



The State Bar *of California*

OPEN SESSION AGENDA ITEM 54-131 JANUARY 2019 PROGRAMS COMMITTEE II.A

DATE: January 25, 2019

TO: Members, Programs Committee
Members, Board of Trustees

FROM: Andrew Tuft, Acting Program Director, Office of Access & Inclusion

SUBJECT: Revision of State Bar Rules to Reflect Revised Grant Timelines: Return from Public Comment and Request for Approval

EXECUTIVE SUMMARY

Currently, the Rules of the State Bar require legal services programs applying for Interest on Lawyer Trust Accounts (IOLTA) grants to submit an audit or independently reviewed financial statement as part of the annual grant application process. In 2015, as part of a larger streamlining of grants processes, the State Bar changed the grant calendar, moving the date on which applications are due and shifting to reliance on audited/reviewed fiscal year data, rather than relying on a manually calculated conversion of expenditures between a fiscal and calendar year.

At the Board of Trustees (Board) July 19, 2018 meeting, the Programs Committee authorized a 30-day public comment period for proposed amendments to State Bar Rule 3.680(E)(1), and Appendix A, the Schedule of Charges and Deadlines, to conform this rule and schedule to the new grants administration calendar. In October, 2018, the Board authorized an additional 30-day public comment period following further modification to the Schedule of Charges and Deadlines in response to the public comments received. The additional public comment period concluded on November 26, 2018. Two public comments were received and they both support the proposal as revised. As a result, staff has made no changes to the proposal and recommends that the Board approve the changes to State Bar Rule 3.680(E)(1) and the Schedule of Charges and Deadlines as amended.

BACKGROUND

Attachment A to this memo is the July 19, 2018, Programs Committee agenda item which provides the relevant background for this request, including a description of changes made within the past ten years to the application process for IOLTA grants.

At its July 19, 2018 meeting, the Programs Committee authorized a 30-day public comment period for State Bar Rule 3.680(E)(1) as amended, and amendments to the Schedule of Charges and Deadlines as it relates to State Bar Rules 3.680(E)(1) and Rule 3.681. These revisions were designed to update the rule and schedule to conform to the current practices.

Following consideration of the public comments received regarding the Schedule of Charges and Deadlines, State Bar staff revised the Schedule of Charges and Deadlines as it relates to Rule 3.680, and received input from the Legal Services Trust Fund Commission (LSTFC) at the LSTFC's October 3, 2018 meeting. On October 19, 2018, the Board authorized an additional 30-day public comment period for the Schedule of Charges and Deadlines, as revised.

No public comments were received on the other portions of the proposal, so those revisions did not circulate for an additional public comment period.

DISCUSSION

I. Rule 3.680(E)(1)

Revisions to Rule 3.680(E)(1) are necessary to correspond to changes previously made to the grant cycle during which all applications are assessed, and all grants calculated, based on expenditures incurred during the fiscal year completed in the prior calendar year. As a result, the income and expense statement for the period from the end of the fiscal year to the end of the calendar year, currently specified in the rule, is no longer needed. Therefore, the following revision to current Rule 3.680(E)(1) was requested:

An application must include an audited financial statement by an independent certified public accountant for the fiscal year that concluded during the prior calendar year. ~~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.

During the initial public comment period, no public comments concerning this revision were received. This agenda item requests the Board approve Rule 3.680(E)(1) as revised. A clean and redline version of the rule as amended is provided as Attachment C.

II. Deadline for Rule 3.680(E)(1) in the Schedule of Charges and Deadlines

The changes circulated for public comment after the July 19, 2018, Programs Committee meeting included a revision to the deadline for State Bar Rule 3.680(E)(1) contained in the Schedule of Charges and Deadlines. The proposed amendment updated the deadline for submission of audits or reviewed financial statements to a period within ninety (90) days of the close of the organization's fiscal year, except under extraordinary circumstances. The proposed language also stated under no circumstances would an audit or reviewed financial statement be accepted after the application deadline.

