



The State Bar *of California*

DATE: August 23, 2019

TO: Members, Eligibility and Budget Review Committee
Members, Legal Services Trust Fund Commission

FROM: Hellen Hong, Director, Office of Access & Inclusion
Elizabeth Hom, Program Supervisor, Office of Access & Inclusion

SUBJECT: Recommendations for IOLTA and EAF Grant Eligibility for Grant Year 2020

EXECUTIVE SUMMARY

Interest on Lawyers' Trust Accounts (IOLTA) and Equal Access Fund (EAF) grants are awarded to approximately 100 non-profits each year to provide free civil legal aid in California to indigent persons. These grants must comply with criteria set forth in Business & Professions Code sections 6210-6228, State Bar Rules, and Eligibility Guidelines for Legal Services Projects and Support Centers.

For grant year 2020, the Office of Access & Inclusion received 104 applications for IOLTA and EAF funding for grant year 2020. There are 98 renewal applications and 6 new applications for funding. There are 82 applicants seeking funding as Legal Services Projects and 22 from Support Centers. Two applicants withdrew their applications. After staff review, and discussion and initial recommendations from the Legal Services Trust Fund Commission Eligibility and Budget Review Committee (Committee), staff recommends that the Committee and Commission find 97 applicants eligible for IOLTA and EAF funding for grant year 2020 and find five applicants ineligible for IOLTA and EAF funding for grant year 2020.

BACKGROUND

Interest on Lawyers' Trust Accounts (IOLTA) and Equal Access Fund (EAF) grants are awarded to approximately 100 non-profits each year to provide free civil legal aid in California to indigent¹ persons. Although IOLTA and EAF grants are separate sources of funding, there is one combined application for both IOLTA and EAF grants. In 2020, this combined funding totals more than \$78 million dollars for distribution.

¹ Per Business & Professions Code section 6213(d), indigent includes a person 1) whose income is not higher than 125% of the federal poverty threshold, or 2) eligible for Social Security Income or free services under the Older Americans Act (seniors 60+) or Developmentally Disabled Assistance Act.

As a threshold matter for eligibility, Legal Services Projects (LSPs) must be found to have as their primary purpose the provision of free civil legal aid to indigent individuals. LSPs may apply for funding in each county in which they provide these services. IOLTA and EAF grant amounts are calculated by using an LSP's qualified expenditures, i.e., the amount spent on the delivery of free civil legal aid to eligible individuals, from the previous fiscal year in each county they are applying for funding. In addition, if an LSP's primary purpose is the delivery of these services through pro bono volunteers, they may apply for an additional pro bono allocation for those counties. Support Centers (SCs) must be found to have a primary purpose to provide support services to LSPs and the broader legal aid community statewide to be eligible for funding. SCs apply for IOLTA and EAF grants on a statewide basis. The total amount of IOLTA and EAF funds available for distribution to SCs each year is determined by the IOLTA formula. That total amount available is then split equally amongst all eligible SCs.

GRANT YEAR 2020

The Office of Access & Inclusion (OA&I) received 104 applications for IOLTA/EAF funding for grant year 2020. There are 98 renewal applications and 6 new applications for funding. There are 82 applicants seeking funding as LSPs and 22 from SCs. Two new applicants withdrew their applications. See Attachment A for list of IOLTA and EAF funding applicants for grant year 2020.

IOLTA/EAF funding applications were due on June 3, 2019. Staff conducted an initial review of applications to determine if applicants 1) meet primary purpose (State Bar Rule 3.671); 2) have identified appropriate qualified expenditures (which is used to determine whether an applicant has met primary purpose and to calculate the appropriate grant allocation (Business and Professions Code section 6213 and section 6216); and 3) have adequate quality control measures in place (State Bar Rule 3.680(E)(2)). Staff raised issues and presented recommendations to the Eligibility and Budget Committee (Committee), which makes recommendations to the Legal Services Trust Fund Commission (Commission) for final determination on eligibility.

