission must determine an applicant's eligibility for grants and notify each grant applicant that its application has been approved or denied. If the Commission tentatively approves an application, it issues a notice of the grant award, including the tentative allocation. If the notice requires submission of additional information, the Commission considers the application incomplete pending receipt of the information.
- (B) The Commission must monitor and evaluate a recipient's compliance with Trust Fund Requirements and grant terms. The evaluation may be based on
 - (1) application information, grant reports, and additional information reasonably necessary to determine compliance with Trust Fund Requirements;
 - (2) reasonable site visits scheduled upon adequate notice;
 - (3) an evaluation of a recipient by an impartial third party designated and funded by the Commission; or
 - (4) information from other sources, such as an evaluation provided by the Legal Services Corporation or other funding entity.
- (C) The Standards for the Provision of Civil Legal Aid adopted by the American Bar Association's House of Delegates on August 7, 2006, as limited by the general introduction to the standards, are the guidelines used by the Commission in

approving the quality control procedures and reviewing and evaluating the maintenance of quality service and professional standards of applicant and recipient programs. With due notice, the Commission may also rely on other standards that are consistent with law and generally accepted access to justice principles in the legal aid community.

- (D) The Commission may terminate a grant for noncompliance or take other action in accordance with Article 4 of this chapter.

Rule 3.661 adopted effective March 6, 2009.

Rule 3.662 Legal Services Trust Fund Commission membership and terms

The Commission consists of twenty-one voting members and three nonvoting judicial advisors. At least two members must be or have been within five years of appointment indigent persons as defined by statute.¹ No employee or independent contractor acting as a consultant to a potential recipient of Trust Fund grants may be appointed to the Commission.

- (A) The Board of Trustees appoints fourteen voting members, ten of whom must be members of the State Bar and four of whom must be public members who have never been admitted to the practice of law in any United States jurisdiction. Each member serves at the pleasure of the Board for a term of three years that begins and ends at the State Bar annual meeting. Upon completion of an initial term, the Board may reappoint a member for a second three-year term. The Board may extend an initial or second term by one or two years to allow a member to serve as chair or vice-chair.
- (B) The chair of the Judicial Council appoints seven voting members, five of whom must be members of the State Bar and two of whom must be public members, as well as three nonvoting judges, one of whom must be an appellate justice. Each member serves at the pleasure of the chair of the Judicial Council for a term of three years.
- (C) The Board of Trustees appoints voting members as chair and vice-chair.

Rule 3.662 adopted effective March 6, 2009; amended effective January 1, 2012; amended effective September 14, 2014.

Article 2. Construction of certain statutory provisions

Rule 3.670 Operation in California by qualified entities

- (A) A qualified legal services project is required by statute to be a nonprofit corporation operating exclusively in California or a program operated exclusively

¹ Business & Professions Code § 6213(d).

in California by a nonprofit law school accredited by the State Bar.² A qualified legal services project that is a California nonprofit corporation with operations outside California may be considered as meeting the statutory requirement if it otherwise meets Trust Fund Requirements and expends Trust Fund Program grant funds only in California.

- (B) A qualified support center is required by statute to be an incorporated nonprofit legal services center that provides through an office in California a significant level of legal support services to qualified legal services projects on a statewide basis.³

Rule 3.670 adopted effective March 6, 2009.

Rule 3.671 Primary purpose and function

- (A) A qualified legal services project is required by statute to have as its primary purpose and function providing legal services without charge to indigent persons.⁴ A qualified legal services project applying for Trust Fund Program funds is presumed to have such a purpose and function if 75% or more of the budget for the fiscal year for which it is seeking funds is designated to provide free legal services to indigents, and 75% or more of its expenditures for the most recent reporting year were incurred for such services. The calculation of 75% of expenditures may include a reasonable share of administrative and overhead expenses.
- (B) A qualified support center is required by statute to have as its primary purpose and function the provision of legal training, legal technical assistance, or advocacy support without charge.⁵ A qualified support center applying for funds is presumed to have such a primary purpose and function if 75% or more of its budget for the fiscal year for which it is seeking funds is designated to provide such support services, and 75% or more of its expenditures for the most recent reporting year were incurred for such services.
- (C) A qualified legal services project or qualified support center that does not meet the 75% test may nevertheless apply, provided that the applicant can satisfactorily demonstrate that it meets the primary purpose and function requirement by other means.

Rule 3.671 adopted effective March 6, 2009.

Rule 3.672 Delivery of legal services

² Business & Professions Code § 6213(a).

³ Business & Professions Code § 6213(b).

⁴ Business & Professions Code § 6213(a)(1).

⁵ Business & Professions Code § 6213(b).

- (A) “Legal services” include all professional services provided by a member of the State Bar and similar or complementary services of a law student or paralegal under the supervision and control of a member of the State Bar in accordance with law.⁶
- (B) “Legal support services” required by statute to be provided by a qualified support center include but are not limited to
 - (1) professional services to qualified legal services projects; and
 - (2) the direct provision of legal services to an indigent client of a qualified legal services project, provided the services are provided directly to the client
 - (a) as co-counsel with an attorney employed or recruited by a qualified legal services project; or
 - (b) at the request of an attorney employed or recruited by a qualified legal services project that is unable to assist the client.⁷

Rule 3.672 adopted effective March 6, 2009.