During this initial public comment period, eight public comments were received. Points raised by those who commented included the following:

1. Ninety days following the close of an organization's fiscal year is not sufficient time for programs to obtain a financial audit. Several commenters requested a deadline of 120 days for submitting audits, while one commenter requested 150 days.
2. The language permitting a limited extension in "extraordinary circumstances," and prohibiting an extension "under no circumstances" beyond the application deadline fails to provide appropriate flexibility; a "reasonableness" standard should be used instead.
3. Upon a reasonable request, staff should be given discretion to determine when an extension is warranted.
4. Programs should be permitted to request a 30-day extension, and request additional extensions in extraordinary circumstances.

Following consideration of these public comments State Bar staff, in consultation with the LSTFC, made the following revisions:

1. In response to comments requesting more than 90 days to submit an audit, and in consideration of concerns raised about the availability of an auditor to meet a March 31 deadline, staff recommended setting the deadline on a fixed date, May 1st. As these audits are an essential part of determining whether a program is eligible for funding in the next grant year, staff believes it is necessary that audits be received prior to the applications for the coming grant year. When staff is able to review the audit in advance of the application deadline, they can communicate with the program to help them submit the appropriate paperwork, when necessary. The application deadline typically falls in early June, so a May 1st deadline will help staff with the processing of the applications.
2. In response to the concern about an extraordinary standard being inflexible and undefined to justify a submission after 90 days but prior to the application

deadline, the rule was revised to permit accepting an audit submitted after the May 1st deadline, but before the application deadline, where the program has provided a written request explaining the need for the extension. This allows for some flexibility while also requiring a program to explain and justify the need for an extension.

3. In response to commenters who desired the ability to seek an additional extension, the proposal was amended to allow for a program to request an extension beyond the application deadline, but only upon a showing of extraordinary circumstances. However, the rule expressly prohibits an extension be granted beyond the date on which grant allocations are made.

At the Board meeting on October 19, 2018, the Board authorized an additional 30-day public comment period for the Schedule of Charges and Deadlines, as revised. This additional public comment period ended on November 26, 2018. Two public comments were received and both supported the changes to the Schedule of Charges and Deadlines.¹

III. Entry in the Schedule of Charges and Deadlines that References Rule 3.681

The entry for State Bar Rule 3.681 in the Schedule of Charges and Deadlines is recommended for deletion because the reference to that rule is incorrect.

The Schedule of Charges and Deadlines erroneously includes a reference to State Bar Rule 3.681 related to the submission of audits or reviewed financial statements. Rule 3.681 does not apply to financial statements, and no reference in the Schedule of Charges and Deadlines to this rule is needed. Therefore, the proposal eliminates this reference.

During the initial public comment period, no public comments concerning this revision were received.

IV. Request to Adopt Amended Rule 3.680(E)(1) and the Appendix A Schedule of Charges and Deadlines as Revised

Staff requests the Board adopt the revision to State Bar Rule 3.680(E)(1), and the recommendation to eliminate the reference to Rule 3.681 in the Schedule of Charges and Deadlines. In addition, staff requests the Board adopt the amended deadline for Rule 3.680(E)(1) in the Schedule of Charges and Deadlines.

FISCAL/PERSONNEL IMPACT

None

¹ The public comments are provided as Attachment B.

RULE AMENDMENTS

Title 3, Division 5, Chapter 2: Legal Services Trust Fund Program; Rules of the State Bar, Appendix A, Schedule of Charges and Deadlines.

BOARD BOOK AMENDMENTS

None

STRATEGIC PLAN GOALS & OBJECTIVES

Goal: 4. Support access to justice for all California residents and improvements to the state's justice system.