At the July 19, 2019 meeting, the Committee reviewed and discussed issues raised by staff and made initial eligibility recommendations. After discussion, the Committee requested Eligibility Review Conferences for Advancing Justice—Los Angeles, Center for Health Care Rights, Dependency Advocacy Center, LACBA Counsel for Justice, Public Advocates Inc., and Veterans Legal Institute.

DISCUSSION

Staff coordinated Eligibility Review Conferences (ERCs) for five organizations. Advancing Justice—Los Angeles opted to deduct the questioned activities on their 2020 application from their qualified expenditures, thus obviating the need for the ERC.

Staff and Committee members conducted ERCs for Dependency Advocacy Center, LACBA Counsel for Justice, and Public Advocates, and determined that those organizations were

eligible for IOLTA and EAF funding for grant year 2020. Recommendations for all eligible applicants are presented below in Attachment C.

Following the Eligibility Review Conferences and feedback from the Committee at its July 19 meeting, staff recommends that the following applicants be found **ineligible** for IOLTA and EAF funding for grant year 2020:

1. CENTER FOR HEALTH CARE RIGHTS

At the July 19 Committee meeting, staff reported findings from the 2018 monitoring site visit for the Center for Health Care Rights (CHCR) concerning primary purpose and governance. The Committee determined that an ERC was appropriate to provide CHCR the opportunity to provide additional information about its services. In response to the 2018 monitoring report, CHCR had identified only 12% of its services that it believed should be deducted as non-qualifying. At the August 5, 2019 ERC, CHCR advised the Committee members that only 10% of all HICAP counseling cases were reviewed by an attorney in 2018, thus significantly reducing the amount of services fitting the definition of legal services under State Bar Rule 3.672(A).² Following the ERC, CHCR was instructed to update their application for 2020 funding to deduct as non-qualifying, all work that did not meet the definition of legal services. As a result, CHCR's IOLTA and EAF application indicates that only 21.78% of the organization's qualified expenditures is for free civil legal services to indigent persons.

State Bar Rule 3.671(A) specifies that 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."

Staff recommends that CHCR be found ineligible for IOLTA and EAF funding for grant year 2020 because CHCR does not meet primary purpose test as defined by Business & Professions Code section 6213(a)(1) and State Bar Rule 3.671(A).

2. COMMUNITY LAWYERS INC.

Community Lawyers Inc. is a first time applicant. At the time of application, Community Lawyers Inc.'s board of directors was in the process of revising the organization's Bylaws and Articles of Incorporation to include as its purpose the provision of legal services to indigent people, but that was not defined as the organization's purpose at the time. The organization also did not submit the required audited or reviewed financial statement to complete their application. At the July 19, 2019 Committee meeting, the Committee determined that Community Lawyers, Inc. was ineligible for IOLTA and EAF funding for grant year 2020 because primary purpose was not met and the organization did not submit the required audited or reviewed financial

² State Bar Rule 3.672(A) defines legal services to "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."

statement as required by State Bar Rule 3.680(E)(1) and the related Schedule of Charges and Deadlines.

3. COMMUNITY LEGAL

At the July 19, 2019 Committee meeting, the Committee determined that Community Legal was ineligible for IOLTA and EAF funding for grant year 2020 because they did not submit the required audited or reviewed financial statement by the June 3 deadline, and did not have an extraordinary circumstance to warrant a deadline extension as required by State Bar Rule 3.680(E)(1) and the related Schedule of Charges and Deadlines.

4. SENIOR CITIZENS LEGAL SERVICES

At the July 19 Committee meeting, staff reported that Senior Citizens Legal Services (SCLS) did not reapply for funding; however SCLS submitted an application and uploaded their audited financial statement on July 19, 2019 after 10:00 p.m. The Grant Application Instructions allows the Commission discretion to accept late applications. Per State Bar Rule 3.680(E)(1) and the related Schedule of Charges and Deadlines, upon showing of extraordinary circumstances, the Commission may grant an extension to the audit or reviewed financial statement deadline. SCLS submitted an explanation for the late application and late submission of the organization's audited financial statement. See Attachment B.

