

LEGAL SERVICES TRUST FUND COMMISSION

RULES COMMITTEE MEETING

Notes and Action Summary

Friday, November 22, 2019, 10:00 a.m. – 12:00 p.m.

State Bar of California in Los Angeles and San Francisco

Roll Call

Committee Members

Chair Amin Al-Sarraf (LA)

Banafsheh Akhlaghi (SF)

Corey N. Friedman (SF)

Kim Savage (SF)

Non-Voting Members for this Meeting

Erin Lewellen (Phone)

Zahirah Mann (LA)

Liaisons

Debbie Manning (Phone)

Salena Copeland (SF)

State Bar Staff

Hellen Hong (LA)

Doan Nguyen (SF)

Christine Holmes (SF)

Brady Dewar (SF)

Leah Wilson (Phone)

OPEN SESSION

The meeting was called to order at 10:07 a.m.

I. ROLL CALL

Roll call was taken, and quorum was established.

II. CALL FOR PUBLIC COMMENT

No comments were offered by members of the public.

III. DISCUSSION AND ACTION ITEMS

A. Discuss Timeline and Process to Codify Grant Administration Practices

Program Supervisor, Doan Nguyen welcomed everyone to the first Rules Committee (Committee) meeting and described the goals and timeline of the Committee.

The primary purpose of the Committee is to review, revise, and codify governing documents to better ensure transparency, consistency, and accountability in the grant administration practices. A lead staff member has been assigned to topics identified for review, clarity or consistency. Legal Aid Association of California (LAAC) is representing the input of the legal services community in this process. The lead staff member provides LAAC a memo with the proposed recommendations to circulate to the executive directors of the IOLTA funded programs for review and feedback. LAAC then shares the feedback with the State Bar. The feedback and the State Bar's response is then incorporated into the memo shared with the Committee.

The Committee will vote on the recommendations at each meeting. The recommendations will be brought to the LSTFC for approval. All recommendations will need to be approved by the Board of Trustees and then circulated for a formal public comment period. The Committee asked staff about State Bar rules for the rulemaking process and if the codification process was following the rules. Staff will circulate the State Bar rules to the Committee prior to the next meeting.

Staff addressed the timeline for the Committee meetings and topics to discuss. The Committee reviewed the timeline and noted it seemed ambitious. Discussion continued about re-adjusting the schedule as necessary and building in time for follow-up. The Committee asked LAAC about its process and the timeline. LAAC noted its process of informing and gathering feedback from the legal services community is labor intensive but they are on track with the timeline.

B. Discuss and Approve Recommended Changes to the Audit or Review of Financial Statements Requirement

Staff explained programs that receive IOLTA funding must submit either an audited financial statement or a financial review depending on the organizations' gross corporate expenditures as required by State Bar Rule 3.680(E)(1) and the Business and Professions Code section 6222. A total gross corporate expenditure threshold was set at \$500,000 in the Schedule of Charges and Deadlines for this requirement. If an organization is below the threshold, they can choose to submit either an audited financial statement or financial review.

The purpose of the proposed revisions to the governing authorities is to clarify the audit requirement in regards to several issues that have been raised in the past. LAAC supports staff recommended revisions without significant opposition.

Staff explained the first recommendation to amend State Bar Rule 3.680(E)(1) and the Schedule of Charges and Deadlines to exclude in-kind donated services from the calculation of the organizations' gross corporate expenditures.

The Committee reviewed the proposed revisions and discussed in-kind donated services versus other in-kind donations. The Committee agreed with the recommendation.

Staff discussed the second recommendation to revise State Bar Rule 3.680(E)(1) to explicitly state that financial reviews must be conducted by certified public accountants. Staff noted the inconsistencies in the governing authorities regarding whether or not financial reviews must be conducted by an independent certified public accountant.

The Committee reviewed the proposed revision and discussed adding a definition for independent certified public accountant. Staff will add a reference to a definition from the relevant government source in the revision.

Staff presented the third recommendation to eliminate references to the audit requirement from the Eligibility Guidelines for QLSPs and the General Grant Provisions and also revising grant agreements to only refer to the State Bar Rule, Business and Professions Code Section 6222 and the Schedule to Charges and Deadlines in regards to the audit requirement.

The Committee reviewed the proposed revisions and noted the edit to the first sentence of Section 2.7 of the Eligibility Guidelines for QLSPs is not concise. Staff will revise the sentence.

Staff noted that the fourth recommendation to incorporate further guidance regarding the format and content of the audit or financial review be incorporated into the Standards for Financial Management Systems and Audits was made to serve as a placeholder. Staff explained there would be overlap in codification topics and audits will likely be a part of the discussions regarding law schools, fiscal administration and quality control.

Staff explained that while LAAC supports staff recommendations, the IOLTA funded programs requested clarification on why the threshold was set at \$500,000 and a minority of the programs requested the threshold be raised to \$1 million or \$1.5 million. Staff shared the background regarding the threshold.

In response to raising the threshold, staff discussed the benefits to programs, particularly small programs, of undergoing an audit and that the staff recommendation is to keep the threshold at \$500,000.

LAAC shared that it recently passed \$500,000 in gross corporate expenditures and independently decided to have an audit. LAAC noted that the process of an audit is time consuming but it has received helpful technical assistance through the process.

The Committee agreed with the staff recommendation to keep the threshold at \$500,000.

The Committee decided not to vote on any of the recommendations at this meeting. State Bar staff will make the necessary revisions to recommendations two and three and present all the recommendations for approval at the next Committee meeting in January 2020. The Committee also requested to receive the meeting materials at least one week prior to the meetings.

There being no other business, the meeting was adjourned at 11:57 a.m.