Rule 3.673 Permissible uses of funds

- (A) A qualified legal services project or qualified support center must use funds received under Business and Professions Code Section 6216 to provide legal assistance to indigent persons or qualified legal services projects as defined by statute.⁸ Reasonable administrative expenditures and overhead required to deliver such services meet the statutory requirement.
- (B) No recipient may use an allocation made under Business and Professions Code Section 6216 to provide services in a fee-generating case, except as described in Business and Professions Code Section 6213(e)(1)-(4). If a recipient determines that a case is not fee generating because it qualifies for a statutory exemption,⁹ the recipient must maintain records reflecting the facts that led to that conclusion and any action taken to confirm it. Client reimbursements of nominal costs or expenses are not considered fees. If attorney fees are generated in cases funded by Trust Fund Program grants, the fees must be used only for purposes permitted by statute.¹⁰ Recipients must maintain complete records of all such fees.

Rule 3.673 adopted effective March 6, 2009.

⁶ Business & Professions Code § 6213(a).

⁷ Business & Professions Code § 6213(b).

⁸ Business & Professions Code §§ 6216 and 6223.

⁹ Business & Professions Code § 6213(e)(1).

¹⁰ Business & Professions Code § 6223.

Article 3. Applications and distributions

Rule 3.680 Application for Trust Fund Program grants

To be considered for a Trust Fund Program grant, a qualified legal services project or qualified support center seeking a Trust Fund Program grant must submit a timely and complete application for funding in the manner prescribed by the Commission. The applicant must agree to use any grant in accordance with grant terms and legal requirements.

- (A) A qualified legal services project must meet statutory criteria.
- (B) A qualified support center must agree to offer support services in two or more of the following ways: consultation, representation, information services, and training. The board of directors of the support center must establish priorities for providing such services after consulting with legal services attorneys and other relevant stakeholders.
- (C) A support center not in existence prior to December 31, 1980 must demonstrate that it is deemed to be of special need by a majority of qualified legal services projects in accordance with Trust Fund Program procedures. Upon request, the Commission must make available to the applicant a list of all the names and addresses of qualified legal services projects.
- (D) A nonprofit corporation that believes it meets the criteria for a qualified legal services project and qualified support center may submit two applications, one as a project and one as a support center, indicating in each application whether it is to be considered the primary or secondary application. The Commission will consider the secondary application only if the primary application is not approved. No applicant may receive a grant as a qualified legal services project and as a qualified support center.
- (E) An application must include
 - (1) an audited financial statement by an independent certified public accountant for the latest completed fiscal year; if the fiscal year is not a calendar year, the application must also include an income and expense statement for the time between the closing date of the statement and December 31. A financial review in lieu of an audited financial statement may be submitted by an applicant whose gross corporate expenditures were less than the amount specified in the Schedule of Charges and Deadlines;
 - (2) information about the maintenance of quality service and professional standards and how the applicant maintains standards, such as internal

quality control and review procedures; experience and educational requirements of attorneys and paralegals; supervisory structure, procedures, and responsibilities; job descriptions and current salaries for all filled and unfilled professional and management positions; and fiscal controls and procedures.

- (3) a budget and budget narrative, which must be submitted within thirty days of receipt of a notice of tentative allocation, explaining how funds will be used to provide civil legal services to indigent persons, especially underserved client groups such as, the elderly, the disabled, juveniles, and non-English-speaking persons within the applicant's service area; and
- (4) information about program activities, such as substantive practice areas, extent and complexity of services, a summary of litigation, and populations served.

Rule 3.680 adopted effective March 6, 2009.

Rule 3.681 Duties of Trust Fund Program grant recipient

The recipient of a Trust Fund Program grant must

- (A) use the grant in accordance with the terms of the grant agreement and Trust Fund Requirements;
- (B) maintain complete financial records, including budgets, to account for the receipt and expenditure of all grant funds and all income earned by a grant recipient from grant-supported activities, such as income from fees for services (including attorney fee awards and reimbursed costs), training, sales and rentals of real or personal property, and interest earned on grant amounts;
- (C) maintain records for five years after completion of services to a client regarding the eligibility of the client and promptly provide such records to the Commission for inspection upon demand;
- (D) annually submit information that describes, in the manner required by the Commission, the grant recipient's maintenance of quality service and professional standards and compliance with program requirements and, as requested by the Commission,
 - (1) information for evaluative purposes about program activities in the prior grant year; and
 - (2) information to enhance the delivery system of legal services;
- (E) cooperate regarding any reasonable site visit;

- (F) submit timely quarterly financial reports and any other information reasonably required by the Commission; and
- (G) pay any noncompliance fees set forth in the Schedule of Charges and Deadlines for processing documents that are substantially noncompliant with Trust Fund Requirements or that are late without permission.

Rule 3.681 adopted effective March 6, 2009.

Rule 3.682 No abrogation of legal or professional responsibilities

Nothing in these rules may limit or impair in any way the professional responsibility of an attorney to provide a client with legal services appropriate to the client's needs. Trust Fund Program applicants and recipients and their staffs; volunteers; consultants; and clients and prospective clients are entitled to all rights and privileges under the law. Nothing in these rules may be interpreted to require a grant applicant or recipient to violate the law.¹¹

Rule 3.682 adopted effective March 6, 2009.

Article 4. Requests for review and complaint process

Rule 3.690 Receipt of document

For purposes of this article, receipt of a document mailed by staff or the Commission is deemed to be the earlier of either five days after the date of mailing or is the actual time of receipt when staff or the Commission delivers a document physically by courier or otherwise.

Rule 3.690 adopted effective March 6, 2009.

Rule 3.691 Denial or termination of funding

- (A) The Commission has the authority to deny an application for initial funding or for renewal of funding, or to terminate existing funding in accordance with law and these rules.¹² The applicant or grant recipient is entitled to written notice of the denial or termination.
- (B) The applicant or grant recipient may request reconsideration by the Commission.
 - (1) The request must be provided to the Commission in writing within thirty days of receipt of the notice of denial or termination of funding. The request may include additional information.