Objective: None

RECOMMENDATIONS

It is recommended that the Programs Committee and Board of Trustees approve the following resolution:

RESOLVED, that the Board of Trustees approve State Bar Rule 3.680(E)(1), as revised; Appendix A, the Schedule of Charges and Deadlines for Rule 3.680(E)(1), as revised; and, the elimination of reference to State Bar Rule 3.681 in the Schedule of Charges and Deadlines, attached hereto in Attachment C.

ATTACHMENTS LIST

- A.** July 19, 2018 Programs Committee Agenda Item Requesting Public Comment Authorization on Revision to State Bar Rules to Reflect Revised Grant Timelines
- B.** Full Text of Public Comments Received
- C.** Text of State Bar Rule 3.680(E)(1) and relevant sections of the Schedule of Charges and Deadlines (clean and redline)

OPEN SESSION AGENDA ITEM

JULY 2018 PROGRAMS COMMITTEE ITEM III.D.

DATE: July 19, 2018

TO: **Members, Programs Committee**

FROM: Stephanie Choy, Interim Program Director II, Office of Legal Services

SUBJECT: Revision to State Bar Rules to Reflect Revised Grant Timelines – Request to Circulate for Public Comment

EXECUTIVE SUMMARY

State Bar Rules currently require Legal Services Trust Fund Program grantees to submit an audit or independently reviewed financial statement as part of their annual grant application process. In 2015, as part of a larger streamlining of grants processes, the Trust Fund Program changed its grant calendar, moving the date on which applications are due and shifting to reliance on audited/reviewed fiscal year data, rather than relying on a manually calculated conversion of expenditures between a fiscal and calendar year.

The Trust Fund Program seeks Programs Committee approval to circulate for public comment a proposed amendment to State Bar Rules 3.680(E)(1), 3.681 and the Appendix Schedule of Charges and Deadlines to conform to the new grants administration schedule.

BACKGROUND

A. A 2009 Rules Revision Requires a Supplemental Expenditures Schedule and Sets Deadlines For Audit Submission

At its March 2009 meeting, the Board of Trustees (BOT) approved revisions to Title 3 of the Rules of the State Bar, governing operation of the Legal Services Trust Fund Program (LSTFP). Among the matters set forth in these amended rules, is the annual process for applying for IOLTA grants. Rule 3.680(E)(1), currently requires that applications include,

“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

Attachment A: July 19, 2018 Programs Committee Agenda Item Requesting Public Comment Authorization

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”.

The audit (or review) is specifically required by Business and Professions Code §6222¹, and is a critical piece of the application because it is used to verify reported expenditures. These, in turn, are used to calculate grant amounts under the IOLTA formula set forth in §6216.

Prior to that amendment, Trust Fund Program staff were required to convert information from audits and fiscal reviews from their various fiscal year periods to a calendar-year time frame, for review of prior year expenditures.

The Schedule of Charges and Deadlines attached as Appendix A to the State Bar Rules was revised in July of 2009, to set deadlines and threshold levels for Rule 3.680's audit requirements: organizations with corporate expenditures of less than \$500,000 were permitted to submit a financial review in lieu of an audit; and the deadline for submission of the audit or review was set as “Promptly when available, and no more than sixty (60) days after the application deadline, and prior to receipt of any allocation.”

An additional deadline was added at the same time for Rule 3.681, setting a deadline for submission of audits by grant recipients of 90 days from the close of its fiscal year. However, Rule 3.681 itself does not speak to the submission of fiscal audits or reviews by organizations seeking Trust Fund Program grants.

B. In 2015 The Trust Fund Program changed its Application Schedule and Review Process, Rendering some of the 2009 Rules and Deadlines Superfluous

At the time of these 2009 revisions, the Trust Fund Program operated on a schedule in which applications were due in February and the IOLTA grant year began on July 1. With many programs on a fiscal year ending December 31, it was typical for grantees still to be working on their audit when the Trust Fund application came due in February. The combination of deadlines enacted in July 2009 was intended to ensure that all programs, whether existing grantees or new applicants, submitted audits in time for them to be used during application review and the allocation calculation process.