Staff recommends that that Senior Citizens Legal Services' late application and late audited financial statement not be accepted because the organization did not make a showing of an extraordinary circumstance to warrant a deadline extension for either the application or audited financial statement. Staff further recommends that the Committee recommend to the Commission that Senior Citizens Legal Services as ineligible for IOLTA and EAF funding for grant year 2020 because there was not a timely submission of their application or audited financial statement, and they did not have an extraordinary circumstance to warrant a deadline extension.

5. VETERANS LEGAL INSTITUTE

Veterans Legal Institute's IOLTA and EAF application indicates that 44% of organization's qualified expenditures are for free civil legal services to indigent persons. Business & Professions Code section 6213(a)(1) defines a Qualified Legal Services Project (QLSP) as a nonprofit project incorporated and operated exclusively in California that provides as its primary purpose and function legal services without charge to indigent persons and that has quality control procedures approved by the State Bar of California. State Bar Rule 3.671(A) specifies that 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."

At the ERC, VLI did not provide the Committee with evidence that it meets the primary purpose requirement for qualified legal services projects. The Committee members participating determined that VLI does not meet the primary purpose requirement as defined in Business and Professions Code section 6213(a)(1) and State Bar Rule 3.671(A), and does not have sufficient internal controls to be found eligible for IOLTA and EAF funding, and thus recommends that Veterans Legal Institute be found ineligible for IOLTA and EAF funding for grant year 2020.

ELIGIBLE APPLICANTS FOR IOLTA AND EAF FUNDS FOR GRANT YEAR 2020

After review of all the grant applications, and discussion and determinations by the Committee, staff recommends that Committee recommend to the Commission the 97 applicants listed in Attachment C as eligible for IOLTA and EAF funding for grant year 2020.

RECOMMENDATIONS

It is recommended that the Eligibility and Budget Review Committee and the Legal Services Trust Fund Commission approve the following resolution:

RESOLVED, that the Legal Services Trust Fund Commission finds the following five programs ineligible for IOLTA and EAF funding for grant year 2020: Center for Health Care Rights, Community Lawyers Inc., Community Legal, Senior Citizens Legal Services, and Veterans Legal Institute; and it is

FURTHER RESOLVED, that the Legal Services Trust Fund Commission finds that the remaining 97 applicants, listed in Attachment C, are **eligible** for IOLTA and EAF funding for grant year 2020.

ATTACHMENTS LIST

- A.** List of All Applicants for IOLTA and EAF Funding for Grant Year 2020
- B.** Email from Senior Citizens Legal Services, dated July 26, 2019
- C.** List of Applicants Eligible for IOLTA and EAF Funding for Grant Year 2020

2020 IOLTA & EAF Applicants	
Legal Services Projects	Note
Community Lawyers Inc.	NEW
Dependency Advocacy Center	NEW
Eviction Defense Collaborative	NEW
HEART L.A.	NEW
Open Door Legal	NEW. Application Withdrawn
Women's Employment Rights Clinic, Golden Gate University	NEW. Application Withdrawn
Advancing Justice - Asian Law Caucus	
Advancing Justice-Los Angeles	
Affordable Housing Advocates	
Aids Legal Referral Panel	
Alameda County Homeless Action Center	
Alliance for Children's Rights	
Asian Pacific Islander Legal Outreach	
Bay Area Legal Aid	
Bet Tzedek Legal Services	
California Indian Legal Services	
California Rural Legal Assistance, Inc.	
Casa Cornelia Law Center	
Center for Health Care Rights	
Central California Legal Services	
Centro Legal de la Raza	
Chapman University Family Protection Clinic	
Community Legal	
Community Legal Aid SoCal	
Community Legal Services in East Palo Alto	
Contra Costa Senior Legal Services	
Disability Rights California	
Disability Rights Legal Center	
East Bay Community Law Center	
Elder Law & Advocacy	
Family Legal Assistance at CHOC Children's	
Family Violence Law Center	
Greater Bakersfield Legal Assistance	
Harriett Buhai Center for Family Law	
Housing and Economic Rights Advocates	
IELLA Legal Aid Project	
Inland Counties Legal Services	
Inner City Law Center	
Justice & Diversity Center of the Bar Association of San Francisco	
La Raza Centro Legal	
LACBA Counsel for Justice	
Law Foundation of Silicon Valley	
Lawyers' Committee for Civil Rights	
Learning Rights Law Center	
Legal Access Alameda	
Legal Aid at Work	
Legal Aid Foundation of Los Angeles	
Legal Aid Foundation of Santa Barbara County	
Legal Aid of Marin	
Legal Aid of Sonoma County	