¹¹ Business & Professions Code § 6217(d).

¹² Business & Professions Code § 6224.

- (2) The Commission may affirm its decision, modify its decision, or schedule an informal conference to be held within ninety days of receipt of the request. The applicant or recipient is entitled to written notice of the date, time and place of the conference, and must have an opportunity to present information at the conference.
- (3) Unless all parties agree otherwise, the Commission must mail or otherwise deliver a written decision within sixty days of the conference.
- (C) Within thirty days of receipt of written notice of the Commission decision on the request for reconsideration, the applicant or grant recipient may file a request for review by the State Bar Court. The request must be submitted to the State Bar Court in accordance with the Rules of Procedure of the State Bar on Legal Services Trust Fund Proceedings. Pending a final decision by the State Bar Court, a current grant recipient must continue to receive funding.
- (D) The decision of the Commission on the request for reconsideration is final if the applicant or grant recipient fails to file a timely request for review by the State Bar Court.

Rule 3.691 adopted effective March 6, 2009.

Rule 3.692 Complaints

- (A) Any person or entity may file a formal written complaint that a grant recipient fails to meet Trust Fund Requirements.
- (B) Staff must provide a copy of a formal written complaint to the grant recipient whom it concerns and attempt to resolve the complaint. If the complaint is not resolved within ninety days after staff receives the complaint, staff must provide the Commission, complainant, and recipient with a written report of its efforts to resolve the complaint and recommendation of what action, if any, is appropriate.
- (C) Within thirty days of receipt of the staff report, the complainant and grant recipient may provide the Commission with a written response that may include additional information and may request review by the Commission.
- (D) Within a reasonable time, the Commission or a committee of its members appointed by the Commission must consider the staff report and any response. The Commission or committee must then dismiss the complaint or schedule an informal conference. The complainant and grant recipient are entitled to written notice of a dismissal or the date, time, and place of the conference.
- (E) At the informal conference, the staff member who conducted the investigation must be present barring extenuating circumstances. The complainant and grant recipient must have an opportunity to present information. The Commission must issue a written notice dismissing the complaint; requiring corrective action; or

terminating funds. The complainant and recipient are entitled to written notice of the decision.

- (F) If the Commission or committee decides to dismiss the complaint, the decision is final.
- (G) If the Commission or committee decides to terminate funding, within thirty days of receipt of written notice of the decision the grant recipient may file a request for review by the State Bar Court. The request must be submitted to the State Bar Court in accordance with the Rules of Procedure of the State Bar on Legal Services Trust Fund Proceedings. Pending a final decision by the State Bar Court, a current grant recipient must continue to receive funding.
- (H) The decision of the Commission to terminate funding is final if the grant recipient fails to file a timely request for review by the State Bar Court.

Rule 3.692 adopted effective March 6, 2009.

THE STATE BAR OF CALIFORNIA
LEGAL SERVICES TRUST FUND PROGRAM

**STANDARDS FOR FINANCIAL MANAGEMENT
SYSTEMS AND AUDITS**

MAY 2006

TABLE OF CONTENTS

	Page
100.00 GENERAL COMMENT	1
100.20 ACCRUAL OR CASH BASIS OF ACCOUNTING	2
100.30 COST PRINCIPLES.....	2
100.31 Basic Policy; Scope	2
100.32 Costs Allowable with Approval.....	2
100.40 PROPERTY (Reversionary Interest).....	3
100.60 ACCOUNTING RECORDS	3
100.61 General Ledger.....	4
100.62 Cash Receipts Journal.....	4
100.63 Cash Disbursements Journal.....	4
100.64 Payroll Records	4
100.65 Property Records.....	6
100.66 General Journal/Journal Voucher	6
100.70 BASIC CHART OF ACCOUNTS.....	7
100.80 DESCRIPTION OF ACCOUNTS	10
100.81 Assets	11
100.82 Liabilities (Accrual Basis of Accounting).....	12
100.83 Fund Balance.....	13
100.84 Support and Revenue.....	13
100.85 Expenses	13
110.00 INTERNAL CONTROL.....	16
110.10 DEFINITION	17
110.20 CHARACTERISTICS	17
100.21 Definition of Authority and Responsibility	17
100.22 Segregation of Duties	18
100.23 Establishment of Independent Checks and Proofs	18
110.30 PRIMARY FEATURES.....	19
120.00 FINANCIAL REPORTING.....	21

STANDARDS FOR FINANCIAL MANAGEMENT SYSTEMS AND AUDITS

100.00 GENERAL COMMENT

The State Bar of California (SBC) requires that the accounting principles employed by its Recipients in recording transactions and preparing financial statements be based upon generally accepted accounting principles (GAAP).

When applying these Standards, every Recipient should review the suggested accounting policy in each area in light of its materiality to the program. Items that are not material should be accounted for in the most reasonable and efficient manner. The concept of materiality as used in accounting has been defined as a state of relative importance. The materiality of an item may depend on its size, nature or a combination of both. The working rule in applying the concept of materiality is to ask the question: "Is the item of sufficient importance to influence the conclusions and actions of users of the financial information?" More specifically, if the items were not accounted for in accordance with the standards, would the reader of the financial statements be misled with respect to understanding the nature and extent of assets available for use in program operations; the nature and extent of liabilities incurred by the program; the trust relationships that may exist between the program and clients; and, among other considerations, the nature and scope of the program's operations.

100.20 ACCRUAL OR CASH BASIS OF ACCOUNTING

A Recipient's annual financial statements may be prepared on the accrual or cash basis of accounting. Under the accrual basis of accounting, expenses are recorded when incurred as opposed to when they are actually paid. Revenue is recorded when earned instead of when received.