In 2015 the Trust Fund Program converted its grant cycle to a calendar year, implementing a synchronized grant schedule for all Trust Fund grant programs – a significantly improved process for staff, Trust Fund Commission members, and grantees alike. This change in the grant year necessitated changes in the application schedule, and so the application due date was changed from early February to early June. One benefit of this change was to alleviate the pressure many applicants previously faced to complete and submit an audit by early February. With a June due date, all programs should have ample time to complete their audits before the application is due.

Also in 2015, the Trust Fund Program terminated reliance on unaudited “supplemental” financial statements to convert fiscal year expenditure figures into

¹ All further statutory references are to this Code unless otherwise stated.

Attachment A: July 19, 2018 Programs Committee Agenda Item Requesting Public Comment Authorization

calendar year expenditure figures. Instead, the Trust Fund Commission approved a new approach in which all applications would be assessed, and all grants calculated, based on expenditures incurred during the fiscal year completed in the prior calendar year.

DISCUSSION

The changes to the Trust Fund Program's grants administration impact Rule 3.680 and its associated deadlines in the following ways:

- The income and expense statement for the period from the end of the fiscal year to the end of the calendar year, specified in the rule, is no longer needed.
- The deadline for submission of an audit or review should no longer extend beyond the application deadline.

The appropriate deadline for submission of audits or reviews under the revised procedures is the same deadline as that currently listed in the Schedule of Charges and Deadlines as the deadline for Rule 3.681: Within ninety (90) days of the close of the organization's fiscal year. On the other hand, because Rule 3.681 refers to other grantee requirements but does NOT reference audits, the Schedule of Charges and Deadlines should refer back to Rule 3.680(E)(1) instead of to Rule 3.681 with respect to submission of audits to the Trust Fund Program.

It is therefore requested that the following revisions to the Rules and the Schedule of Charges and Deadlines, be sent out for public comment so that they can be revised to conform to current practices of the Trust Fund Program:

The text of 3.680(E)(1) should be revised to read:

An application must include an audited financial statement by an independent certified public accountant for the ~~latest completed~~ fiscal year that concluded during the prior calendar year. ~~if the fiscal year is not a calendar year, the application must also include an income an 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.

- The Deadline for Rule 3.680(E)(1) should be revised to read:

["description" column] "Deadline for applicant to submit an audited or reviewed financial statement for the most fiscal year ending in the last calendar year period if the statement is not available at the time the application is due", and ["deadline" column] "Promptly when available, within 90 days of the end of the fiscal year except in extraordinary circumstances, and under no circumstances later than the time that applications are due and no more than sixty (60) days after the application deadline, and prior to receipt of any allocation."

- The Entry in the Schedule of Charges and Deadlines that references Rule 3.681

Attachment A: July 19, 2018 Programs Committee Agenda Item Requesting Public Comment Authorization

With the committee's approval, the proposed rule changes would be posted for public comment for 30 days, and following public comment, considered by the Committee and the Board at its next scheduled meeting.

FISCAL/PERSONNEL IMPACT

None

RULE AMENDMENTS

Title 3, Division 5, Chapter 2: Legal Services Trust Fund Program; Rules of the State Bar, Appendix A, Schedule of Charges and Deadlines

BOARD BOOK AMENDMENTS

None

STRATEGIC PLAN GOALS & OBJECTIVES

Goal: 4. Support access to justice for all California residents and improvements to the state's justice system.