Legal Aid Society of San Bernardino	
Legal Aid Society of San Diego	
Legal Aid Society of San Mateo County	
Legal Assistance for Seniors	
Legal Assistance to the Elderly	
Legal Services for Children	
Legal Services for Seniors	
Legal Services of Northern California	
Los Angeles Center for Law and Justice	
McGeorge Community Legal Services	
Mental Health Advocacy Services	
Neighborhood Legal Services	
New American Legal Clinic	
Prison Law Office	
Public Advocates Inc.	
Public Counsel	
Public Law Center	
Riverside Legal Aid	
San Diego Volunteer Lawyer Program	
San Luis Obispo Legal Assistance Foundation	
Santa Clara County Asian Law Alliance	
Santa Clara University Alexander Law Center	
Senior Adults Legal Assistance	
Senior Advocacy Network	
Senior Citizens Legal Services	
UC Davis School of Law Legal Clinics	
USD School of Law Legal Clinics	
Veterans Legal Institute	
Voluntary Legal Services Program of Northern California	
Wage Justice Center	
Watsonville Law Center	
Yuba-Sutter Legal Center for Seniors	

Support Centers	Note
California Advocates for Nursing Home Reform	
California Rural Legal Assistance Foundation	
California Women's Law Center	
Center for Gender and Refugee Studies - California	Deeming
Center for Human Rights and Constitutional Law	
Child Care Law Center	
Coalition of California Welfare Rights Organizations	
Disability Rights Education and Defense Fund	
Family Violence Appellate Project	
Immigrant Legal Resource Center	
Impact Fund	
Justice in Aging	
Legal Services for Prisoners with Children	
National Center for Youth Law	
National Health Law Program	
National Housing Law Project	
National Immigration Law Center	
OneJustice	
Public Interest Law Project	
Western Center on Law and Poverty	
Worksafe, Inc.	
Youth Law Center	

From: [Creighton Mendivil](#)
To: [Low, Rodney](#)
Subject: SCLS late grant application
Date: Friday, July 26, 2019 9:50:37 AM

Thank you for talking with me earlier today.

I am writing to you regarding the SCLS extremely late audit and funding application. I am requesting any possible hearing to be scheduled for late acceptance of the application and audit.

I am working to transition away from my Executive Director / Directing Attorney role at SCLS for health reasons. I have let the board of directors of SCLS know that I am having challenges with my position as Executive Director and Directing Attorney because of my health. And working to bring up other staff to work some of these rolls in transition.

I accept full responsibility for the late application. I hope in my transition away from Executive Director / Directing Attorney position, that Cal Bar will be able to fund SCLS to allow the agency to continue into the future without the debilitating loss of these funds.