Under the cash basis of accounting, expenses are recorded when actually paid as opposed to when incurred. Revenue is recorded when received instead of when earned.

100.30 COST PRINCIPLES

100.31 Basic Policy; Scope. Grant funds may be used only for allowable costs of the activities for which the Grant was awarded. These Standards for Financial Management Systems and Audits identify the principles to be used in determining allowable costs. The principles apply to Grant activities conducted by Recipients.

100.32 Costs Allowable with Approval. Each set of cost principles identifies certain costs that, in order to be allowable, must be approved by the SBC. Other costs do not require approval. The following procedures govern approval of these costs.

- (a) When costs are treated as Administrative costs, acceptance of the costs as part of the indirect cost rate or cost allocation plan shall constitute approval.
- (b) When the costs are treated as Program costs, the SBC must approve them in advance.

Costs contained in the Approved Budget shall be deemed approved.

100.40 PROPERTY (Reversionary Interest)

In many cases, a funding source maintains a reversionary interest in property purchased with its funds. Simply stated, a reversionary interest requires that property, or the proceeds from the sale of such property, must be returned to the appropriate funding source if at some future date such property is disposed of or recipient's funding is terminated, or if the SBC does not fund a recipient immediately following the expiration of a grant period.

Approval for sale of property is required. It shall be in writing and signed by the Director in order to be valid. When requesting a prior approval, Recipients shall address their requests to the Director.

The SBC intends to retain a reversionary interest in property acquired with the Grant. In the event of a cessation of use of such property by the Recipient for uses approved by the SBC, then the Recipient must return the property to the SBC or make arrangements satisfactory to the SBC to insure that the property or its proceeds (if disposition is approved by the SBC) is transferred to an approved provider of civil legal services to the indigent and used for an approved purpose.

100.60 ACCOUNTING RECORDS

The following is a brief description of the accounting records considered necessary for the adequate recording of financial transactions. Accounting records must be maintained on a double-entry accounting system and must be adequate to enable the recipient to prepare its annual financial statements, internal budget and other management reports.

- 100.61 General Ledger. The general ledger is used to summarize and classify all financial transactions from data accumulated in the books of original entry into their proper accounts (i.e., salaries, space, etc.). It is the source for most of the data needed for preparing financial statements. The general ledger is the final and permanent record of all of the Recipient's financial transactions.
- 100.62 Cash Receipts Journal. The cash receipts journal is a book of original entry in which cash receipts (i.e., cash, checks, and money orders) are recorded in chronological sequence when received. Bank deposit slips must contain sufficient information so that all deposits can be identified with their source.
- 100.63 Cash Disbursements Journal. A cash disbursements journal is a book of original entry in which disbursements are recorded in a chronological sequence. All disbursements must be made by pre-numbered checks used in numerical sequence. Each check must be supported by appropriate documentation (i.e., payroll records, invoices, contracts, travel reports, etc.) evidencing the nature and propriety of the expense and documenting the approval by an authorized official.
- 100.64 Payroll Records. Basic payroll records must accumulate payroll data required by federal, state and local laws. Documentation must be maintained to support individual gross earnings. A personnel file

should be established for each employee and should include the following data:

- (1) Employment contract if applicable, wage or salary authorization.
- (2) Current Federal income tax withholding form (W-4).
- (3) Current State income tax withholding form.
- (4) Authorization for all other payroll deductions.
- (5) Authorization for all wage/salary actions.

Each Recipient is required to establish an adequate time-reporting system. This system must be able to identify employee hours worked so that compliance with federal and state laws with respect to overtime and pay rates can be demonstrated. It must also be able to demonstrate accountability for time to the public. A small Recipient with several employees could use a sign-up sheet whereby every employee would record his/her daily hours. A larger Recipient would probably utilize a "time report" system whereby such employee would complete and sign an individual time sheet. Whether a sign-up sheet, a time report or other method is utilized, a supervisor in a position to verify the information should approve the document.

A vacation and sick leave record must be maintained currently for each employee. This record would include information in hours or other reasonable units (i.e., days, fractions of days) for the amount of

vacations and sick leave earned during the period taken during the period, and remaining at the end of the period. As a method of checking the accuracy of this record and providing employees with knowledge of "where they stand," employees should be informed of their vacation and sick leave balances periodically.

100.65 Property Records. Individual property records shall be maintained for each item costing in excess of \$1,000 per unit. The property records to be maintained must include: (1) a description of the item, including model and serial number (if the property has no such number, it must be tagged with an identifying number to ensure the internal records are effective in controlling property); (2) date of acquisition; (3) check number used to pay for item; (4) cost; and (5) useful life.

100.66 General Journal/Journal Voucher. A general journal or journal voucher system is used to process transactions, which are not recorded originally in the cash receipts journal, cash disbursements journal or payroll register. Each journal entry must be supported by a complete explanation and documentation of the transaction being recorded.

The accounting records discussed in these Standards can be maintained by either a manual or an automated system. Each Recipient should establish the system most appropriate to meet its needs and to provide an adequate audit trail of all transactions.

100.70 BASIC CHART OF ACCOUNTS

The following is an illustrative basic chart of accounts, which would provide details necessary for the preparation of financial statements in accordance with these Financial Management Systems and Audits Standards. This illustration is not intended to dictate the format or level of detail to be used by individual programs, but is simply one method of achieving the accounting requirements of these Standards. While the account numbering system, account descriptions and level of detail utilized by Recipients should be designed to provide management reporting and financial disclosures specifically related to that program, they must also accommodate the SBC reporting requirements.