Objective: None

RECOMMENDATION

It is recommended that the Programs Committee approve the following resolution:

RESOLVED, that staff are authorized to make available for public comment for a period of 30 days, proposed revisions to State Bar Rule 3.680(E)(1) so that it reads as follows: **An application must include an audited financial statement by an independent certified public accountant for the fiscal year that concluded during the prior calendar year. 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;** and it is

FURTHER RESOLVED, that staff are authorized to make available for public comment for a period of 30 days, proposed revisions to the Schedule of Charges and Deadlines to the State Bar Rules so that the deadline for Rule 3.680(E)(1) is described as **"Deadline for applicant to submit an audited or reviewed financial statement for the fiscal year ending in the last calendar year";** and [in the "deadline" column] **"Promptly when available, within 90 days of the end of the fiscal year except in extraordinary circumstances, and under no circumstances later than the time that applications are due.";** and it is

FURTHER RESOLVED, that staff are authorized to make available for public comment for a period of 30 days, the proposed deletion of reference to Rule 3.681 in the Schedule of Charges and Deadlines to the State Bar Rules; and it is

Attachment A: July 19, 2018 Programs Committee Agenda Item Requesting Public Comment Authorization
FURTHER RESOLVED, that this authorization for release for public comment is not, and shall not be construed as, a statement or recommendation of approval of the proposed changes.

ATTACHMENT(S) LIST

Attachment A: Text of State Bar Rule 3.680(E)(1) and relevant sections of Schedule of Charges and Deadlines (Current version)

Attachment B: Text of State Bar Rule 3.680(E)(1) and relevant sections of Schedule of Charges and Deadlines (Redlined Version)

**ATTACHMENT A:
CURRENT TEXT OF RULES 3.680, 3.681, AND ASSOCIATED SCHEDULES
OF CHARGES AND DEADLINES**

**TITLE 3. PROGRAMS AND SERVICES
DIVISION 5. PROVIDERS OF PROGRAMS AND SERVICES**

Chapter 2. Legal Services Trust Fund Program

[....]

Article 3. Applications and distributions

Rule 3.680 Application for Trust Fund Program grants

[....]

(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;

[....]

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;

Attachment A: July 19, 2018 Programs Committee Agenda Item Requesting Public Comment Authorization

(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.

RULES OF THE STATE BAR OF CALIFORNIA APPENDIX A: SCHEDULE OF CHARGES AND DEADLINES FOR 2018 ANNUAL FEES

Adopted July 2007

Revised December 1, 2017

[....]

TITLE 3, DIVISION 5, CHAPTER 2 LEGAL SERVICES TRUST FUND

*Fees previously adopted by the Board of Trustees or mandated by statute.
Amended effective March 2, 2012*

Rule	Description	Amount	Deadline
3.680(E)(1)	Threshold amount of gross corporate expenditures requiring submission of an audited financial statement. Deadline for applicant to submit an audited or reviewed financial statement for the most recent period if the statement is not available at the time the application is due.	\$500,000	Not Applicable Promptly when available, and no more than sixty (60) days after the application deadline, and prior to receipt of any allocation.
3.681	Deadline for grant recipient to submit an audited or reviewed financial statement for the fiscal year ended most recently.		Within ninety (90) days of the close of its fiscal year.

**ATTACHMENT B:
RECOMMENDED CHANGES TO CURRENT TEXT
OF RULES 3.680, 3.681, AND ASSOCIATED SCHEDULES OF CHARGES AND DEADLINES**

TITLE 3. PROGRAMS AND SERVICES

DIVISION 5. PROVIDERS OF PROGRAMS AND SERVICES

Chapter 2. Legal Services Trust Fund Program

[....]

Article 3. Applications and distributions

Rule 3.680 Application for Trust Fund Program grants

[...]

(E) An application must include

(1) an audited financial statement by an independent certified public accountant for the fiscal year that concluded during the prior calendar year. 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;

[....]

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;

Attachment A: July 19, 2018 Programs Committee Agenda Item Requesting Public Comment Authorization

(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.

RULES OF THE STATE BAR OF CALIFORNIA APPENDIX A: SCHEDULE OF CHARGES AND DEADLINES FOR 2018 ANNUAL FEES

Adopted July 2007

Revised December 1, 2017

[....]

TITLE 3, DIVISION 5, CHAPTER 2

LEGAL SERVICES TRUST FUND

Fees previously adopted by the Board of Trustees or mandated by statute.