Sincerely,

Creighton

Creighton Mendivil

Executive Director / Directing Attorney
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List of Applicants Eligible for IOLTA and EAF Funding for Grant Year 2020	
Organization	Eligibility Category
Advancing Justice - Asian Law Caucus	LSP
Advancing Justice-Los Angeles	LSP
Affordable Housing Advocates	LSP
Aids Legal Referral Panel	LSP
Alameda County Homeless Action Center	LSP
Alliance for Children's Rights	LSP
Asian Pacific Islander Legal Outreach	LSP
Bay Area Legal Aid	LSP
Bet Tzedek Legal Services	LSP
California Advocates for Nursing Home Reform	SC
California Indian Legal Services	LSP
California Rural Legal Assistance Foundation	SC
California Rural Legal Assistance, Inc.	LSP
California Women's Law Center	SC
Casa Cornelia Law Center	LSP
Center for Gender and Refugee Studies - California	SC
Center for Human Rights and Constitutional Law	SC
Central California Legal Services	LSP
Centro Legal de la Raza	LSP
Chapman University Family Protection Clinic	LSP
Child Care Law Center	SC
Coalition of California Welfare Rights Organizations	SC
Community Legal Aid SoCal	LSP
Community Legal Services in East Palo Alto	LSP
Contra Costa Senior Legal Services	LSP
Dependency Advocacy Center	LSP
Disability Rights California	LSP
Disability Rights Education and Defense Fund	SC
Disability Rights Legal Center	LSP
East Bay Community Law Center	LSP
Elder Law & Advocacy	LSP
EVICTION DEFENSE COLLABORATIVE	LSP
Family Legal Assistance at CHOC Children's	LSP
Family Violence Appellate Project	SC
Family Violence Law Center	LSP
Greater Bakersfield Legal Assistance	LSP
Harriett Buhai Center for Family Law	LSP
HEART L.A.	LSP
Housing and Economic Rights Advocates	LSP
IELLA Legal Aid Project	LSP
Immigrant Legal Resource Center	SC
Impact Fund	SC
Inland Counties Legal Services	LSP
Inner City Law Center	LSP

List of Applicants Eligible for IOLTA and EAF Funding for Grant Year 2020	
Organization	Eligibility Category
Justice & Diversity Center of the Bar Association of San Francisco	LSP
Justice in Aging	SC
La Raza Centro Legal	LSP
LACBA Counsel for Justice	LSP
Law Foundation of Silicon Valley	LSP
Lawyers' Committee for Civil Rights	LSP
Learning Rights Law Center	LSP
Legal Access Alameda	LSP
Legal Aid at Work	LSP
Legal Aid Foundation of Los Angeles	LSP
Legal Aid Foundation of Santa Barbara County	LSP
Legal Aid of Marin	LSP
Legal Aid of Sonoma County	LSP
Legal Aid Society of San Bernardino	LSP
Legal Aid Society of San Diego	LSP
Legal Aid Society of San Mateo County	LSP
Legal Assistance for Seniors	LSP
Legal Assistance to the Elderly	LSP
Legal Services for Children	LSP
Legal Services for Prisoners with Children	SC
Legal Services for Seniors	LSP
Legal Services of Northern California	LSP
Los Angeles Center for Law and Justice	LSP
McGeorge Community Legal Services	LSP
Mental Health Advocacy Services	LSP
National Center for Youth Law	SC
National Health Law Program	SC
National Housing Law Project	SC
National Immigration Law Center	SC
Neighborhood Legal Services	LSP
New American Legal Clinic	LSP
OneJustice	SC
Prison Law Office	LSP
Public Advocates Inc.	LSP
Public Counsel	LSP
Public Interest Law Project	SC
Public Law Center	LSP
Riverside Legal Aid	LSP
San Diego Volunteer Lawyer Program	LSP
San Luis Obispo Legal Assistance Foundation	LSP
Santa Clara County Asian Law Alliance	LSP
Santa Clara University Alexander Law Center	LSP
Senior Adults Legal Assistance	LSP
Senior Advocacy Network	LSP

List of Applicants Eligible for IOLTA and EAF Funding for Grant Year 2020	
Organization	Eligibility Category
UC Davis School of Law Legal Clinics	LSP
USD School of Law Legal Clinics	LSP
Voluntary Legal Services Program of Northern California	LSP
Wage Justice Center	LSP
Watsonville Law Center	LSP
Western Center on Law and Poverty	SC
Worksafe, Inc.	SC
Youth Law Center	SC
Yuba-Sutter Legal Center for Seniors	LSP