The illustrative chart of accounts assigns a three-digit number to every major natural account classification reflected in the financial statements. By changing the last two digits of the three-digit number, Recipients can maintain the greater detail needed to control and monitor operations. For example, the natural account “cash-general” is a broad description. Most organizations would require an individual general ledger account for each bank account. This can be achieved by establishing accounts under a natural account classification as follows:

<u>100 Cash – General</u>	<u>Account No.</u>
General Disbursement Account PDQ Bank	101
Payroll Account - PDQ Bank	102
Petty Cash	103

The total of all 100 series accounts (i.e., 101, 102, and 103) represents the cash amount reported in the financial statements. This procedure can be used to maintain details for any of the natural account classifications reported in the financial statements.

A sample chart of accounts is shown below. Each Recipient's chart of accounts must reflect the degree of detail appropriate under the circumstances.

<u>Natural Classifications</u>	<u>Account No.</u>
<u>Assets (100 Series):</u>	
Cash - General (Title)	100
General Disbursement Account	101
Payroll Account	102
Petty Cash	103
Receivables (Title)	120
Receivable - SBC	121
Prepaid and Travel Advance	130
Travel Advances	131
Prepaid Expenses	132
Furniture, fixtures and equipment (Title)	140
Furniture	141
Fixtures	142
Equipment	143
Leasehold Improvements (Title)	150
Leasehold Improvements	151
Law Library	160

Accumulated Depreciation (Title)	170
Furniture	171
Fixtures	172
Equipment	173

Liabilities (200 Series):

Accounts Payable (Title)	
Employee Withholding Payables	200
(Title) FICA, FIT, SIT, SDI, etc.	210
Accrued Payable (Title)	220
Accounts Payable Disbursement	221
Advance Payable	222
Accrued Payable	223

Fund Balance (300 Series) (Title):

General Fund	310
Property	320

Revenue (400 Series):

Grants Revenue (Title)	400
Revenue - SBC	401
Interest Revenue (Title)	410
Interest	411
Miscellaneous (Title)	420
Miscellaneous	421

Expenses (500 and 600 Series):

Personnel (Title)	500
Lawyers	501
Paralegals	502
Other Staff	503
Employee Benefits	530

Legal Consultants	540
Contract Services	550
Training Expenses	560
Travel	570
Space and Occupancy	580
Insurance Expenses	590
Office Expenses	600
Telephone Expenses	610
Litigation Costs	620
Equipment Rental	630
Miscellaneous Purchases of Property and Library	640
Depreciation and Amortization	650

Property Activity (700 Series):

Acquisition of Property	700
Acquisition of Library	710
Proceeds from Sale of Property	720
Gain or Loss on Sale of Property	730

100.80 DESCRIPTION OF ACCOUNTS

The basic chart of accounts described above provides one method of organizing a Recipient's accounting records. Whether the Recipient utilizes this chart of accounts or another, the general ledger must contain the following accounts, which record an acceptable level of detail for full financial disclosure. The following account descriptions are intended to illustrate the nature of the charges that may be made to specific accounts. Particular Recipients may require different designations to accommodate their own information needs.

100.81 Assets.

Cash--General Disbursements - To record funds on deposit in bank accounts for operating purposes as opposed to special purposes such as payroll and escrow accounts discussed below. Separate accounts should be maintained for each bank account.

Cash--Payroll Account - To record the amount on deposit in a separate bank account for payment of payroll and maintained on an imprest basis.

Petty Cash - To record cash held at the Recipient's office for paying minor bills. The account must be maintained on an imprest basis with the balance established at the lowest possible level commensurate with efficient operations. The petty cash account in the general ledger always reflects the total value of the fund, in cash and/or vouchers. The fund should be reimbursed periodically for the exact amount of the petty cash vouchers.

Receivable(s)--Other - To record miscellaneous accounts receivable.

Travel Advances to Employees - To record the amount of travel advances outstanding (i.e., advanced to employees but not accounted for on subsequent expense reports). A subsidiary record or subaccount must be maintained for each employee.

Deposits - To record the amount of refundable deposits made, for example, to the telephone company or landlord.

Prepaid Expenses - To record the amount of expenses paid which

apply to future periods. SBC recommends that a prepaid expense should not be recorded unless the expense applies to a period more than 18 months from the date incurred and the prepaid balance of an individual item is considered material. The Recipient may choose to record additional prepaid items outside this prescribed criteria if management believes the information is needed.

100.82 Liabilities (Accrual Basis of Accounting).

Accounts Payable - To record the amount of unpaid vendor invoices on hand. This account should be used at the close of an accounting period to convert the books to the accrual basis of accounting. If books are maintained on the accrual basis, the account will have a continuous balance.

Employee Withholdings Payable - To record the amount of money that has been withheld from the employees' salaries (i.e., FICA, federal, state and local taxes, pension, health insurance, etc.). Separate accounts should be maintained for each type of withholding.

Accrued Expenses - To record the estimated cost of goods or services received for which an invoice has not yet been received. The accrual is utilized at the close of an accounting period to record salaries, employer's share of FICA taxes, other taxes, etc., which are owed but not paid. Separate accounts should be maintained for accrued salaries and other miscellaneous accruals (e.g., utilities and consultant fees).

100.83 Fund Balance.

Restricted - This account accumulates the balance of support over expenses for grants, contracts and other awards, which have restrictions attached.

Property - This account accumulates the net equity in all furniture, fixtures, equipment and law books purchased.

100.84 Support and Revenue.

Grant and Contracts - To record the amount of funds earned during the accounting period.

Interest Revenue - To record interest earned during the year.

Miscellaneous Revenue - This account records miscellaneous income which cannot be classified in any of the above accounts. Where amounts are significant, separate accounts should be established.