Amended effective March 2, 2012

Rule	Description	Amount	Deadline
3.680(E)(1)	Threshold amount of gross corporate expenditures requiring submission of an audited financial statement. Deadline for applicant to submit an audited or reviewed financial statement for the fiscal year ending in the last calendar year. most recent period if the statement is not available at the time the application is due.	\$500,000	Not Applicable Promptly when available, no more than ninety (90) days of the close of its fiscal year except in extraordinary circumstances, and under no circumstances later than the time that applications are due (60) days after the application deadline, and prior to receipt of any allocation.

Attachment A: July 19, 2018 Programs Committee Agenda Item Requesting Public Comment Authorization

3.681	Deadline for grant recipient to submit an audited or reviewed financial statement for the fiscal year ended most recently.		Within ninety (90) days of the close of its fiscal year.
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Attachment B: Full Text of Public Comments Received

Public Comments Received

- (1) Legal Aid Association of California-Salena Copeland
- (2) Disability Rights California-Catherine Blakemore

“The Unified Voice of Legal Services”



November 13, 2018

Dan Passamaneck
Office of Access & Inclusion
180 Howard St.
San Francisco, CA 94105
Email: daniel.passamaneck@calbar.ca.gov

Re: State Bar Audit Submission Requirement for Legal Services Trust Fund Grantees

Dear Mr. Passamaneck,

I am writing on behalf of the Legal Aid Association of California (LAAC) in support of the proposed changes to the State Bar Audit Submission Requirement for Legal Services Trust Fund Grantees.

LAAC is a non-profit organization created for the purpose of ensuring the effective delivery of legal services to low-income and underserved people throughout California. LAAC is the statewide membership organization for almost 100 legal services nonprofits, and, in this capacity, we frequently partner with the State Bar, the Judicial Council, and other stakeholders committed to preserving access to justice in California. We serve as California's unified voice for legal services and we advance the needs of the clients of legal services on a statewide level regarding funding and access to justice issues.

LAAC supports the revised changes to the grantee audit deadline. We believe that this is the best solution for the needs of both State Bar staff and the programs that need sufficient time to work with outside auditors. Thank you for incorporating our prior comments. We particularly appreciate that the Bar is allowing for more than 90 days, and that staff can now grant extensions as well as that, in extraordinary circumstances, extension requests will be heard by the full Commission. We appreciate the Bar's efforts to increase access to justice through the revisions of these rules by giving programs more time to comply. If you need any clarification regarding our comment, please let me know.

Sincerely,

A handwritten signature in dark ink, reading "Salena Copeland". The signature is written in a cursive, flowing style.

Salena Copeland
Executive Director

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LAACOnline.org

LawHelpCA.org



ADMINISTRATION

1831 K Street
Sacramento, CA 95811
Tel: (916) 504-5800
TTY: (800) 719-5798
Intake Line: (800) 776-5746
Fax: (916) 504-5802
www.disabilityrightsca.org

November 26, 2018

Greg S. Shin
Programs Division
845 South Figueroa St.
Los Angeles, CA 90017
greg.shin@calbar.ca.gov

Re: Proposed Amendment to Rule 3.680(E)(1) of Title 3, Division 5, Chapter 2
Legal Services Trust Fund

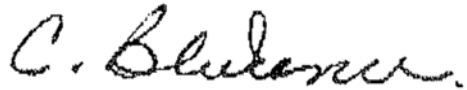
Dear Mr. Shin:

Disability Rights California is one of 95 legal services programs eligible for IOLTA funding. We are pleased with the proposed revisions to the Rule 3.680(E)(1). Specifically, the proposed Rule changes the timeline for submitting audited financial statements from 90 days following the end of the organization's fiscal year, to "promptly when available and no later than May 1". In addition, the proposed rule allows for legal services programs to request exceptions.