100.85 Expenses.

Salaries and Wages - To record the salaries of all program personnel. Normally, including all salaries and wages in one account would not provide adequate information about program activities. Salaries and wages must be subdivided into those constituting Program Costs and those constituting Administrative Costs. Each program should subdivide the salaries and wages account into the categories, which will be most meaningful for management and evaluation by the SBC.

Employee Benefits - To record the costs of items such as employer FICA taxes, unemployment taxes, employer retirement contributions,

employer health and life insurance payments, workmen's compensation and other payroll related benefit items offered by the program. Individual subaccounts must be maintained for each of these items.

Legal Consultants - To record the payments for legal consultants who are not full-time employees of the program.

Contracted Services - To record the costs of contracted or purchased services. For financial statement purposes contract services should be adequately described as to their nature where material. For example, for proper disclosure, contract services may require classifications into accounting services and other consulting services.

Training Expenses - All non-personnel costs paid for with regular program funds, associated with the training or continuing education of staff members, should be included here. Examples would be: travel to/from training events, per diem, conference registration fees or tuition, purchase of training materials, rent for facilities used in a training event, consultant fees paid to trainers, etc. Materials or equipment purchased for training with a value in excess of \$1,000 should be reported under "Capital Additions." No program personnel costs should be included here.

Travel - To record travel costs (e.g., local transportation, lodging expenses while away and airfare). This account should be subdivided in accordance with the management's needs to control the various

elements of travel costs such as travel relating to legal work, travel relating to administrative work, travel related to training, etc.

Space and Occupancy - To record the costs of rent, utilities (such as electricity, water and gas), janitorial services and hazard insurance. Individual subaccounts should be maintained for these items as is necessary.

Insurance Expenses - This category includes professional liability insurance, bonding, property insurance (fire and theft) and liability insurance for property and automobiles.

Office Expenses - To record the costs of office supplies, printing, reproduction supplies, advertising and publicity, postage, telephone and insurance other than hazard and employee benefit insurance. Recipients should establish separate accounts for any of the above items if the amounts are significant.

Telephone Expenses - This category includes estimates for the rent of telephone equipment and long distance calls. Similar and related expenses such as telegraph or other telecommunications should be included as well.

Litigation Costs - To record costs of depositions and transcripts, service of process, filing fees, expert witnesses and any other litigation costs paid by the program and not the client.

Equipment Rental - To record all costs of renting or leasing furniture and equipment.

Library Maintenance - To record the costs of all publications purchased for the library that are not capitalized.

Note: Adequate financial statement disclosure may require that account descriptions different from the above be used. The above descriptions represent suggestions for grouping similar costs. The level of detail for adequate financial statement reporting and meaningful management reports may be determined by the Recipient and its auditor.

110.00 INTERNAL CONTROL

A financial audit will not prevent defalcations and is not intended for that specific purpose. Every program must rely instead upon its own system of internal accounting controls and procedures to detect promptly and help reduce the likelihood of misappropriation of funds. The objectives of internal controls are not limited to this purpose only. This section discusses minimum internal control procedures Recipients must establish to meet the objectives inherent in the definition of internal control.

110.10 DEFINITION

Internal controls encompass the coordinated methods and measures adopted by an organization to safeguard assets, check the accuracy and reliability of accounting data, promote operating efficiency, and encourage adherence to prescribed management policies. Obviously this is a broad definition and extends beyond those matters, which relate directly to accounting and financial reporting. It encompasses controls over all of the paper work in an organization.

This section will emphasize the physical and administrative controls over a program's assets--principally cash. At best, the required and suggested procedures will minimize the likelihood of misappropriation of assets and misstatement of accounts and maximize the likelihood of detection if it occurs.

110.20 CHARACTERISTICS

In establishing an adequate system of internal control, certain basic concepts must be considered. Although each organization is unique, and, therefore, any control procedures must likewise be unique and "custom made," the following characteristics are generally applicable.

110.21 Definition of Authority and Responsibility. The duties of all program personnel should be defined as to their specific responsibilities. Such a delineation may be flexible and informal in a small program with a few employees, or it may be carefully defined by an administrative manual in a larger program. In the accounting area this means that only certain specified individuals may sign checks, approve invoices

for payment, prepare grant and contract reports and deposit cash receipts.

110.22 Segregation of Duties. Broadly considered, segregation of duties means that program and accounting functions should be separated so that no individual simultaneously has both the physical control and the record keeping responsibility for any asset or categories of assets (e.g., cash, bank reconciliation, supplies, and property). Within the accounting area, duties preferably should be segregated so that no individual can initiate, execute and record a transaction without a second individual being involved in that process. If this level of segregation is not possible because of the program's size, the work of the accountant should be reviewed and approved by the program director or the director's delegate.

110.23 Establishment of Independent Checks and Proofs. Independent checks and proofs consist of regular internal checks on the recording of transactions and the preparation of financial reports. For example, a certain measure of clerical accuracy can be accomplished through the use of a columnar cash disbursements journal that is balanced monthly and posted to the general ledger. Thereafter, the general ledger cash balance would be reconciled to the monthly bank statement.

110.30 PRIMARY FEATURES

The following features are considered basic internal control procedures that any program, regardless of size, should establish. It cannot be overemphasized that these features represent only the rudimentary control procedures that must be incorporated by every recipient to demonstrate a minimum level of financial stewardship. Once these features have been successfully implemented, recipients should begin assessing additional procedures to provide greater control assurances.

1. Each Recipient should have adequately trained competent accountant personnel to properly document, record, account for and report on its financial transactions.
2. All bank accounts must be authorized by the Recipient's board of directors. There must be sufficient justification for utilizing more than one bank account. Any account not used must be closed and the bank notified in writing not to process any subsequent transactions. Any remaining blank checks for closed accounts must be destroyed.
3. All cash receipts must be recorded in a journal. Checks received must be restrictively endorsed and deposited intact currently.
4. All disbursements (other than petty cash disbursements) must be made by prenumbered checks signed by two (2) individuals authorized by the board of directors. No checks may be made payable to cash.
5. All disbursements must be supported by vendors' invoices or other supporting documents.

6. Bank statements must be reconciled monthly to the general ledger balance. The reconciliations must be reviewed and approved by a responsible individual and retained.
7. Petty cash funds must be maintained on an imprest basis and recorded in the general ledger.
8. The physical facilities for storing blank checks, general ledger, subsidiary ledgers and other important documents must be adequate.
9. Detailed property records must be maintained and reconciled to the general ledger. Once a year an inventory must be taken of the program's property and the results of that inventory compared to the accounting records. Significant differences should be investigated.
10. There should be fidelity insurance on all individuals who handle cash, sign checks, have purchasing or other financial responsibilities.
11. There must be an organized filing system for all paid invoices, cancelled checks, contracts and agreements, reports to funding sources, tax returns (with supporting work papers and employee files).
12. There must be interim management reports preferably prepared monthly, but at least quarterly, that compare actual expenditures to the Approved Budget. The program director should review the reasons for any significant variations from the budget, and also compare projected future expenditures against the unexpended portion of the budget.
13. General policy with respect to insurance coverage should be defined and procedures instituted to insure that all significant business risks have

been covered. Insurance coverage should periodically be reviewed with a competent insurance agent.

120.00 FINANCIAL REPORTING

The report consists of two parts: (1) Forms A and B, and (2) Form C. Forms A and B must be completed by all recipients. Multi-county recipients must also complete Form C of the report.

Each recipient is required to report to the SBC on a calendar quarter basis. Quarterly and year-to-date reports must be mailed to the SBC within thirty days following the end of each calendar quarter. The report format of the quarterly financial statement is illustrated on pages 22 through 24. Electronic forms can be found on-line at <http://www.calbar.ca.gov/ioltaapplicationmaterials>.

Selected References: Appendix I Sub-Entity Review Global Recommendations

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											January 9, 2019, Clarification
Key Grant Approval and Administration Functions by Grant Type	Current Staff Role	Current Commission Role	Proposed Staff Role	Proposed Commission Role	Change from Current?	Policy?	Administrative?	Current BOT Role?	Proposed BOT Role		
IOLTA/EAF/Justice Gap/Licensee Fee Statement Grants											
1	Development of policy/guidelines/statutory change	Propose rule and guideline changes	Commission role has been inconsistent	Propose rule and guideline changes; identify "gray areas" and bring to Commission for review	Approve rule and guideline changes, identify need for new rules and guidelines to address "gray areas"; address "gray areas" through guideline or rule revision proposals annually	Yes	X		Unclear as related to guidelines	Approve all rule and guideline changes	Grant determination and allocation policies and practices to be codified solely in rules or guidelines. This will result in the need for practices developed and sustained through oral tradition as well as staff notes to be codified as either guidelines or rules. Examples provided as meeting handout.
2	Determine total amount available for distribution	Staff develops options and recommendations based on evaluation of current interest revenue and projection for future	Commission (vote on staff identified options)	Same	Same	No	X (determination of overall reserve balance to maintain)	X (determination of actual dollar amount available once policy decision made)	Approve	Same	
3	Review application and audit to determine eligibility	Staff determines eligibility for most programs, subject to final Commission approval	Commission determines eligibility (If staff review reveals substantive issues.) Final vote on all eligible programs.	See * below	See * below	Yes			None	None	Distinction between current and proposed process reflects the fact that initial eligibility determinations will be made by staff pursuant to documented rules and guidelines, with the LSTFC only weighing in on those applications that staff has brought forward to the Commission because there is an issue presented that is not adequately addressed by guidelines or rules.
	*Determination of primary purpose as the provision of legal services to the indigent for QLSPs and as the provision of legal support services to the legal aid community for Support Centers.	Staff determines whether programs have met the primary purpose requirement for most programs, and where determination is not apparent, Staff elevates to Commission for determination.	Commission determines whether programs have met primary purpose (If staff review reveals substantive issues.)	Staff makes final determinations for all applications within established policy / guidelines	Commission makes determination for all applications presenting novel issues or issues not clearly identified within established policy / guidelines	Yes	X (Commission)	X (Staff)	None	None	Distinction between current and proposed process reflects the fact that initial eligibility determinations will be made by staff pursuant to documented rules and guidelines, with the LSTFC only weighing in on those applications that staff has brought forward to the Commission because there is an issue presented that is not adequately addressed by guidelines or rules.
	*Review of qualified expenditures to meet presumption of "primary purpose"	Staff determines whether programs have properly reported qualified expenditures. If activities are questionable, Commission makes final determination.	Commission determines if expenditures are properly deducted if there are questionable activities.	Staff makes final determinations for all applications within established policy / guidelines	Commission makes determination for all applications presenting novel issues or issues not clearly identified within established policy / guidelines	Yes	X (Commission)	X (Staff)	None	None	Distinction between current and proposed process reflects the fact that initial eligibility determinations will be made by staff pursuant to documented rules and guidelines, with the LSTFC only weighing in on those applications that staff has brought forward to the Commission because there is an issue presented that is not adequately addressed by guidelines or rules.