We support the Bar's goal of ensuring that it have all required materials at the time applications are due, and believe that the proposed rule both meets legal service program needs and the Bar's need to receive timely information. The proposed rule addresses the concerns that we identified in our August 22, 2018 comments, and we appreciate the Bar's willingness to address the concerns that DRC and other legal aid programs submitted.

Thank you for consideration of our comments. I would be pleased to speak with you, if that would be helpful.

Sincerely,

A handwritten signature in black ink, appearing to read "C. Blakemore". The signature is fluid and cursive, with a large initial "C" and a long, sweeping underline.

Catherine Blakemore
Executive Director

C: Andrew Tuft

Attachment C: Text of State Bar Rule 3.680(E)(1) and relevant sections of the Schedule of Charges and Deadlines (Clean and Redline)

**RULE 3.680(E)(1) OF THE STATE BAR OF CALIFORNIA
(Clean)**

Rule 3.680 Application for Trust Fund Program grants

[....]

(E) An application must include

- (1) an audited financial statement by an independent certified public accountant for the fiscal year that concluded during the prior calendar year. 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.

**RULE 3.680(E)(1) OF THE STATE BAR OF CALIFORNIA
(Redline)**

Rule 3.680 Application for Trust Fund Program grants

[....]

(E) An application must include

- (1) an audited financial statement by an independent certified public accountant for the fiscal year that concluded during the prior calendar year. ~~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.

Attachment C: Text of State Bar Rule 3.680(E)(1) and relevant sections of the Schedule of Charges and Deadlines (Clean and Redline)

**RULES OF THE STATE BAR OF CALIFORNIA
APPENDIX A: SCHEDULE OF CHARGES AND DEADLINES FOR 2018
ANNUAL FEES
(Clean)**

Adopted July 2007
Revised December 1, 2017

[....]

**TITLE 3, DIVISION 5, CHAPTER 2
LEGAL SERVICES TRUST FUND**

*Fees previously adopted by the Board of Trustees or mandated by statute.
Amended effective March 2, 2012*

3.680(E)(1)	<p>Threshold amount of gross corporate expenditures requiring submission of an audited financial statement.</p> <p>Deadline for applicant to submit an audited or reviewed financial statement for the fiscal year that concluded during the prior calendar year.</p>	\$500,000	<p>Not Applicable</p> <p>Promptly when available, and no later than May 1. Upon written request, an extension up to the application deadline may be granted by State Bar staff. Upon a showing of extraordinary circumstances, the Commission may grant an extension beyond the application deadline. Under no circumstances shall such extension be granted beyond the date upon which grant allocations are determined.</p>
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Attachment C: Text of State Bar Rule 3.680(E)(1) and relevant sections of the Schedule of Charges and Deadlines (Clean and Redline)

**RULES OF THE STATE BAR OF CALIFORNIA
APPENDIX A: SCHEDULE OF CHARGES AND DEADLINES FOR 2018
ANNUAL FEES
(Redline)**

Adopted July 2007
Revised December 1, 2017

[....]

**TITLE 3, DIVISION 5, CHAPTER 2
LEGAL SERVICES TRUST FUND**

*Fees previously adopted by the Board of Trustees or mandated by statute.
Amended effective March 2, 2012*

3.680(E)(1)	Threshold amount of gross corporate expenditures requiring submission of an audited financial statement. Deadline for applicant to submit an audited or reviewed financial statement for the <u>fiscal year that concluded during the prior calendar year.</u> most recent period if the statement is not available at the time the application is due.	\$500,000	Not Applicable Promptly when available, and no more than sixty (60) days after the application deadline, and prior to receipt of any allocation. <u>later than May 1. Upon written request, an extension up to the application deadline may be granted by State Bar staff. Upon a showing of extraordinary circumstances, the Commission may grant an extension beyond the application deadline. Under no circumstances shall such extension be granted beyond the date upon which grant allocations are determined.</u>
3.684	Deadline for grant recipient to submit an audited or reviewed financial statement for the fiscal year ended most recently.		Within ninety (90) days of the close of its fiscal year.