Key Grant Approval and Administration Functions by Grant Type		Current Staff Role	Current Commission Role	Proposed Staff Role	Proposed Commission Role	Change from Current?	Policy?	Administrative?	Current BOT Role?	Proposed BOT Role	January 9, 2019, Clarification
	* Review to determine if meet definition of "legal services"	Staff determines whether reported activities qualify as legal services. If activities questionable, Commission makes final determination.	Commission determines if activities meet definition of "legal services" if there are questionable activities.	Staff makes final determinations for all applications within established policy / guidelines	Commission makes determination for all applications presenting novel issues or issues not clearly identified within established policy / guidelines	Yes	X (Commission)	X (Staff)	None	None	Distinction between current and proposed process reflects the fact that initial eligibility determinations will be made by staff pursuant to documented rules and guidelines, with the LSTFC only weighing in on those applications that staff has brought forward to the Commission because there is an issue presented that is not adequately addressed by guidelines or rules.
	* eligibility conferences	1 staff participates in eligibility conference when Commission cannot determine eligibility on the face of the application	2 Commission members participate in eligibility conference with staff person	Same	Same	No	X		None	None	
4	Determination of program level allocations	Staff runs the formula	Commission approval of full list of programs and allocations	Staff	Commission approval of full list of programs and allocations	No		X	None	Informational item to BOT	
5	Review of program submitted budgets (regarding how grant funds will be used)	Staff reviews budget for consistency with guidelines/rules, e.g. excess overhead, % to personnel, EAF for an identified project	Commission approves budgeting of the allocation (in rare circumstances, elevate to conference with staff & Commission)	Same	Commission reviews elevated items only	Yes		X	None	None	
6	Triennial Site / Monitoring Visits	Staff conducts monitoring site visits (@30 per year) to ensure compliance with funding requirements and provide technical assistance	Commission requested to attend by staff if staff have concerns/probs re: certain activities &/or expenditures), or for educational purposes	Same	LSTFC members participate for educational purposes only.	Yes			None	None	Three year history of LSTFC member participation in site visits: 2018: 4 visits (Eric Isken, Christina Vanarelli, Jim Meeker, Amin Al-Sarraf) 2017: 5 visits (Bob Planthold, Corey Friedman, Jim Meeker, LaQuitta Robbins) 2016: 3 visits (LaQuita Robbins, Justice Murray, Kim Savage)
7	Monitoring visit guidelines (incl. review of conflict check system; income eligibility, Board governance, etc)	Staff drafts	Commission approves	Same	Same	No		X	None	None	

Key Grant Approval and Administration Functions by Grant Type		Current Staff Role	Current Commission Role	Proposed Staff Role	Proposed Commission Role	Change from Current?	Policy?	Administrative?	Current BOT Role?	Proposed BOT Role	January 9, 2019, Clarification
	* review/revise deeming process/policy	Staff proposes	Commission approves	Staff proposes	Commission approves	No	X		None	Approve	Will be approved by BOT as part of guideline approval process.
	*implement deeming process/policy	Staff conducts process	None	Same	Same	No		X	None	None	
15	Appeal of staff determinations	New	New	None	Commission hears "appeals" of staff determinations	Yes	X		None	None	
Partnership Grants											
1	Establish evaluation, selection, and funding level criteria	Unclear	Unclear	Staff recommends	Commission approves	Yes	X			Approve (Judicial Council may also need to approve)	Will be approved by BOT as part of guideline approval process.
2	Review application (including prior year evaluation and financials)	Team of Staff and Commission	Team of Staff and Commission	Same	Same	No			None	None	
3	Review proposed budgets	Team of Staff and Commission	Team of Staff and Commission	Same	Same	No			None	None	
4	Recommendations for project approval and funding amount	Team of Staff and Commission	Team of Staff and Commission	Same	Same	No			None	Informational item to the BOT	
5	Review/approval of budget revisions	Staff reviews/approves requests between 10% and 25% of total award	Commission reviews/approves revisions in excess of 25%	Review/approve all carryover requests greater than 10%	None	Yes		X	None	None	
6	Carryover Requests										
	* review/revise carryover policy	Staff proposes	Commission approves	Same	Same	No	X		None	Approve changes to carryover policy	Will be approved by BOT as part of guideline approval process.
	*review/approval of carryover requests	Staff reviews/approves requests between 10% and 25% of total award	Commission reviews/approves requests in excess of 25%	Review/approve all budget revisions greater than 10%	None	Yes		X	None	None	
Bank Grants											

January 9, 2019, Clarification										
Key Grant Approval and Administration Functions by Grant Type	Current Staff Role	Current Commission Role	Proposed Staff Role	Proposed Commission Role	Change from Current?	Policy?	Administrative?	Current BOT Role?	Proposed BOT Role	
1	Develop policy regarding how funds will be distributed	Staff proposes	Commission approves	Same	Same	No	X		None	Board approval of policy regarding how funds will be distributed
2	Develop RFP	Staff develops/distributes	None	Same	Commission reviews and approves	Yes		X	None	None
3	Review of applications	Team of Staff and Commission	Team of Staff and Commission	Same	Same	No			None	None
4	Approval of budget revisions	Staff reviews/approves requests between 10% and 25% of total award	Commission reviews/approves revisions in excess of 25%	Review/approve all budget revisions over 10%	None	Yes		X	None	None
5	Carryover requests									
	* review/revise carryover policy	Staff proposes	Commission approves	Same	Same	No	X		None	Approve changes to carryover policy
	*review/approval of carryover requests	Staff reviews/approves requests between 10% and 25% of total award	Commission reviews/approves requests in excess of 25%	Review/approve all carryover requests over 10%	None	Yes		X	None	None
6	Review of annual reports									
	* program evaluation	Staff	Commission reviews program evaluation only when part of application review	Same	Same	No		X	None	None
	* expense reports	Staff	None	Same	Same	No		X	None	None